

Company Number: 09460256

THE COMPANIES ACT 2006

COMPANY LIMITED BY SHARES

WRITTEN RESOLUTIONS

of

COOKE OPTICS GROUP LIMITED (the "Company")

<sup>29</sup> JUNE 2017 (the "Circulation Date")

We, the undersigned, being the members of the Company entitled to attend and vote at general meetings of the Company as at the Circulation Date, hereby irrevocably agree to all of the following resolutions (the "**Resolutions**"), which are proposed by the directors of the Company (the "**Directors**") to be passed as ordinary and special resolutions (as indicated below) of the Company in accordance with Chapter 2 of Part 13 of the Companies Act 2006 (as amended) (the "**Act**").

ORDINARY RESOLUTIONS

- 1 **THAT** the 8,942,921 issued preference shares of £0.01 each in the capital of the Company ("**Preference Shares**") be re-designated as A preference shares of £0.01 each in the capital of the Company ("**A Preference Shares**") having the rights set out in the articles of association adopted pursuant to Resolution 3 below (the "**New Articles**") provided always that the Preference Dividend which has accrued on such Preference Shares up to the date that this Resolution is duly passed shall not be effected by such re-designation.
- 2 **THAT** subject to Resolution 3 below being duly passed and in accordance with Article 68 of the New Articles, the sum of £8,853,491.79<sup>1</sup> being part of the £11,999,295<sup>2</sup> share premium account of the Company be and is hereby capitalised and appropriated as capital to the holders of A Preference Shares as appearing in the register of members as at the close of business on the Circulation Date (taking into account the operation of Resolution 1 above) and that the directors be and are hereby authorised to apply such sum in paying up in full 8,942,921 B Preference Shares of £0.99 each in the capital of the Company and to allot and issue such shares, credited as fully paid up, to the holders of A Preference Shares at the rate of one such B Preference Share for every one existing A Preference Share held by them.

SPECIAL RESOLUTIONS

- 3 **THAT** the regulations contained in the New Articles a copy of which are attached hereto and initialled by a director of the Company for identification, are hereby approved and adopted as the articles of association of the Company and in substitution for and to the exclusion of all existing articles of association of the Company (the "**Current Articles**").

<sup>1</sup> £0.99 x 8,942,921 = £8,853,491.79

<sup>2</sup> (522,500 + 332,483 + 110,000 + 17 + 10,144,066 + 1,011,434) x £0.99 = £11,999,295

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- 4 THAT the share premium account of the Company be reduced by £1,189,133.55<sup>3</sup> from £3,145,803.21 (being the balance of the share premium account after the capitalisation pursuant to Resolution 2 above) to £1,956,669.66 and the amount by which the share premium account is so reduced be credited to the profit and loss account of the Company

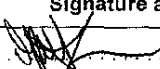
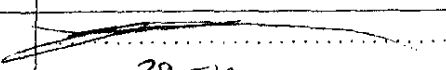
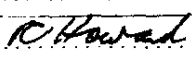
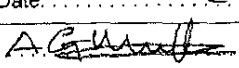
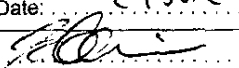
## AGREEMENT

### Preference Share Class Consent

In accordance with Article 10 of the Current Articles and the New Articles, if ZGC LLC as the holder of all the issued Preference Shares and therefore the holder of 75% of the issued Preference Shares signs this document, then they shall be deemed to also irrevocably consent to and sanction the passing of these Resolutions and every variation, modification or abrogation of the rights, privileges and restrictions attaching to the Preference Shares as a class of share which will or may be effected thereby.

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

We, the undersigned, being the shareholders of the Company entitled to vote on the Resolutions on the Circulation Date, hereby irrevocably agree to the Resolutions:

Name of Shareholder	Signature and Date
Growth Capital Partners Nominees Limited	 Date: 29 June 2017
ZGC LLC	 Date: 29 June 2017
Robert Howard	 Date: 29 June 2017
Alan Merrills	 Date: 29 June 2017
Thomas Greiser	 Date: 29 June 2017
Christine Brinc Green	 Date: 29 June 2017

### NOTES:

<sup>3</sup> £0.99 x 1,201,145 (the aggregate number of Preference Share redeemed to date) = £1,189,133.55

- 4 THAT the share premium account of the Company be reduced by £1,189,133.58<sup>2</sup> from £3,146,803.21 (being the balance of the share premium account after the capitalisation pursuant to Resolution 2 above) to £1,956,689.63 and the amount by which the share premium account is so reduced be credited to the profit and loss account of the Company


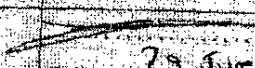
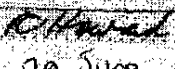
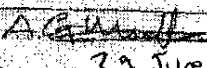

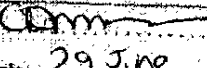
#### AGREEMENT

##### Preference Share Class Consent

In accordance with Article 10 of the Current Articles and the New Articles, if ZGC LLC as the holder of all the Issued Preference Shares and therefore the holder of 75% of the Issued Preference Shares signs this document, then they shall be deemed to also irrevocably consent to and sanction the passing of these Resolutions and every variation, modification or abrogation of the rights, privileges and restrictions attaching to the Preference Shares as a class of share which will or may be effected thereby.

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

We, the undersigned, being the shareholders of the Company entitled to vote on the Resolutions on the Circulation Date, hereby irrevocably agree to the Resolutions:

Name of Shareholder	Signature and Date
Growth Capital Partners Nominees Limited	 Date: 20 June 2017
ZGC LLC	 Date: 29 June 2017
Robert Howard	 Date: 29 June 2017
Alan Merrill	 Date: 29 June 2017
Thomas Greiser	 Date: 29 June 2017
Christine Brnic Green	 Date: 29 June 2017

#### NOTES:

<sup>2</sup> 80.89 x 1,201,143 (the aggregate number of Preference Shares redeemed to date) = £1,189,133.65

- 1 You can choose to agree to all the Resolutions or none of them but you cannot agree to only one of the Resolutions. If you agree to all of the Resolutions, please indicate your agreement by signing and dating this document where indicated opposite your name above and returning it to the Company using one of the following methods:
  - (a) **By Hand:** delivering the signed copy to Jayne Aarons c/o Squire Patton Boggs (UK) LLP, 6 Wellington Place, Leeds, LS1 4AP;
  - (b) **Post:** returning the signed copy by post to Jayne Aarons c/o Squire Patton Boggs (UK) LLP, 6 Wellington Place, Leeds, LS1 4AP; or
  - (c) **E-mail:** by attaching a scanned copy of the signed document to an e-mail and sending it to [jayne.aarons@squirepb.com](mailto:jayne.aarons@squirepb.com) Please enter "**Written Resolutions 2017**" in the e-mail subject box.

If you do not agree to the Resolutions, you do not need to do anything. You will not be deemed to agree if you fail to reply.
- 2 Once you have indicated your agreement to the Resolutions, you may not revoke your agreement.
- 3 Unless within 14 days<sup>4</sup> of the Circulation Date sufficient agreement has been received for the Resolutions to pass, they will lapse. If you agree to the Resolutions, please ensure that your agreement reaches us before or during this date.
- 4 In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.
- 5 If you are signing this document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document.

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<sup>4</sup> Requirement of Article 82

DATED 29<sup>th</sup> JUNE 2017

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**ARTICLES OF ASSOCIATION  
of COOKE OPTICS GROUP LIMITED**

Company Number: 09460256

(Private Company Limited by Shares)

as adopted by written resolution passed on 1  
September 2015 as amended by written resolution  
passed on 29<sup>th</sup> June 2017

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Reference PDM/JEA/HAM.651-0002

014-3677-5151/2/EUROPE

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Company Number: 09460256

**THE COMPANIES ACT 2006**  
**AN UNLIMITED COMPANY HAVING A SHARE CAPITAL**  
**ARTICLES OF ASSOCIATION OF**  
**COOKE OPTICS GROUP LIMITED (THE "COMPANY")**

(as adopted by written special resolution passed on 1 September 2015 as amended by  
written resolution passed on 24<sup>th</sup> June 2017)

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**PART A**

**INTERPRETATION, LIMITATION OF LIABILITY AND OTHER MISCELLANEOUS  
PROVISIONS**

**1 PRELIMINARY**

Notwithstanding any other provision of these Articles, no regulations for management of the Company set out in any statute concerning companies or contained in any regulations, order, instrument or other subordinate legislation made pursuant to a statute (including, but not limited to, the regulations contained in the model articles for private companies limited by shares as set out in Schedule 1 to The Companies (Model Articles) Regulations 2008 (SI 2008/3229) (as amended from time to time)) shall apply to the Company. The following shall be the Articles of the Company.

**2 DEFINED TERMS**

In these Articles, unless a contrary intention is expressly stated, the following words and expressions shall have the following meanings:

**"Acting in Concert"** has the meaning set out in the City Code on Takeovers and Mergers (as amended from time to time).

**"Acts"** means the CA 2006 and every other statute, order, regulation, or other subordinate legislation from time to time in force concerning companies and affecting the Company.

**"Adoption Date"** means 1 September 2015.

**"alternate"** or **"alternate director"** has the meaning set out in Article 41 (*Appointment and removal of alternates*).

**"Amendment Date"** means June 2017.

**"A Ordinary Shares"** means the A ordinary shares of £0.01 each in the capital of the Company.

**"appointor"** has the meaning set out in Article 41 (*Appointment and removal of alternates*).

**"Approved Offer"** means an irrevocable offer in writing, open for acceptance for a period of not less than 15 Business Days and not more than 20 Business Days, that is for all the Equity Shares in the capital of the Company on equal terms as if the shares were one class.

**"A Preference Shares"** means the A preference shares of £0.01 each in the capital of the Company.

**"Articles"** means the Company's articles of association as altered or varied from time to time (and **"Article"** means a provision of the Articles).

**"Available Profits"** means profits available for distribution within the meaning of the CA 2006.

**"Bad Leaver"** means:-

- (a) a Leaver who has been summarily dismissed in accordance with the provisions of their Service Agreement;
- (b) a Leaver who has resigned other than in circumstances where they are a Good Leaver or are found by a Court or Employment Tribunal to have been constructively dismissed.

**"bankruptcy"** includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy.

**"Bidco"** means Cooke Optics Holdings Limited (company number: 09458913).

**"B Loan Notes"** means the £11,999,500 secured 8% B loan notes 2018 of Bidco constituted by an instrument dated the Adoption Date.

**"Board"** means the board of directors of the Company from time to time.

**"Board Invitee"** means such person (being an existing or prospective Employee) as the Board, with Investor Consent, may nominate.

**"B Ordinary Shares"** means the B ordinary shares of £0.01 each in the capital of the Company.

**"B Preference Shares"** means the B preference shares of £0.99 each in the capital of the Company.

**"Business Days"** means any day other than a Saturday, Sunday or English bank or public holiday.

**"CA2006"** means the Companies Act 2006.

**"call"** has the meaning set out in Article 46.1 (*Call notices*).

**"call notice"** has the meaning set out in Article 46.1 (*Call notices*).

**"call payment date"** has the meaning set out in Article 50 (*Failure to comply with call notice: automatic consequences*).

**"Called Shareholders"** has the meaning set out in Article 17.2 (*Drag along*).

**"Called Shares"** has the meaning set out in Article 17.2 (*Drag along*).

**"Cap", "Capping", "Capped", "Capped Amount" and "Capped Share"** shall be construed in accordance with Article 7.

**"capitalised sum"** has the meaning set out in Article 68 (*Authority to capitalise and appropriate of capitalised sum*).

**"Catch Up Shares"** has the meaning set out in Article 8.5(c).

**"Cessation Date"** means the date on which a Leaver ceases to be an Employee.

**"chairman of the meeting"** has the meaning set out in Article 72 (*Chairing general meetings*).

**"Co-Investment Scheme"** has the meaning set out in Article 11.5(c) (*Transfers by Investment Managers and Investment Funds*).

**"Companies Acts"** has the meaning set out in Section 2, CA2006.

**"Company's lien"** has the meaning set out in Article 44.1 (*Company's lien*).

**"Conflicted Director"** has the meaning set out in Article 35.1 (*Authorisation of conflicts of interest*).

**"Conflict Situation"** has the meaning set out in Article 35.1 (*Authorisation of conflicts of interest*).

**"Controller"** means in relation to a corporate member a person who has the power or ability to direct the management or the policies of that member, whether through the ownership of voting capital, by contract or otherwise.

**"Controlling Interest"** means an interest in shares (as defined in Schedule 1 of the CA2006) conferring in aggregate more than 50% of the total voting rights conferred by all the shares in the equity share capital of the Company for the time being in issue.

**"C Ordinary Shares"** means the C ordinary shares of £0.01 each in the capital of the Company.

**"Deed of Adherence"** means a deed of adherence to the Investment Agreement substantially in the form set out in the Investment Agreement.

**"director"** means a director of the Company, and includes any person occupying the position of director, by whatever name called.

**"Disposal"** means the sale or other disposal (whether by one transaction or a series of related transactions) of:

- (a) the whole or a substantial part of the business and assets of the Company; or
- (b) 50% or more of the issued share capital of any immediate Subsidiary or Subsidiaries to the extent that it or they comprise the whole or a substantial part of the business and assets of the Group.

**"distribution recipient"** has the meaning set out in Article 63 (*Payment of dividends and other distributions*).

**"document"** includes, unless otherwise specified, any summons, notice, order, register, certificate or other legal process and includes any such document sent or supplied in electronic form.

**"D Ordinary Shares"** means the D ordinary shares of £0.01 each in the capital of the Company.

**"eligible director"** means a director who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting (but excluding any director whose vote is not to be counted in respect of the resolution in question).

**"Employee"** means a person who at the date of the adoption of these Articles or subsequently is employed by, or is a consultant to, any Group Company and/or holds the office of director in any Group Company.

**"Employee Trust"** means the trust to be established by the Board (with Investor Consent) to encourage or facilitate the holding of shares in the Company by bona fide Employees or by any section of such Employees, the trustees of which shall be such persons as the Board (including the Investor Director) shall agree.

**"Equity Shares"** means the A Ordinary Shares, the B Ordinary Shares, the C Ordinary Shares and the D Ordinary Shares.

**"Exit Notice"** has the meaning set out in Article 17.3 (*Drag along*).

**"Exit Option"** has the meaning set out in Article 17.2 (*Drag along*).

**"Expert"** means the auditor of the Company or (if the auditor declines to act for such purpose) an independent accountant nominated by the Board on behalf of the Company (with Investor Consent) acting as an expert and not as an arbitrator.

**"fully paid"** in relation to a share, means that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company.

**"Further Issue"** has the meaning set out in Article 8 (*Further issues of shares*).

**"Good Leaver"** means:

- (a) a Leaver who is deemed to be a Good Leaver by the Board (acting with Investor Consent); or
- (b) a Leaver who ceases to be an Employee where such cessation occurs as a result of:

- (i) death;
- (ii) long term illness or disablement of that person giving rise to incapacity to continue in employment for a period of at least 12 months, as determined by at least two medical reports from independent medical specialists approved by the Board; or
- (iii) subject to Investor Consent, the resignation of that person in order to care for a family relation suffering long term illness or disablement.

**"Group"** means the Company and its Subsidiaries (if any) for the time being and **"Group Company"** means any of them.

**"holder"** in relation to shares means the person whose name is entered in the register of members as the holder of the shares.

**"instrument"** means a document in hard copy form.

**"Intermediate Leaver"** means a Leaver who is not a Good Leaver or a Bad Leaver.

**"Investment Agreement"** means the investment agreement entered into on the same date as the Adoption Date between inter alia the Managers (as defined therein) (1), the Company (2), Bidco (3) the Investor (as defined therein) and (4) Les Zellan and Guy Genin as that agreement may be amended or supplemented from time to time.

**"Investment Fund"** has the meaning set out in Article 11.5(a)(ii) (*Transfers by Investment Managers and Investment Funds*).

**"Investment Manager"** has the meaning set out in Article 11.5(a)(i) (*Transfers by Investment Managers and Investment Funds*).

**"Investor"** has the meaning set out in the Investment Agreement (including any additional or replacement Investor who is joined as an **"Investor"** in a Deed of Adherence executed in accordance with the Investment Agreement).

**"Investor Affiliate"** means, in relation to an Investor or any Investor Affiliate of that Investor:

- (a) any of its Subsidiaries, parent undertakings, or any Subsidiaries of such parent undertakings from time to time;
- (b) any Investment Manager of that Investor or Investor Affiliate and/or any Investment Fund managed by any such Investment Manager from time to time; or
- (c) any trustee, manager, beneficiary, shareholder, partner, unitholder or other financier or participant in or of the Investor and/or Investor Affiliate.

**"Investor Consent"** means the written consent of the Investor Director who is an employee or officer of the Investor, which consent shall be deemed to be given if they attend and vote in favour of the matter at a meeting of the Board, or if there is no Investor Director, the written consent of an Investor Majority.

**"Investor Director"** means any director of the Company appointed by the Investor under Article 19.1 (*The Investor Director*) or the Investment Agreement or his alternate.

**"Investor Majority"** means the holders of more than 50% of the A Ordinary Shares in issue at the time.

**"Leaver"** means an Employee (other than an Investor Director) who ceases to be so for whatever reason (including death or a Subsidiary ceasing to be a member of the Group) and does not continue to be an Employee by reason of his status in relation to any Group Company.

**"Leaver's Shares"** means in relation to a Leaver, all C Ordinary Shares and D Ordinary Shares held by him and, following any transfers in accordance with Articles 11.1 and 11.2, his Privileged Relations and/or nominee as appropriate and shall not include, subject always to Article 13.3(b), any Preference Shares, Preferred Ordinary Shares and B Ordinary Shares held by the Leaver and, following any transfers in accordance with Articles 11.1 and/or 11.2, his Privileged Relations and/or nominee as appropriate **PROVED ALWAYS** that if Les Zellan and Guy Genin become Leavers, Leaver's Shares in relation to them shall mean the Relevant Proportion of C Ordinary Shares and D Ordinary Shares held by ZGC LLC and, following any transfers pursuant to Articles 11.2 and/or 11.3, its nominee and/or member of its Wholly-owned Group and shall not include, subject always to Article 13.3(b), any Preference Shares, Preferred Ordinary Shares and B Ordinary Shares held by ZGC LLC and, following any transfer in accordance with Articles 11.2 and/or 11.3, its nominee and/or member of its Wholly-owned Group. For these purposes **"Relevant Proportion"** means (i) 66.67% in the case of Les Zellan becoming a Leaver before Guy Genin, (ii) 33.33% in the case of Guy Genin becoming a Leaver before Les Zellan and (iii) 100% if Les Zellan or Guy Genin becomes a Leaver after the other.

**"lien enforcement notice"** has the meaning set out in Article 45 (*Enforcement of the Company's lien*).

**"Listing"** means the becoming effective of a listing of any Group Company's securities on a Stock Exchange or the granting of permission for any of any Group Company's securities to be traded on a Stock Exchange and the listing shall be treated as occurring on the day on which trading in the securities began.

**"Listing Value"** means the market value of the Shares subject to the Listing, determined by reference to the price per Share at which such Shares are to be offered for sale (excluding for this purpose any new money raised pursuant to such Listing), placed or otherwise marketed pursuant to the arrangements relating to the Listing, all as determined by the merchant bank or, if none, the broker appointed to advise in connection with the Listing.

**"Majority Sellers"** has the meaning set out in Article 17.2 (*Drag along*).

**"Majority Sellers' Shares"** has the meaning set out in Article 17.2 (*Drag along*).

**"Manager Consent"** means the written consent of the holders of more than 50% in nominal value of the then issued B Ordinary Shares, C Ordinary Shares and D Ordinary Shares.

**"Market Price"** means the market value of the shares concerned on the following assumptions and bases:

- (a) to disregard the rights and restrictions attached to the shares in respect of voting, income, capital and transfer;
- (b) to assume that the sale is on an arms' length basis between a willing vendor and a willing purchaser;
- (c) to disregard whether or not the shares represent a minority or majority interest;
- (d) to take no account of whether the shares do or do not carry control of the Company;
- (e) if the Company is then carrying on business as a going concern, to assume that it will continue to do so in the same manner as immediately prior to the date of the Transfer Notice or deemed Transfer Notice giving rise to the valuation.

**"NXD"** means a non-executive director of the Board appointed pursuant to Article 19 (the Investor Director and NXD) or Article 33 (Chairing of directors' meetings).

**"Observer"** has the meaning set out in Article 20 (*Observer*).

**"Offered Shares"** has the meaning set out in Article 14.2 (*Pre-emption procedure*).

**"Original Subscription Price"** means in respect of any shares, the original subscription price (including any premium) paid for that share as adjusted for any Reorganisation of the Company's share capital.

**"paid"** means paid or credited as paid.

**"participate"**, in relation to a directors' meeting, has the meaning set out in Article 31 (*Participation in directors' meetings*).

**"partly paid"** in relation to a share, means that part of that share's nominal value or any premium at which it was issued that has not been paid to the Company.

**"persons entitled"** has the meaning set out in Article 68.1 (*Authority to capitalise and appropriation of capitalised sum*).

**"Pre-emption Purchasers"** has the meaning set out in Article 14.6 (*Pre-emption procedure*) and **"Pre-emption Purchaser"** means any one of them.

**"Preference Shares"** means the A Preference Shares and/or the B Preference Shares as the context requires.

**"Preference Dividend"** means a fixed cumulative preferential dividend in respect of each Preference Share, at an annual rate of 8 per cent. (not compounding) of the nominal amount per Share (excluding any associated tax credit) or:



- (a) <sup>1</sup>in respect of any Preference Shares held by an Intermediate Leaver and from the relevant Cessation Date, at an annual rate of 4 per cent. of the nominal amount per Share; and
- (b) in respect of any Preference Shares held by a Bad Leaver and from the relevant Cessation Date, at an annual rate of nil per cent. of the nominal amount per Share.

**"Preferred Ordinary Shares"** means the preferred ordinary shares of £0.01 each in the capital of the Company.

**"Preferred Return"** means a fixed cumulative preferential return in respect of each Preferred Ordinary Share which shall accrue from day to day at an annual rate of 8 per cent per annum (not compounding) of the Original Subscription Price per share (excluding any associated tax credit) or:-

- (a) in respect of any Preferred Ordinary Shares held by an Intermediate Leaver and from the relevant Cessation Date, at an annual rate of 4 per cent. of the Original Subscription Price per Share; and
- (b) in respect of any Preferred Ordinary Shares held by a Bad Leaver and from the relevant Cessation Date, at an annual rate of nil per cent. of the Original Subscription Price per Share.

**"Privileged Relation"** means in relation to a member, the spouse, civil partner or widow, widower or surviving civil partner of the member.

**"proxy notice"** has the meaning set out in Article 78 (*Content of proxy notices*).

**"Redemption Date"** has the meaning given in Article 6.5(g).

**"relevant director"** means any director or former director of the Company or any associated company (within the meaning of Section 256, CA2006).

**"relevant loss"** means any costs, charges, losses, expenses and liabilities which have been or may be incurred by a relevant director or other officer in the actual or purported execution or discharge of his duties or in the actual or purported exercise of his powers in relation to the affairs of the Company, any associated company (within the meaning of Section 256, CA2006), any pension fund (including any occupational pension scheme) or any employees' share scheme of the Company or associated company.

**"Relevant Proportion"** means:

- (a) if the Cessation Date is prior to the date falling 12 months after the Acquired Date, the Relevant Proportion shall equal nil%;
- (b) if the Cessation Date is on or after the date falling 12 months after the Acquired Date but before the date falling 24 months after the Adoption Date, the Relevant Proportion shall equal 25%;

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<sup>1</sup> To reflect Article 13.3(c).

- (c) if the Cessation Date is on or after the date falling 24 months after the Acquired Date but before the date falling 36 months after the Adoption Date, the Relevant Proportion shall equal 50%;
- (d) if the Cessation Date is on or after the date falling 36 months after the Acquired Date but before the date falling 48 months after the Adoption Date, the Relevant Proportion shall equal 75%; and
- (e) if the Cessation Date is on or after the date falling 48 months after the Acquired Date, the Relevant Proportion shall equal 100%

where "**Acquired Date**" means the Adoption Date or such later date on which the relevant Leaver acquired their Leaver's Shares.

"**relevant rate**" has the meaning set out in Article 50.2 (*Failure to comply with call notice: automatic consequences*).

"**Relevant Securities**" means all shares, rights to subscribe for shares or to receive them for no consideration and all securities convertible into shares, but excluding:

- (a) the shares proposed to be issued in accordance with the Investment Agreement;
- (b) shares issued in order for the Company to comply with its obligations under the Articles (other than Article 8 (*Further Issues of Shares*));
- (c) any shares to be allotted and issued to an Employee Trust; and
- (d) shares or securities convertible into shares issued in consideration of an acquisition by the Company of any company or business, such acquisition having received Investor Consent.

"**Reorganisation**" means any return of capital, bonus issue of shares or other securities of the Company by way of capitalisation of profits or reserves or any consolidation or sub-division or any repurchase or redemption of shares or any variation in the subsequent price or conversion rate applicable to any outstanding shares of the Company.

"**Restricted Shares**" means shares restricted in accordance with Articles 13.1 and 13.3 (*Employee shares*).

"**Sale**" means:

- (a) the sale or other disposal (whether by one transaction or a series of related transactions) of 50% or more of the issued share capital of the Company; or
- (b) where the purchaser(s) and its connected persons (within the meaning of Section 252, CA 2006) or associated bodies corporate (within the meaning of Section 256, CA2006), as appropriate, already hold shares in the capital of the Company, the sale or other disposal of such number of shares such that the purchaser(s) and his connected persons or associated bodies corporate, as appropriate, hold 50% or more of the issued share capital of the Company)

but excluding and transfers pursuant to Article 11 (*Permitted Transfers*) or Article 14 (*Pre-emption Procedure*).

**"Sale Price"** has the meaning set out in Article 14.3 (*Pre-emption Procedure*).

**"shareholder"** means a person who is the holder of a share.

**"shares"** means shares in the Company.

**"Stock Exchange"** means The London Stock Exchange plc (including AIM operated by The London Stock Exchange plc), PLUS Markets plc (including the PLUS-listed market and PLUS-quoted market operated by PLUS Markets plc) or any other recognised investment exchange (as defined by Section 285, Financial Services and Markets Act 2000) and their respective share dealing markets.

**"Subsidiary"** means a subsidiary (as defined in Section 1159, CA2006) or a subsidiary undertaking (as defined in Section 1162, CA2006) and **"Subsidiaries"** shall be construed accordingly.

**"Third Party Purchaser"** has the meaning set out in Article 17.2 (*Drag along*).

**"Total Transfer Condition"** has the meaning set out in Article 14.2 (*Pre-emption procedure*).

**"Transfer Notice"** has the meaning set out in Article 14.1 (*Pre-emption procedure*).

**"transmittee"** means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law.

**"Type A Underperformance Event"** has the meaning set out in the Investment Agreement.

**"Type B Underperformance Event"** has the meaning set out in the Investment Agreement.

**"Underperformance Event"** has the meaning set out in the Investment Agreement.

**"Underperformance Notice"** has the meaning set out in the Investment Agreement.

**"Valuer"** means the auditor of the Company or (if the auditor declines to act for such purpose) an independent accountant nominated by agreement between the Board (acting with Investor Consent) and the transferor(s) or, failing agreement within 10 working days, nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales.

**"Wholly-owned Group"** means a body corporate and any holding company of which it is a wholly-owned subsidiary and any other wholly-owned subsidiaries of that holding company (including any wholly-owned subsidiary of the body corporate) with all such terms construed in accordance with the CA2006.

**"writing"** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods and **"written"** shall be construed accordingly.

### 3 INTERPRETATION

#### 3.1 In these Articles:

- (a) words in the singular include the plural and vice versa and words in one gender include any other gender;
- (b) a reference to:
  - (i) **"transfer of shares"** or any similar expression shall be deemed to include, in respect of a share in the capital of the Company:
    - (A) any sale or other disposition of the legal or equitable interest in a share (including any voting right attached to a share);
    - (B) the creation of any mortgage, charge, pledge or other encumbrance over any legal or equitable interest in a share;
    - (C) any direction by a person entitled to an allotment or issue of shares that a share be allotted or issued to some other person; and
    - (D) any grant of an option to acquire, or agreement to enter into a grant of an option to acquire, any legal or equitable interest in a share;
  - (ii) **"person"** includes any individual, firm, corporation, body corporate, association, partnership, trust, unincorporated association, employee representative body, government or state or agency or department thereof, executors, administrators or successors in title (whether or not having a separate legal personality);
- (c) the table of contents and headings are for convenience only and do not affect the interpretation of these Articles; and
- (d) general words shall not be given a restrictive meaning:
  - (i) if they are introduced by the word **"other"** or **"including"** or similar words by reason of the fact that they are preceded by words indicating a particular class of act, matter or thing; or
  - (ii) by reason of the fact that they are followed by particular examples intended to be embraced by those general words.

- 3.2 Unless the context otherwise requires (or unless otherwise defined or stated in these Articles), words or expressions contained in these Articles shall have the same meaning as in the CA2006.

### 4 LIABILITY OF MEMBERS

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

## **SHARE CAPITAL, RIGHTS AND TRANSFERS**

### **5 SHARE CAPITAL**

- 5.1 The issued nominal share capital of the Company on the Amendment Date is £109,193.55 divided into:
- (a) 8,942,921 A Preference Shares;
  - (b) 1,011,434 Preferred Ordinary Shares;
  - (c) 522,500 A Ordinary Shares;
  - (d) 332,483 B Ordinary Shares;
  - (e) 110,000 C Ordinary Shares; and
  - (f) 17 D Ordinary Shares.
- 5.2 Except as otherwise provided in these Articles, the A Ordinary Shares, the B Ordinary Shares, the C Ordinary Shares and the D Ordinary Shares shall rank pari passu in all respects but shall constitute separate classes of shares.
- 5.3 Whenever the Company has only one class of shares, unless otherwise authorised by these Articles, the directors shall not (save with Investor Consent) exercise any power of the Company pursuant to Section 550, CA2006 to allot shares or to grant rights to subscribe for, or convert any security into, any shares in the Company. Subject to Investor Consent, the directors are hereby authorised pursuant to Section 550, CA2006 for a period of five years from the Amendment Date to allot shares or to grant rights to subscribe for, or convert any security into, shares in the Company comprising up to 35,000 C Ordinary Shares and 8,942,921 B Preference Shares.
- 5.4 Subject to these Articles, but without prejudice to the rights attached to any existing share, the Company may (with Investor Consent) issue shares with such rights or restrictions as may be determined by ordinary resolution.
- 5.5 The Company may (with Investor Consent) issue shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder, and the directors may (with Investor Consent) determine the terms, conditions and manner of redemption of any such shares.
- 5.6 Shares may be issued by the Company which are nil, partly or fully paid.

### **6 RIGHTS ATTACHING TO SHARES**

#### **6.1 Income**

- (a) The Company shall accrue the Preference Dividend in respect of each accounting reference period of the Company (which shall not compound annually) and be carried forward and paid in priority to any Preference Dividend that is due and payable at a later date. The Preference Dividend shall accrue before the application of any sums to the Company's reserves. The right to the Preference Dividend in each accounting reference period has

priority over any payment by way of dividend or other distribution to the holders of any other class of Shares. The right to the Preference Dividend shall be subject to the payment of all amounts that have accrued and are in arrears in respect of the Preference Dividend in respect of any earlier accounting reference period.

- (b) The Preference Dividend shall accrue from day to day (but shall not compound) and shall be paid in cash out of Available Profits on a Redemption Date (in respect of the Preference Shares that are to be redeemed on that date and not in respect of any other Preference Shares) to the person registered as the holder of the relevant Share(s) on that date.
- (c) The provisions of Article 6.1(a) are subject to any restrictions on the payment of dividends imposed by law.
- (d) If the Company is paying part but not all of a Preference Dividend, the amount paid in respect of each Preference Share must be proportionate to its nominal amount.
- (e) Subject to Articles 6.1(a) and 6.1(g), if the Company determines that there are further Available Profits for distribution then the Board may recommend, with prior Investor Consent, that any or all of the balance of such Available Profits be distributed amongst the holders of the Equity Shares pro rata according to the number of Equity Shares held.
- (f) Any and all dividends declared by the Company in accordance with these Articles in respect of any nil paid or partly paid Shares shall first be applied in satisfaction of any outstanding amounts then owed to the Company in respect of the relevant nil paid or partly paid Shares, until such time as the relevant nil paid or partly paid Shares are fully paid up or credited as fully paid up.
- (g) No dividend may be paid on Equity Shares if, at the time of payment, any Preference Shares, Preferred Ordinary Shares or Loan Notes remain outstanding.

## **6.2 Capital**

On a return of assets on liquidation or capital reduction or otherwise (except upon the redemption of shares of any class or the purchase by the Company of its own shares), the assets of the Company remaining after the payment of its liabilities shall be distributed in the following manner and order of priority:

- (a) in priority to any payments to be made pursuant to Article 6.2(b):-
  - (i) in paying to the holders of Preference Shares a sum equal to the nominal amount on each Preference Share held by them, together with a sum equal to any accrued and/or unpaid Preference Dividend calculated down to and including the date of return of capital, and payable irrespective of whether or not the Company has enough Available Profits to pay the accrued and/or unpaid Preference Dividend, as at the relevant date; and

- (ii) in paying to the holders of Preferred Ordinary Shares a sum equal to the Original Subscription Price on each Preferred Ordinary Share held by them, together with a sum equal to any accrued and/or unpaid Preferred Return calculated down to and including the date of return of capital, and payable irrespective of whether or not the Company has enough Available Profits to pay the accrued and/or unpaid Preferred Return, as at the relevant date,

provided that if there are insufficient assets for such payment in full, any amount available for distribution shall be paid to the holders of Preference Shares and Preferred Ordinary Shares (pari passu as if one class of share) pro rata to the aggregate amounts that would otherwise be payable to them in respect of the number of Preference Shares or Preferred Ordinary Shares held by them pursuant to Article 6.2(a)(i) or 6.2(a)(ii); and

- (b) the balance (if any), after all payments to be made in priority shall be distributed amongst the holders of the Equity Shares (equally as if they were one class of share) in proportion to the number of Equity Shares held by them respectively,

provided always that no Capped Shares shall be allocated any amount to the extent that (when taking account of any dividends or other distributions previously paid on that Capped Share) the aggregate amount allocated to it would exceed its Capped Amount. Any part of the aggregate amount not allocated to any Capped Share shall be allocated to the other Equity Shares eligible to participate in the allocation concerned pro rata to their respective entitlements to participate in that allocation.

### 6.3 Exit provisions

- (a) Upon a Sale, the members who sell their shares in such Sale will be entitled to share in the proceeds of the Sale in the manner and order of priority set out in Article 6.2.
- (b) Upon a Disposal, the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) in the order of priority set out in Article 6.2 provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, the members shall take any action required by the Investor (including actions that may be necessary to put the Company into voluntary liquidation) to achieve a distribution in the manner and order of priority set out in Article 6.2.
- (c) Immediately prior to and conditionally upon a Listing all holders of Shares shall enter into such reorganisation of the share capital of the Company as they may agree, or in default, as the Investor Majority may specify to ensure that the Listing Value is reallocated between the holders of Shares in the same amounts as they would receive on a Sale at the Listing Value pursuant to Article 6.2 mutatis mutandis.

### 6.4 Voting

- (a) *Equity Shares*

Subject to Article 6.4(b) and Article 13, only the holders of the Equity Shares shall have the right to receive notice of and attend and vote and speak at any general meeting of the Company and shall be entitled to vote on any written resolution of the Company and save, in each case, as provided otherwise in the CA2006:-

- (i) each holder of A Ordinary Shares and C Ordinary Shares present in person or by proxy or by representative shall be entitled on a show of hands, on a poll or written resolution to one vote for each A Ordinary Share and each C Ordinary Share held by him;
- (ii) the holders of D Ordinary Shares as a class present in person or by proxy or by representative shall be entitled on a show of hands, on a poll or written resolution to such number of votes as represents 13% of the votes cast allocated amongst them pro rata to the number of D Ordinary Shares held; and
- (iii) the holders of B Ordinary Shares as a class present in person or by proxy or by representative shall be entitled on a show of hands, on a poll or written resolution to such number of votes as represents X% of the votes cast allocated amongst them pro rata to the number of B Ordinary Shares held where "X" is calculated as follows:-

$$X = [((B + D) / E) \times 100] - 13)$$

Where:

"B" is the number of B Ordinary Shares in issue

"D" is the number of D Ordinary Shares in issue which are not then disenfranchised pursuant to Article 13 (*Employee Shares*)

"E" is the number of Equity Shares in issue

The holders of Preference Shares and Preferred Ordinary Shares have no right to receive notice of, nor attend, vote or speak at any general meeting of the Company nor shall they be entitled to vote on any written resolution of the Company.

(b) *Enhancement on underperformance*

If:

- (i) a Type B Underperformance Event subsists; or
- (ii) the circumstances giving rise to a Type A Underperformance Event have not been addressed to the reasonable satisfaction of the Investor within 9 months of the relevant Underperformance Notice having been served,

then for the period while such Underperformance Event subsists (which shall commence on the date of an Underperformance Notice being served in respect of a Type B Underperformance Event and on the date falling 9



months after an Underperformance Notice being served in respect of a Type A Underperformance Event which continues to subsist and has not been waived at that date), the voting rights conferred on the holders of A Ordinary Shares pursuant to Article 6.4(a) shall represent 90% of the voting rights attaching to all shares after the application of this enhancement.

## 6.5 Redemption of Preference Shares

### (a) Redemption

- (i) Subject to CA2006, Article 6.5(a)(iii) and the provisions of these Articles, an amount of £312,500 (the "**Quarterly Redemption Amount**") shall be available on each of the Redemption Dates (as defined below) to redeem such number of Preference Shares (on the basis that for each A Preference Share redeemed a B Preference Share shall also be redeemed) at the price set out in Article 6.5(d) ("**Redemption Price**") as equals the Quarterly Redemption Amount divided by the aggregate of the Redemption Price for an A Preference Share and a B Preference Share rounded down to the nearest whole number. "**Redemption Dates**" means 28 February 2019 and thereafter on 31 May, 31 August, 30 November and 28 February in each year until and including 22 May 2022.
- (ii) The Company shall also (unless directed to the contrary by the holders of more than 50% by number of the then issued Preference Shares) redeem all of the Preference Shares that are then in issue:-
  - (A) immediately before a Disposal, a Listing, a Sale or a liquidation; or
  - (B) on the seventh anniversary of the Adoption Date.
- (iii) In the event that the holders of B Loan Notes elect to suspend all or any part of their entitlement to a scheduled repayment of certain of their B Loan Notes:-
  - (A) on any Quarter Date (as defined in the B Loan Notes) which occurs prior to the 28 February 2019 then there shall be no redemption of Preference Shares pursuant to Article 6.5(a)(i) until the Redemption Date which falls immediately after the date on which £2,500,000 in nominal amount of the B Loan Notes has been repaid; or
  - (B) on any Quarter Date which occurs on or after 28 February 2019 (a "**Suspended Repayment**"), then the Quarterly Redemption Amount which would otherwise have been available on the Redemption Date which coincides with the relevant Quarter Date shall be reduced by the amount of the Suspended Repayment; and
  - (C) on the date on which any Suspended Repayment or part thereof is paid, an amount equal to such Suspended Repayment or part thereof (the "**Delayed Amount**") shall be

applied in the redemption of such number of Preference Shares (on the basis that for each A Preference Share redeemed a B Preference Shares shall also be redeemed) at the Redemption Price as equals the Delayed Amount divided by the aggregate of the Redemption Price for an A Preference Share and a B Preference Share rounded down to the nearest whole number.

(b) **Early Redemption by the Company**

- (i) The Company may at any time with Investor Consent redeem some or all of the Preference Shares that are then outstanding.
- (ii) The Company shall, if practicable, give at least 10 Business Days' notice of any such redemption (the "**Company Redemption Notice**").
- (iii) The Company Redemption Notice shall specify: (i) the number of Preference Shares held by the holders of Preference Shares that are to be redeemed (on the basis that for each A Preference Share redeemed a B Preference Share shall also be redeemed); (ii) the amount of Redemption Money; and (iii) the Redemption Date.

(c) **Partial Redemption**

Notwithstanding any other provision of these Articles, when only some of the Preference Shares are being redeemed, the redemption shall take place on the basis that for each A Preference Share redeemed a B Preference Share shall also be redeemed and as between the holders of Preference Shares in proportion as nearly as possible to each holder of Preference Shares holding of Preference Shares unless agreed otherwise by such holders of Preference Shares.

(d) **Payment of Redemption Money**

Subject to Article 6.5(e), on the relevant Redemption Date, the Company shall pay the following amount in cash in respect of each Preference Share to be redeemed:

- (i) the nominal amount paid up on the Preference Share; and
- (ii) a sum equal to any accrued and/or unpaid Preference Dividend calculated to the Redemption Date and payable irrespective of whether the Company has sufficient Available Profits for distribution to pay the accrued and/or unpaid Preference Dividend,

which together shall be the "**Redemption Money**".

(e) **Restriction on Redemption**

Redemption of the Preference Shares is subject to any restrictions on the redemption of shares that are set out in the CA2006. Where, as a consequence of such restrictions, the Company is unable to redeem Preference Shares that are otherwise required to be redeemed by these

Articles, the Company shall redeem as many of those Preference Shares as it can, and shall redeem the balance as soon as possible following the date on which those restrictions cease to apply.

(f) **Redemption Date: General**

- (i) On the Redemption Date, the Redemption Money shall become a debt due and payable by the Company to the holders of Preference Shares, irrespective of whether the Company has the requisite funds to pay the Redemption Money.
- (ii) On the Redemption Date, the Redemption Money shall be paid to each holder of Preference Shares in respect of those Preference Shares, which are registered in his name which are to be redeemed, provided that he has returned the share certificate representing the relevant Preference Shares to the Company (or an indemnity in a form that is reasonably satisfactory to the Company in respect of a share certificate that cannot be produced). If a holder of Preference Shares produces neither the share certificate nor an indemnity in respect of a share certificate that cannot be produced, the Company may retain the holder of such Preference Shares Redemption Money until delivery of the certificate or an indemnity for lost share certificate in a form reasonably acceptable to the Board.
- (iii) The Company shall cancel share certificates in respect of redeemed Preference Shares and issue new certificates without charge in respect of any Preference Shares represented by the cancelled certificates that remain outstanding.
- (iv) As from the relevant Redemption Date, the Preference Dividend shall cease to accrue in respect of the Preference Shares to be redeemed, save to the extent that the Company fails to pay Redemption Money in respect of all the Preference Shares to be redeemed (despite presentation of the relevant share certificate or an indemnity). In such circumstances, the Preference Dividend shall continue to accrue or be deemed to continue to accrue on the Preference Shares in respect of which Redemption Money is outstanding and shall form part of the Preference Dividend that is calculated under the terms of Article 6.5(d)(ii).

(g) **Redemption Date Definition**

For the purposes of these Articles, the term “**Redemption Date**” shall have the following meaning:

- (i) the Redemption Dates set out in Article 6.5(a);
- (ii) the Redemption Date on a Sale or on a Disposal or on a liquidation is the date of the Sale, the Disposal or the liquidation, as the case may be;

- (iii) the Redemption Date on a Listing is the day immediately before the Listing, save that the Redemption Money is to be paid immediately after the Listing; and
- (iv) the Redemption Date in the event of an early redemption by the Company under Article 6.5(b) is the date specified in the Company Redemption Notice.

## **7 CAPPED SHARES**

- 7.1 The entitlement of a share to participate under Article 6.2 may be capped ("**Capped**", and any such share being a "**Capped Share**") at a specified maximum amount (its "**Capped Amount**");
- (a) by agreement in writing between its then holder and the Company (with Investor Consent); or
  - (b) as provided in Article 13.
- 7.2 If a share is Capped, it shall remain so Capped unless and until otherwise agreed by written agreement between its then holder and the Company, provided that agreement is first approved by Investor Consent.
- 7.3 A Capped Share shall not carry any fixed or priority entitlement to receive its Capped Amount under Article 6.2 but its entitlement under that Article (had it not been Capped) will be limited to that Capped Amount, if lower.
- 7.4 A Capped Share shall not entitle its holder to participate in any Further Issue, any issue of Catch Up Shares or any other pre-emptive offer of shares.

## **8 FURTHER ISSUES OF SHARES**

- 8.1 Subject to Investor Consent and Articles 8.5 and 8.6:
- (a) any Relevant Securities to be granted or allotted by the Company ("**Further Issue**") shall first be offered to the holders of the Equity Shares (excluding Restricted Shares) by way of written offer in the same proportion as nearly as possible as the number of their existing holding of Equity Shares bears to the total number of the Equity Shares in issue (excluding Restricted Shares) and such offers shall be open for acceptance for not less than 10 Business Days from the latest date of despatch of the written offer to the members;
  - (b) each such offer shall be conditional upon the holder also subscribing for the same proportion of any debt instrument to be issued in connection with the issue of the Relevant Securities as nearly as possible as the number of Relevant Securities actually granted or allotted to the member bears to the total number of Relevant Securities actually granted or allotted under the relevant Further Issue; and
  - (c) when applying for his allocation, it shall be open to each such holder to specify the number of Relevant Securities in excess of his proportionate entitlement for which he is willing to subscribe.

8.2 If the total number of Relevant Securities applied for pursuant to an offer made under Article 8.1 is:

- (a) equal to or less than the number of Relevant Securities available, the Relevant Securities shall be allocated in satisfaction of the applications received; or
- (b) more than the number of Relevant Securities available, the Board shall allocate Relevant Securities in accordance with the following formula. This formula shall be applied repeatedly until there are no Relevant Securities remaining to be allocated. Each application of the formula is referred to below as an "iteration".

$$A = \frac{B}{C} \times D$$

A is the number of Relevant Securities to be allocated to the relevant member in the iteration.

B is the number of Equity Shares held by the relevant member.

C is the number of Equity Shares held by all the members to whom the iteration is being applied.

D is the number of Relevant Securities or, after the first iteration, the number of Relevant Securities remaining unallocated by previous iterations.

If in any iteration, a member would be allocated more than all of the Relevant Securities for which he applied (including allocations from previous iterations) then any excess will not be allocated to that member, who will cease to take part in any further iterations, and the excess Relevant Securities will be available for allocation in the next iteration.

8.3 The Board shall notify each member who applied for Relevant Securities of the number of Relevant Securities that have been allocated and the persons to whom they have been allocated. The notification shall include the place and time (being not later than 10 Business Days after the latest date by which applications had to be received) at which the allotment of the Relevant Securities shall be completed provided that where a debt instrument is also to be issued, each member must also subscribe and pay in full for his proportion of such debt instrument at the same time as he subscribes and pays for the Relevant Securities.

8.4 Any Relevant Securities and debt instrument not accepted or subscribed for by the members shall be at the disposal of the directors who may (within a period of 3 months from the end of the last offer period under Article 8.1), subject to Investor Consent allot, grant options over or otherwise dispose of the same to such persons at a price per share and on terms no less favourable than that/those at which the same were offered to the holders of Equity Shares, and otherwise on such terms as they think proper.

8.5 The Company does not need to make an offer under Article 8.1 if:

- (a) and for so long as an Underperformance Event is subsisting (which shall commence on the date of an Underperformance Notice being served in respect of a Type B Underperformance Event and on the date falling 9 months after an Underperformance Notice being served in respect of a Type A Underperformance Event) during which period the Company may issue Relevant Securities (any such Relevant Securities so issued being **"Emergency Relevant Securities"**) to the Investor (or its nominee(s)) or such other person as the Investor shall specify (the **"First Offer"**), and the rights of pre-emption of the holders of Equity Shares (other than the Investor or such other person(s) allotted Emergency Relevant Securities in the First Offer) shall be deemed to be waived in respect of any such issue;
- (b) as soon as reasonably practicable following the First Offer, and in any event no later than 10 Business Days after the allotment of the Emergency Relevant Securities pursuant to it, the Company shall, on behalf of those person(s) allotted Emergency Relevant Securities in the First Offer (each a **"First Offer Allottee"**) offer to all holders of Equity Shares other than any First Offer Allottee (**"Subsequent Offerees"**) the right to acquire Catch Up Shares from the First Offer Allottees (the **"Subsequent Offer"**);
- (c) for these purposes:
  - (i) **"Catch Up Shares"** means:
    - (A) in relation to the Emergency Relevant Securities to be offered to each Subsequent Offeree, the number of Emergency Relevant Securities which he would have been entitled to subscribe had the First Offer been made on a pre-emptive basis under Article 8.1; and
    - (B) in aggregate (in respect of all Emergency Relevant Securities to be offered to all Subsequent Offerees) such number of Emergency Relevant Securities as is necessary so that, if the Subsequent Offer were accepted, in full by all Subsequent Offerees, each offeree would hold the number of Emergency Relevant Securities referred to in paragraph (A);
  - (ii) the Subsequent Offer shall remain open for at least 20 Business Days and otherwise be effected as nearly as possible in accordance with the provisions of Articles 8.1 to 8.4 which shall be deemed to apply to such offer as if set out in this Article 8.5 in full with appropriate modifications;
  - (iii) the price at which Emergency Relevant Securities shall be offered for sale to Subsequent Offerees shall be a price equal to the price paid for the Emergency Relevant Securities allotted in the First Offer;
  - (iv) it shall be a term of the offer of any Catch-up Shares that each offeree must acquire the same proportion of any debt instrument issued at the same time as the Emergency Relevant Securities;
  - (v) the Catch Up Shares shall be offered, and to the extent necessary (having regard to the take up of the offer) transferred, to Subsequent

Offerees under the Subsequent Offer by the First Offer Allottees in the proportions in which the First Offer Allottees subscribed for the Emergency Relevant Securities (and, notwithstanding any other provision of these Articles, the First Offer Allottees shall not be entitled to transfer any of such Emergency Relevant Securities otherwise than in accordance with this Article 8.5 before completion of the Subsequent Offer and any sale of Relevant Securities to be effected pursuant to it (and then only as permitted in these Articles and the Investment Agreement));

- (vi) completion of any sale of Emergency Relevant Securities shall be effected as soon as reasonably practicable following the completion of the Subsequent Offer at such time as the Company shall designate; and
- (vii) the First Offer Allottees hereby irrevocably and unconditionally authorise the Company to act on their behalf as agent for the purpose of giving effect to the above provisions of this Article 8.5.

8.6 C Ordinary Shares may be issued in accordance with clause 7.9 of the Investment Agreement and subject to Investor Consent, up to 8,942,921 B Preference Shares may be issued.

8.7 Pursuant to Section 567, CA2006, sub-section (1) of Section 561, CA2006 and sub-sections (1) to (5) inclusive of Section 562, CA2006 shall be excluded from applying to the Company.

## **9 DISPUTE**

In the event of disagreement as to whether any dividend, shares or Relevant Securities shall be due under the provisions of these Articles to the holders of any class of share capital in the Company, or as to the amount of such dividend or number of such shares or Relevant Securities, any such disagreement shall be referred to the auditor of the Company or, if it should decline to act for this purpose, to an umpire (acting as expert and not as arbitrator) nominated by the parties concerned (or in the event of disagreement as to nomination by the President for the time being of the Institute of Chartered Accountants in England and Wales on application by any such party) whose decision shall be final and binding (save in the case of fraud or manifest error) and the costs of such umpire shall be borne equally by the parties to the dispute or disagreement or as the umpire shall otherwise determine.

## **10 VARIATION OF CLASS RIGHTS**

- 10.1 Whenever the share capital of the Company is divided into different classes of shares, the rights attached to any class may, whether or not the Company is being wound up, be varied, modified, abrogated or cancelled only with the consent in writing of the holders of 75% of the issued shares of that class.
- 10.2 Without prejudice to the generality of this Article 10, the special rights attached to the A Ordinary Shares shall be deemed to be varied by:

- (a) the creation, allotment or issue of any shares or securities by any Group Company or the grant of any option or other right to require the allotment or issue of them;
- (b) the modification, variation, alteration or abrogation of the rights attached to any of the classes of share capital of any Group Company;
- (c) the alteration, increase, reduction, consolidation, sub-division, re-denomination or other re-organisation of any Group Company's issued share capital or any part of it;
- (d) the passing of any resolution amending any Group Company's Articles;
- (e) the purchase, redemption or any distribution of capital profits or reserves of the any Group Company in respect of any shares otherwise than in accordance with the provisions of the Articles; or
- (f) the application by way of capitalisation of any sum in or towards paying any debenture or debenture stock (whether secured or unsecured) of any Group Company.

## **11 PERMITTED TRANSFERS**

### **11.1 Transfers to Privileged Relations**

- (a) Any member may at any time transfer up to 49% of the shares in the capital of the Company held by him at the Adoption Date to a Privileged Relation (who may transfer such shares without restriction to the original member or to another Privileged Relation of the original member but any other transfer by the Privileged Relation shall be subject to the same restrictions as though they were transfers by the original member himself).
- (b) Any transfer by an Employee under this Article 11.1 may only be made with prior Investor Consent (in each case not to be unreasonably withheld or delayed).

### **11.2 Transfers to nominees**

Subject to prior Investor Consent, shares may be transferred by a member to a person to hold such shares as his bare nominee and the nominee may transfer such shares without restriction to the original member or to another bare nominee of such original member but any other transfers by the nominee shall be subject to the same restrictions as though they were transfers by the original member himself.

### **11.3 Transfers by corporate shareholders**

A corporate member may at any time transfer shares to another member of its Wholly-owned Group.

### **11.4 Transfers with Investor Consent and Manager Consent**

A transfer of shares may be made to any person with Investor Consent and Manager Consent.



## 11.5 Transfers by Investment Managers and Investment Funds

Notwithstanding any other provision of these Articles, a transfer of any shares may be made without restriction as to price or otherwise (and any such transfers shall be registered by the directors) between:

- (a) any member (or a nominee of a member) who is:
  - (i) a person whose principal business is to make, manage or advise upon investments (an "**Investment Manager**"); or
  - (ii) a fund, partnership, company, investment trust, syndicate or other entity whose principal business is to make investments and whose business is managed or advised by an Investment Manager (an "**Investment Fund**"); or
  - (iii) a nominee of an Investment Manager or an Investment Fund; or
  - (iv) the Investor or an Investor Affiliate;and:
- (b) where that member is an Investment Manager or a nominee of an Investment Manager:
  - (i) any participant or partner in or member of any Investment Fund in respect of which the shares to be transferred are held (but only in connection with the dissolution of such Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course); or
  - (ii) any Investment Fund whose business is managed or advised by the Investment Manager who is or whose nominee is the transferor; or
  - (iii) any other Investment Manager who manages or advises the business of the Investment Fund in respect of which the shares are held;or:
- (c) where that member is an Investment Fund or nominee of an Investment Fund:
  - (i) any participant or partner in or member of the Investment Fund which is or whose nominee is the transferor (but only in connection with the dissolution of such Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course); or
  - (ii) any other Investment Fund whose business is managed or advised by the same Investment Manager as manages or advises the Investment Fund which is or whose nominee is the transferor; or

- (iii) the Investment Manager who manages the business of the Investment Fund which is or whose nominee is the transferor; or
- (iv) any co-investment scheme, being a scheme under which certain officers, employees or partners of such Investment Fund or its adviser or manager are entitled (as individuals or through a body corporate or any other vehicle) to acquire shares which the Investment Fund would otherwise acquire ("**Co-Investment Scheme**") and any person holding Shares in connection with a Co-Investment Scheme may at any time transfer any share:
  - (A) to another person which holds or is to hold shares in connection with such Co-Investment Scheme; and/or
  - (B) to any person on their becoming entitled to the same under the terms of such Co-Investment Scheme;

or

- (d) where that member is the Investor or nominee of the Investor or an Investor Affiliate or nominee of an Investor Affiliate:
  - (i) any Investor Affiliate or nominee of any Investor Affiliate; or
  - (ii) the Investor or nominee of the Investor.

#### **11.6 Transfers to and from the Employee Trust**

Any member may at any time transfer shares to the trustees of the Employee Trust and the trustees of the Employee Trust may transfer any shares:

- (a) upon change of trustees, to the new or remaining trustee or trustees for the time being of the Employee Trust; and
- (b) with Investor Consent, to any bona fide Employees on their becoming entitled to the same under the terms of the Employee Trust.

## **12 MANDATORY TRANSFERS**

### **12.1 Transfer if shares cease to be held by a Privileged Relation**

*If a Privileged Relation holding shares transferred to him under Article 11.1 ceases to be a Privileged Relation of the original member who held them, the Privileged Relation then holding the shares shall without delay notify the Company that this event has occurred and shall be required to transfer all such shares held by them as at the date on which they ceased to be a Privileged Relation to the original member from whom such shares were transferred within 10 Business Days of ceasing to be a Privileged Relation of the original member who held them.*

### **12.2 Transfer on change of control of corporate member**

- (a) If a corporate member holding shares transferred to it under Article 11.3 ceases to be a member of the same Wholly-owned Group as the original

corporate member who held them, the corporate member then holding those shares shall without delay notify the Company that this event has occurred and shall be deemed to have served the Company with a Transfer Notice in respect of all such shares as at the date on which it ceased to be a member of the relevant Wholly-owned Group and such shares may not otherwise be transferred.

- (b) If there is a change in the Controller (or, if more than one, any of them) of a corporate member other than an Investor, or any holding company of a corporate member other than an Investor, then that member shall notify the Company that such event has occurred and shall be deemed to have served the Company with a Transfer Notice in respect of all shares then held by it as at the date on which the change in Controller occurred and such shares may not otherwise be transferred.

### **12.3 Transfer on death or bankruptcy of member**

A person entitled to a share or shares in consequence of the death of a member (subject to Article 13 (*Employee Shares*) in respect of Leaver Shares where such member becomes a Leaver) or the bankruptcy of a member:

- (a) shall be deemed to have served the Company with a Transfer Notice in respect of all such share(s) on the date of death or bankruptcy (as appropriate); and
- (b) shall be bound by any notice given to the member in respect of the shares.

### **12.4 Transfer on insolvency of corporate member**

If a corporate member either suffers or resolves for the appointment of a liquidator, administrator or administrative or other receiver over it or any material part of its assets or enters into an arrangement with its creditors, the relevant member shall be deemed to have given a Transfer Notice in respect of all the shares held by it as at the date of such liquidation, administration, administrative or other receivership or arrangement.

### **12.5 Deemed Transfer Notice**

Save where these Articles expressly provide otherwise, if in any case under the provisions of these Articles:

- (a) the directors require a Transfer Notice to be given in respect of any shares; or
- (b) a person has become bound to give a Transfer Notice in respect of any shares,

and such a Transfer Notice is not duly given within a period of two weeks of demand being made or within the period allowed thereafter respectively a Transfer Notice shall be deemed to have been given at the expiration of the said period.

### **12.6 Effect on share rights**

- (a) Unless Investor Consent to the contrary is given, the provisions of this Article 12.6 apply:
  - (i) from the date of the Transfer Notice or deemed Transfer Notice to any shares which become subject to a Transfer Notice or deemed Transfer Notice served under the provisions of this Article 12; and
  - (ii) from the date of issue to any shares issued to the proposed transferor under a Transfer Notice or deemed Transfer Notice served under the provisions of this Article 12 where such shares are issued after the date of such Transfer Notice or deemed Transfer Notice (whether by virtue of the exercise of any right or option granted or arising by virtue of the holding of the shares or otherwise);
- (b) Any shares to which this Article 12.6 applies shall cease to confer the right to be entitled to receive notice of or to attend or vote at any general meeting or on any written resolution of the Company or at any meeting or on any written resolution of the holders of any class of shares in the capital of the Company and such shares shall not be counted in determining the total number of votes which may be cast at any such meeting or required for the purposes of a written resolution of any members or class of members or any consent under these Articles or otherwise. Such rights shall be restored immediately upon a Sale, a Listing or the Company registering a transfer of the relevant shares pursuant to these Articles.

## 13 EMPLOYEE SHARES

### 13.1 Transfer by Leaver

Unless Investor Consent is given to the contrary, if an Employee becomes a Leaver:

- (a) a Transfer Notice shall be deemed to have been served on the Cessation Date in respect of the Leaver's Shares and on each anniversary of such Cessation Date to the extent that not all Leaver's Shares are acquired following the issue of a Transfer Notice provided that the Sale Price in any such subsequent Transfer Notice shall be the Sale Price determined in respect of the Transfer Notice which was first deemed served on the Cessation Date of the relevant Leaver;
- (b) any existing Transfer Notice relating to the relevant Leaver's Shares or any of them in force at the Cessation Date shall immediately be cancelled (unless the transferee(s) are bound to pay for such shares and the transferor(s) are bound to transfer them in accordance with Article 14.7) and no further Transfer Notice shall be issued or be deemed to be issued in respect of the relevant Leaver's Shares except pursuant to this Article 13.1;
- (c) no Leaver's Shares shall be transferred pursuant to Article 11 until the Leaver can no longer be bound to transfer them under this Article 13.1 or Article 14 (*Pre-emption Procedure*); and
- (d) all Leaver's Shares subject to a deemed Transfer Notice under Article 13.1(a) (and any shares issued to the Leaver after the Cessation Date whether by virtue of the exercise of any right or option granted or arising by virtue of the

holding of the Leaver's Shares or otherwise) shall cease to confer the right to be entitled to receive notice of or to attend or vote at any general meeting or on any written resolution of the Company or at any meeting or on any written resolution of the holders of any class of shares in the capital of the Company and such shares shall not be counted in determining the total number of votes which may be cast at any such meeting or required for the purposes of a written resolution of any members or class of members or any consent under these Articles or otherwise. Such rights shall be restored immediately upon a Sale, a Listing or the Company registering a transfer of the relevant Leaver's Shares pursuant to these Articles.

### **13.2 Price of Leaver's Shares**

The price for the Leaver's Shares shall be the price agreed by the Leaver and the Board (with Investor Consent) save that if agreement is not reached within 10 Business Days of the Cessation Date the Leaver or the Board may refer determination of the price to a Valuer in accordance with the following provisions:

- (a) if the Leaver is a Good Leaver, the price payable for the Leaver's Shares shall be the Market Price; or
- (b) if the Leaver is an Intermediate Leaver, the price payable for the Leaver's Shares shall be:
  - (i) Market Price in respect of the Relevant Proportion of the Leaver's Shares; and
  - (ii) the lower of Market Price and the Original Subscription Price in respect of the balance of the Leaver's Shares (if any); or
- (c) if the Leaver is a Bad Leaver, the price payable for the Leaver's Shares shall be the lower of Market Price and the Original Subscription Price.

### **13.3 Preference Shares, Preferred Ordinary Shares, B Ordinary Shares, C Ordinary Shares and D Ordinary Shares held by a Leaver**

- (a) Subject to Article 13.3(b), an Employee who becomes a Leaver shall not be required to give a Transfer Notice or be deemed to have served a Transfer Notice in respect of the Preference Shares, the Preferred Ordinary Shares and B Ordinary Shares held by him and, following any transfers in accordance with Articles 11.1 and/or 11.2, his Privileged Relations and/or nominee as appropriate but, unless Investor Consent to the contrary is given, such B Ordinary Shares together with any C Ordinary Shares and D Ordinary Shares retained by that Leaver following the operation of this Article 13 and Article 14 and, following any transfers in accordance with Articles 11.1 and/or 11.2, his Privileged Relations and/or nominee as appropriate shall:
  - (i) cease to confer the right to be entitled to receive notice of or to attend or vote at any general meeting or on any written resolution of the Company or at any meeting or on any written resolution of the holders of any class of shares in the capital of the Company and such shares shall not be counted in determining the total number of votes which may be cast at any such meeting or required for the purposes of a

written resolution of any members or class of members or any consent under these Articles or otherwise. Such rights shall be restored immediately upon a Sale, a Listing or the Company registering a transfer of the relevant B Ordinary Shares and any C Ordinary Shares and D Ordinary Shares pursuant to these Articles; and

- (ii) if the Employee is a Bad Leaver, be Capped such that their Capped Amount shall be the Market Price on the Cessation Date. The Board (with Investor Consent) shall give written notice to the holder of the Capped Shares and any such Capping shall take effect upon the giving of that notice. The holder of such Capped Shares shall promptly and in any event within 10 Business Days of such notice surrender to the Company the certificates for their shares so Capped for endorsement as Capped Shares.

- (b) A holder of B Ordinary Shares in the capital of the Company shall be required to give a Transfer Notice or deemed to have served a Transfer Notice in respect of the B Ordinary Shares and, following any transfer in accordance with Articles 11.1 and/or 11.2, his Privileged Relations and/or nominees if at any time that person;

- (i) breaches any post-termination restrictions on him under the terms of any contract of employment or clause 11 (*Restrictive Covenants*) of the Investment Agreement and whether or not such person is or was a party to the Investment Agreement or any compromise/settlement agreement between him and any Group Company and/or the Investor; and/or
- (ii) takes any action which would be prohibited by clause 11 (*Restrictive Covenants*) of the Investment Agreement whether before or at any time after the Cessation Date and whether or not such person is or was a party to the Investment Agreement,

and the other provisions of Articles 13 and 14 (*Pre-emption Procedure*) shall apply mutatis mutandis provided that such person shall be deemed a Bad Leaver for the purposes thereof.

- (c) In accordance with definitions of Preference Dividend, and Preferred Return as from the Cessation Date, the rate at which the Preference Dividend and the Preferred Return on Preference Shares and Preferred Ordinary Shares held by a Bad Leaver accrues shall reduce to 4% if they are an Intermediate Leaver and nil% if they are a Bad Leaver, in each case with effect from the Cessation Date.

## **14 PRE-EMPTION PROCEDURE**

- 14.1 Except as permitted in these Articles, any member who desires to transfer (or enter into an agreement to transfer) any interest in his shares must first obtain Investor Consent and Manager Consent to such transfer and offer them to the other members whether or not of the same class in accordance with this Article 14. The offer may be in respect of all or part only of the shares held by the proposing transferor and shall be made by the proposing transferor by notice in writing to the Company (a "Transfer Notice").

14.2 The Transfer Notice shall specify the number and class of shares offered (the "**Offered Shares**") and the name and address of the proposed transferee(s) (if any). Save where it is required or deemed to be given under Article 12 (*Mandatory Transfers*), the Transfer Notice may contain a provision that, unless all the Offered Shares are sold under this Article, none shall be sold ("**Total Transfer Condition**") and that provision shall have effect. The Transfer Notice shall constitute the directors as the agent of the proposing transferor for the sale of the Offered Shares at the Sale Price. Upon receipt, the Company shall send the Investor a copy of the Transfer Notice (or if appropriate, notify the Investor that a Transfer Notice is deemed to have been given). Save for as set out in Article 15.3, a Transfer Notice may not be varied or revoked other than with Investor Consent.

14.3 The Sale Price means:

- (a) in the case of a deemed Transfer Notice in respect of Leaver's Shares, the price determined in accordance with Article 13.2;
- (b) in the case of a deemed Transfer Notice (other than in respect of Leaver's Shares), the Market Price as at the date of the deemed Transfer Notice as agreed between the transferor and the Board (with Investor Consent) save that if agreement is not reached within 10 Business Days of the day on which the Transfer Notice is deemed to be given, either the transferor or the Board may refer determination of the Market Price to a Valuer; and
- (c) in all other cases, the price specified in the Transfer Notice by the proposing transferor or, if none is specified, the Market Price as at the date of the Transfer Notice as agreed between the transferor and the Board (with Investor Consent) save that if agreement is not reached within 10 Business Days of the day on which the Transfer Notice is given, either the transferor or the Board may refer determination of the Market Price to a Valuer.

14.4 As soon as practicable after determination of the Sale Price, any Offered Shares to the extent they are Leaver's Shares will be offered to the Company, which may:

- (a) direct that all or some of such shares be transferred to one or more Board Invitees; and/or
- (b) accept the offer in respect of some or all of the shares itself provided the purchase is permitted by the Companies Acts and prior Investor Consent is obtained.

Any Offered Shares declined by the Company or not accepted by a Board Invitee within 20 Business Days of the offer to it being made will immediately be offered to the members as set out below.

14.5 As soon as practicable after the determination of the Sale Price (and provided the Transfer Notice has not been withdrawn in accordance with Article 15.3), or if Article 14.4 applies, as soon as practicable after the shares are available to be offered to the members, the directors shall give notice to all the members (other than the proposing transferor) of the number and description of the Offered Shares (excluding any which have been taken up by the Company or a Board Invitee under Article 14.4), the Sale Price and whether or not the Offered Shares are subject to a Total Transfer Condition. The notice shall invite each of the members to state in writing to the

Company within 20 Business Days of such notice being given whether he is willing to purchase any of the remaining Offered Shares, and if so the maximum number. The directors shall at the same time give a copy of the notice to the proposing transferor.

14.6 On the expiration of the 20 Business Day period the directors shall allocate the remaining Offered Shares to or amongst the members who have accepted the invitation ("**Pre-emption Purchasers**") and such allocation shall be made so far as practicable as follows:

- (a) if and to the extent that the Offered Shares are A Ordinary Shares they shall be allocated in the following order amongst the following persons to the extent they are Pre-emption Purchasers:
  - (i) first to the holders of the A Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase; and
  - (ii) secondly, to the extent the Offered Shares have not already been allocated in accordance with Article 14.6(a)(i), to the holders of the B Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase;
- (b) if and to the extent that the Offered Shares are Preference Shares they shall be allocated in the following order amongst the following persons to the extent they are Pre-emption Purchasers:
  - (i) first to the holders of the Preference Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase;
  - (ii) secondly, to the extent the Offered Shares have not already been allocated in accordance with Article 14.6(b)(i), to the holders of the Preferred Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase; and
  - (iii) thirdly, to the extent the Offered Shares have not already been allocated in accordance with Articles 14.6(b)(i) and 14.6(b)(ii), to the holders of the B Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase; and
  - (iv) fourthly, to the extent the Offered Shares have not already been allocated in accordance with Articles 14.6(b)(i) to 14.6(b)(iii), to the holders of the A Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase;



- (c) if and to the extent that the Offered Shares are Preferred Ordinary Shares they shall be allocated in the following order amongst the following persons to the extent they are Pre-emption Purchasers:
  - (i) first to the holders of the Preferred Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase;
  - (ii) secondly, to the extent the Offered Shares have not already been allocated in accordance with Article 14.6(c)(i), to the holders of the Preference Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase; and
  - (iii) thirdly, to the extent the Offered Shares have not already been allocated in accordance with Articles 14.6(c)(i) and 14.6(c)(ii), to the holders of the B Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase; and
  - (iv) fourthly, to the extent the Offered Shares have not already been allocated in accordance with Articles 14.6(c)(i) to 14.6(c)(iii), to 14.6(b)(iii), to the holders of the A Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase;
- (d) if and to the extent that the Offered Shares are B Ordinary Shares they shall be allocated in the following order amongst the following persons to the extent they are Pre-emption Purchasers:
  - (i) first to the holders of the B Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase;
  - (ii) secondly, to the extent the Offered Shares have not already been allocated in accordance with Article 14.6(d)(i), to the holders of the A Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase;
- (e) if and to the extent that the Offered Shares are C Ordinary Shares they shall be allocated in the following order amongst the following persons:
  - (i) first to any Board Invitee;
  - (ii) secondly, to the extent the Offered Shares have not already been allocated in accordance with Article 14.6(e)(i), to an Employee Trust (or pending the establishment of an Employee Trust, such person(s) as the Investor shall direct to hold such Offered Shares as a nominee);

- (iii) thirdly, to the extent the Offered Shares have not already been allocated in accordance with Article 14.6(e)(ii) and to the extent they are Pre-emption Purchasers, the holders of A Ordinary Shares and B Ordinary Shares pro rata to their existing holdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase;
  - (f) if an to the extent that the Offered Shares are D Ordinary Shares they shall be allocated as directed by the Investor;
  - (g) each allocation between the holders of any class shall in the case of competition be made pro rata to the number of shares of that class held by them but shall not exceed the maximum which such holders have expressed a willingness to purchase; and
  - (h) if the Transfer Notice contains a valid Total Transfer Condition, no allocation will be made unless all the Offered Shares are allocated.
- 14.7 On the allocation being made, the directors shall give details of the allocation in writing to the proposing transferor and each Pre-emption Purchaser and, on the 5th Business Day after such details are given, the Pre-emption Purchasers to whom the allocation has been made shall be bound to pay the Sale Price for, and to accept a transfer of, the Offered Shares allocated to them respectively and the proposing transferor shall be bound, on payment of the Sale Price, to transfer the Offered Shares to the respective Pre-emption Purchasers to whom the allocation has been made.
- 14.8 If the proposing transferor after becoming bound to transfer any or all of the Offered Shares fails to do so, the Company may receive the Sale Price and the directors may appoint a person (acting as agent for the transferor(s)) to execute instruments of transfer of the Offered Shares in favour of the Pre-emption Purchasers to whom the allocation has been made and shall (subject only to stamping of the transfers, if required) cause the names of those Pre-emption Purchasers to be entered in the register of members of the Company as the holders of the Offered Shares and shall hold the Sale Price on trust for the proposing transferor. The receipt of the Company shall be a good discharge to those Pre-emption Purchasers and, after their names have been entered in the register of members of the Company under this provision, the validity of the transactions shall not be questioned by any person.
- 14.9 If, following the expiry of the 20 Business Days period referred to in Article 14.5, any of the Offered Shares have not been allocated under that Article, the proposing transferor may at any time within a period of 3 months after the expiry of the 20 Business Day period transfer the Offered Shares not allocated to any person and at any price (being not less than the Sale Price) provided that:
- (a) the transferee is a person (or nominee for a person) approved by Investor Consent;
  - (b) if the Transfer Notice contained a Total Transfer Condition, he shall not be entitled to transfer any of the Offered Shares unless in aggregate all the Offered Shares are so transferred;

- (c) the directors may require to be satisfied that those shares are being transferred under a bona fide sale for the consideration stated in the transfer without any deduction, rebate or allowance to the proposed purchaser and, if not so satisfied, may refuse to register the instrument of transfer (without prejudice, however, to the directors' absolute discretion to refuse to approve or register any transfer of shares in the circumstances described in Article 18 (*Registration*)); and
- (d) the transferor has not failed or refused to provide promptly information available to him and reasonably requested by the directors for the purpose of enabling them to form the opinions mentioned above.

## **15 VALUATION**

- 15.1 Any Valuer appointed under these Articles shall be considered to be acting as an expert and not as an arbitrator and its decision shall be final and binding on the parties (in the absence of fraud or manifest error).
- 15.2 The Board will give the Valuer access to all accounting records or other relevant documents of the Company subject to them agreeing such confidentiality provisions as the Board may reasonably impose.
- 15.3 The Valuer shall be requested to reach its determination within 20 Business Days of its appointment and to notify the Board of its determination. The Board shall deliver a copy of the determination to the relevant transferor(s) (or their agent) as soon as reasonably practicable after receipt. Save where the valuation relates to a Transfer Notice which is required or deemed to be given under Articles 12 (*Mandatory Transfers*), the transferor may revoke the Transfer Notice by written notice to the Company within 5 Business Days of the service on him (or his agent) of the Valuer's determination.
- 15.4 The fees, expenses and any other charges of the Valuer in respect of a valuation shall be borne:
  - (a) by the relevant transferor if the last price proposed by him before the matter was referred to the Valuer exceeds the price certified by the Valuer by 10% or more of such certified price;
  - (b) by the Company if the last price proposed by the Board before the matter was referred to the Valuer is lower than the price certified by the Valuer by 10% or more of such certified price; and
  - (c) otherwise, as to 50% by the relevant transferor(s) and 50% by the Company.

## **16 TAG ALONG**

- 16.1 Except as permitted by Article 11 (*Permitted Transfers*) or required by Article 12 (*Mandatory Transfers*), no sale or transfer of interest in any Equity Shares may be made or validly registered if, as a result of such sale or transfer and registration, a Controlling Interest in the Company would be obtained by a person or persons Acting in Concert unless such persons are bona fide arms' length purchasers and have made an Approved Offer.

- 16.2 Any transfer of shares pursuant to an Approved Offer shall not be subject to the restrictions on transfer contained in these Articles.

## 17 DRAG ALONG

- 17.1 Except whilst Article 6.4(b) (*Enhancement on underperformance*) applies, the Exit Option referred to in this Article 17 may not be exercised by the giving of an Exit Notice before the fifth anniversary of the Adoption Date.

- 17.2 Subject to Article 17.1, if the holders of 50% or more of the A Ordinary Shares in issue for the time being (the "**Majority Sellers**") wish to transfer all their interest in Equity Shares (the "**Majority Sellers' Shares**") to a bona fide purchaser (other than a connected person (within the meaning of Section 252, CA 2006) or associated bodies corporate (within the meaning of Section 256, CA2006) of the Majority Sellers) on arm's length terms or more than one of such purchasers Acting in Concert (the "**Third Party Purchaser**") who has made an Approved Offer, the Majority Sellers shall have the option (the "**Exit Option**") to require:

- (a) all the other members; and
- (b) any holders of any options or other rights to acquire or convert an interest into shares (which is fully and unconditionally exercisable) to exercise them,

(together the "**Called Shareholders**") to sell and transfer all their shares, including those allotted pursuant to such exercise or conversion (the "**Called Shares**") to the Third Party Purchaser or as the Third Party Purchaser shall direct in accordance with the provisions of Articles 17.3 to 17.9 below.

- 17.3 Subject to Article 17.1, the Majority Sellers may exercise the Exit Option by giving a written notice to that effect (an "**Exit Notice**") at any time before the transfer of the Majority Sellers' Shares to the Third Party Purchaser. An Exit Notice shall specify that the Called Shareholders are required to transfer all their Called Shares pursuant to this Article, the person to whom they are to be transferred, the consideration for which the Called Shares are to be transferred (calculated in accordance with this Article) and the proposed date of transfer which shall be at least 5 Business Days after the date on which the Exit Notice is served.

- 17.4 Exit Notices shall be irrevocable but shall lapse if for any reason there is not a sale of the Majority Sellers' Shares by the Majority Sellers to the Third Party Purchaser within 30 Business Days after the date of service of the Exit Notice. The Majority Sellers shall be entitled to serve further Exit Notices following the lapse of any particular Exit Notice.

- 17.5 The Called Shares shall be acquired on the same terms and conditions (including time of payment and form of consideration) for which the Majority Sellers shall have agreed to sell provided that the Investor and its permitted transferees under Article 11:

- (a) will receive cash or marketable securities as consideration for the transfer of their shares; and

- (b) will not be required to provide the Third Party Purchaser with any representations, warranties or indemnities (save as to title and capacity) or give any restrictive covenants or undertakings.
- 17.6 Completion of the sale of the Called Shares shall take place on the same date as the date proposed for completion of the sale of the Majority Sellers' Shares unless the relevant Called Shareholder and the Majority Sellers agree otherwise.
- 17.7 The restrictions in Article 14 (*Pre-emption Procedure*) shall not arise on any transfer of shares to a Third Party Purchaser (or as they may direct) pursuant to a sale in respect of which an Exit Notice has been duly served in accordance with Article 17.3.
- 17.8 If any Called Shareholder fails to complete the sale of his Called Shares in accordance with this Article 17, he shall be deemed to have irrevocably appointed any person nominated for the purpose by the Majority Sellers to be his agent and attorney to execute all necessary transfer(s), power(s) of attorney relating to the rights attached to his Called Shares and indemnities for missing share certificate(s) on his behalf and, against receipt by the Company of the purchase monies or any other consideration payable for the Called Shares (held on trust for the relevant Called Shareholder), to deliver such transfer(s), power(s) and indemnities to the Third Party Purchaser (or as he may direct). The directors shall (subject only to stamping of the transfers, if required) immediately register the Third Party Purchaser (or as he may direct) as the holder of the relevant Called Shares. After the Third Party Purchaser (or his nominee) has been registered as the holder of the relevant Called Shares, the validity of such proceedings shall not be questioned by any person. It shall be no impediment to registration of shares under this Article 17.8 that no share certificate has been produced.
- 17.9 Upon any person, following the issue of an Exit Notice which has not lapsed, exercising a pre-existing option to acquire shares, whether or not such person is registered as a member of the Company, an Exit Notice shall be deemed to have been served upon such person on the same terms as the previous Exit Notice who shall thereupon be bound to sell and transfer all such shares acquired by him to the Third Party Purchaser or as the Third Party Purchaser may direct and the provisions of this Article 17 shall apply mutatis mutandis to such person save that completion of the sale of such shares shall take place immediately upon the Exit Notice being deemed served on such person where completion of the transfer of the Called Shares has already taken place.

## **18 REGISTRATION**

- 18.1 The directors shall refuse to register:
- (a) a purported transfer of any share not made under or permitted by Articles 11 to 14;
  - (b) except where permitted by these Articles, a purported transfer of any share on a Sale where the proceeds of such Sale are not distributed in accordance with Article 6.3(a);
  - (c) an allottee or transferee of shares or a person entitled to shares by transmission (unless he is already a party to the Investment Agreement, the transfer is pursuant to an Approved Offer or Investor Consent is given) until

he has executed a Deed of Adherence under which he undertakes to adhere to and be bound by the provisions of the Investment Agreement as if he were an original party to it and an original copy of this Deed of Adherence has been delivered to the Company; and/or

- (d) a transfer to an Employee or prospective Employee until such Employee has made an election pursuant to Section 431(1), Income Tax (Earnings and Pensions) Act 2003, in the form prescribed by HMRC, to elect that the market value of the shares or securities covered by the election is to be calculated as if the shares or securities were not restricted and that Sections 425 to 430, Income Tax (Earnings and Pensions) Act 2003 do not apply to such shares or securities.

18.2 The directors may in their absolute discretion refuse to register a transfer of any share, whether or not it is a fully paid share and whether or not the Company has a lien on such share (save that (in the absence of fraud) the directors shall have no such discretion in respect of and shall register a transfer of shares made under or permitted by Articles 11 to 14).

18.3 For the purposes of ensuring that a transfer of shares is duly authorised or that no circumstances have arisen whereby a Transfer Notice is required to be given the directors may and shall at the written request of the Investor and at the Company's expense request any member or past member or the personal representative or trustee in bankruptcy, administrative receiver or liquidator or administrator of any member or any person named as transferee in any instrument of transfer lodged for registration to furnish to the Company such information and evidence as the directors may reasonably think fit regarding any matter which they may deem relevant to such purpose.

18.4 Failing such information or evidence being furnished to the reasonable satisfaction of the directors within 10 Business Days after such request or if such information or evidence discloses that the transfer was made in breach of these Articles (including that a Transfer Notice ought to have been given in respect of any shares):

- (a) the directors shall be entitled to refuse to register the transfer in question;
- (b) the relevant shares shall cease to confer upon the holder of them (or any proxy) any rights:
  - (i) to vote on a show of hands or poll at a general meeting of the Company or at any meeting of the class of shares in question or on any written resolution of the Company or the class of shares in question (provided that such rights shall not cease if as a result of such cessation the Company shall become a Subsidiary of an Investor); or
  - (ii) to receive dividends or other distributions otherwise attaching to the shares or to receive any further shares issued in respect of those shares; and
- (c) the directors may by notice in writing require that a Transfer Notice be given forthwith in respect of all the shares concerned.

- 18.5 Any transfer of a share by way of sale which is required to be made under these Articles will be deemed to include a warranty that the transferor sells with full title guarantee.
- 18.6 No share shall be issued or transferred to any undischarged bankrupt or a person who lacks mental capacity.

## **INVESTOR DIRECTORS AND OBSERVER**

### **19 THE INVESTOR DIRECTOR**

- 19.1 The Investor shall be entitled to appoint one person as a director of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in their place. Article 23 (*Termination of director's appointment*) shall not apply to an Investor Director appointed under this Article.
- 19.2 Upon request by the Investor, the Company shall procure that an Investor Director be appointed as a director of any Subsidiary. The Company shall procure that such Investor Director is not removed from his office as director of the relevant Subsidiary other than at the request of the relevant Investor or if he ceases to be a director of the Company.
- 19.3 Any appointment or removal of an Investor Director pursuant to Article 19.1 or 19.2 shall be by signed instrument in writing served on the Company on behalf of the Investor which appointed him and shall take effect on and from the date on which such instrument is lodged or deposited at the registered office of the Company or sent or supplied to such other address (including electronic address) designated for the purpose.
- 19.4 Subject to Section 168, CA2006, on any resolution to remove an Investor Director upon election in writing to the Company by the Investor the shares held by the Investor shall together carry at least one vote in excess of 75% of the votes exercisable in respect of that resolution at the general meeting at which such resolution is to be proposed or in respect of the total voting rights of members eligible to vote on that resolution if proposed as a written resolution.
- 19.5 The Investor Director (and any alternate director appointed by him) shall be entitled to consider the interests of and make such disclosure to the Investor in relation to the business and affairs of the Group as he may in his absolute discretion determine.

### **20 OBSERVER**

- 20.1 The Investor shall be entitled to appoint one representative to attend and be present at all Board meetings or meetings of a committee of the Board as an observer (each an "**Observer**") and to remove from that position any person so appointed and (subject to such removal) to appoint another person in his place.
- 20.2 Any appointment or removal of an Observer shall be by signed instrument in writing served on the Company on behalf of the Investor and shall take effect on and from the date on which such instrument is lodged or deposited at the registered office of the Company or sent or supplied to such other address (including electronic address) designated for the purpose.

- 20.3 An Observer may speak at all Board meetings or meetings of a committee of the Board but shall have no vote and no authority to bind the Company in any way.
- 20.4 The Observer shall be entitled to make such disclosure to the Investor in relation to the business and affairs of the Group as he may in his absolute discretion determine.



## **PART B**

### **DIRECTORS**

#### **NUMBER AND APPOINTMENT OF DIRECTORS**

##### **21 NUMBER OF DIRECTORS**

The number of directors (other than alternate directors) shall not be less than 2.

##### **22 METHODS OF APPOINTING DIRECTORS**

22.1 Subject to these Articles and prior Investor Consent, any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:

- (a) by ordinary resolution; or
- (b) by a decision of the directors.

22.2 In any case where, as a result of death or bankruptcy, the Company has no shareholders and no directors, the transmittee of the last shareholder to have died or to have had a bankruptcy order made against him, as the case may be, shall have the right, by notice in writing to the Company, to appoint any one person to be a director, provided such person is a natural person in accordance with Section 155, CA2006 and provided such person is willing to be so appointed and is otherwise permitted by law to be a director of the Company.

22.3 For the purposes of Article 22.2, where two or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

##### **23 TERMINATION OF DIRECTOR'S APPOINTMENT**

A person ceases to be a director as soon as:

- (a) that person ceases to be a director by virtue of any provision of the CA2006 or is prohibited from being a director by law;
- (b) a bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- (e) by reason of that person's mental health, a court having jurisdiction (whether in the United Kingdom or elsewhere) makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;

- (f) notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms; or
- (g) save in the case of an Investor Director, that person has, for more than six consecutive months, been absent without permission of the directors from meetings of directors held during that period and the directors make a decision that that person's office be vacated.

## **DIRECTORS' POWERS AND RESPONSIBILITIES**

### **24 DIRECTORS' GENERAL AUTHORITY**

Subject to these Articles, the directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

### **25 SHAREHOLDERS' RESERVE POWER**

- 25.1 The shareholders may, by special resolution and with Investor Consent, direct the directors to take, or refrain from taking, specified action.
- 25.2 No such special resolution invalidates anything which the directors have done before the passing of the resolution.

### **26 DIRECTORS MAY DELEGATE**

- 26.1 Subject to these Articles and with Investor Consent, the directors may delegate any of the powers which are conferred on them under these Articles:

- (a) to such person or committee;
- (b) by such means (including by power of attorney);
- (c) to such an extent;
- (d) in relation to such matters or territories; and
- (e) on such terms and conditions,

as they think fit (including whether any such delegation shall be made either collaterally with or to the exclusion of the powers otherwise conferred on the directors under these Articles).

- 26.2 If the directors so specify, acting with Investor Consent, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.
- 26.3 The directors, acting with Investor Consent, may revoke any delegation in whole or part, or alter its terms and conditions.

## **27 COMMITTEES**

- 27.1 Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of these Articles which govern the taking of decisions by directors.
- 27.2 The directors may, acting with Investor Consent, make rules of procedure for all or any committees, which prevail over rules derived from these Articles if they are not consistent with them.
- 27.3 Committees to whom the directors delegate any of their powers may consist of one or more co-opted persons other than directors on whom voting rights may be conferred as members of the committee but so that:
- (a) the number of co-opted members of the committee shall be less than one-half of the total number of members of the committee;
  - (b) no resolution of the committee shall be effective unless a majority of the members of the committee voting on the resolution are directors; and
  - (c) any such committee shall include the Investor Director.

### **DECISION-MAKING BY DIRECTORS**

## **28 DIRECTORS TO TAKE DECISIONS COLLECTIVELY**

- 28.1 The general rule about decision-making by directors is that, save as otherwise provided for in these Articles, any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with Article 29 (*Unanimous decisions*).
- 28.2 At any meeting of the directors each director (or his alternate director) present at the meeting shall be entitled to one vote save that if:
- (a) a Type B Underperformance Event subsists and has not been waived; or
  - (b) the circumstances giving rise to a Type A Underperformance Event have not been addressed to the reasonable satisfaction of the Investor within 9 months of the relevant Underperformance Notice having been served;

then for the period while such Underperformance Event subsists, the voting rights conferred on the Investor Director shall represent 90% of the voting rights conferred on all directors after the application of this enhancement.

## **29 UNANIMOUS DECISIONS**

- 29.1 A decision of the directors is taken in accordance with this Article when all eligible directors indicate to each other by any means, excluding the means of text messaging, that they share a common view on a matter.
- 29.2 Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it or to which each eligible director has otherwise indicated agreement in writing.

- 29.3 A decision may not be taken in accordance with this Article if the eligible directors would not have formed a quorum at a directors' meeting held to discuss the matter in question.

### **30 CALLING A DIRECTORS' MEETING**

- 30.1 Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the Company secretary (if any) to give such notice.
- 30.2 Notice of any directors' meeting must indicate:
- (a) its proposed date and time;
  - (b) where it is to take place; and
  - (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
- 30.3 Notice of a directors' meeting must be given to each director and must be given in writing.
- 30.4 Except with the prior consent of the Investor Director, at least 5 working days' notice of each directors' meeting shall be given in accordance with these Articles.
- 30.5 Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

### **31 PARTICIPATION IN DIRECTORS' MEETINGS**

- 31.1 Subject to these Articles, directors participate in a directors' meeting, or part of a directors' meeting, when:
- (a) the meeting has been called and takes place in accordance with these Articles; and
  - (b) *they can each communicate orally including by means of telephone, video conference or other audio or audio-visual link to the others any information or opinions they have on any particular item of the business of the meeting.*
- 31.2 In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other, provided that all persons participating in the meeting can hear each other.
- 31.3 If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

## **32 QUORUM FOR DIRECTORS' MEETINGS**

- 32.1 At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 32.2 The quorum necessary for the transaction of business of the directors is 2 eligible directors (excluding the NXD) at least one of whom shall be the Investor Director if at the time of the meeting the Investor Director has been appointed unless the Investor Director(s) has waived their right to attend in writing, save that:
- (a) where there is a sole director, the quorum is one; and
  - (b) where the business to be transacted at the meeting is authorisation of a Conflict Situation of an Investor Director pursuant to Section 175(4), CA 2006 and Article 35 (*Authorisation of conflicts of interest*), the quorum is one eligible director.
- 32.3 If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision:
- (a) to appoint further directors; or
  - (b) to call a general meeting so as to enable the shareholders to appoint further directors.

## **33 CHAIRING OF DIRECTORS' MEETINGS**

- 33.1 If the directors appoint a director to chair their meetings, the person so appointed for the time being is known as the chairman and the directors may terminate his appointment at any time.
- 33.2 If the chairman is unwilling to chair a directors' meeting or is not participating in a directors' meeting within ten minutes of the time at which it was to start or, if at any time during the meeting, the chairman ceases to be a participating director, the participating directors must appoint one of themselves to chair it (or chair such part of it in relation to which the chairman ceases to be a participating director, as the case may be).

## **34 CASTING VOTE**

If, at a meeting of the directors, the numbers of votes for and against a proposal are equal, the chairman (but not any other director appointed to chair the meeting pursuant to these Articles) shall have a casting vote.

## **35 AUTHORISATION OF CONFLICTS OF INTEREST**

- 35.1 Subject to and in accordance with the CA2006:
- (a) the directors may authorise any matter or situation arising on or after 1 October 2008 in which a director (the "**Conflicted Director**") has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (including, without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the

Company could take advantage of it) and for this purpose a conflict of interest includes a conflict of interest and duty and a conflict of duties (the "**Conflict Situation**");

- (b) any authorisation given in accordance with this Article 35 may be made on such terms and subject to such conditions and/or limitations as the directors may, in their absolute discretion, determine (including, without limitation, excluding the Conflicted Director and any other interested director from certain directors' meetings, withholding from him or them certain Board or other papers and/or denying him or them access to certain confidential Company information) and such terms, conditions and/or limitations may be imposed at the time of or after the authorisation and may be subsequently varied or terminated; and
- (c) in considering any request for authorisation in respect of a Conflict Situation, the directors shall be entitled to exclude the Conflicted Director from any meeting or other discussion (whether oral or written) concerning the authorisation of such Conflict Situation and they shall also be entitled to withhold from such Conflicted Director any Board or other papers concerning the authorisation of such Conflict Situation,

provided that, in the case of a director who is not an Investor Director, the provisions of this Article 35.1 shall be subject to Investor Consent.

35.2 If any Conflict Situation is authorised or otherwise permitted under these Articles, the Conflicted Director (for as long as he reasonably believes such Conflict Situation subsists):

- (a) shall not be required to disclose to the Company (including the directors or any committee) any confidential information relating to such Conflict Situation which he obtains or has obtained otherwise than in his capacity as a director of the Company, if to make such disclosure would give rise to a breach of duty or breach of obligation of confidence owed by him to another person;
- (b) shall be entitled to attend or absent himself from all or any meetings of the directors (or any committee) at which anything relating to such Conflict Situation will or may be discussed; and
- (c) shall be entitled to make such arrangements as he thinks fit to receive or not to receive documents or information (including, without limitation, directors' papers (or those of any committee of the directors)) relating to any such Conflict Situation and/or for such documents or information to be received and read by a professional adviser on his behalf,

and in so doing, such Conflicted Director shall not be in breach of any general duty he owes to the Company pursuant to Sections 171 to 177 (inclusive), CA2006 and the provisions of this Article 35 shall be without prejudice to any equitable principle or rule of law which may excuse the Conflicted Director from disclosing information or attending meetings or receiving documents or information, in circumstances where such disclosure, attendance or receipt would otherwise be required under these Articles.

35.3 Provided permitted by the Acts, and provided he has disclosed to the other directors the nature and extent of his interest pursuant to Section 177 or Section 182, CA2006 or otherwise in accordance with these Articles (as the case may be), a director (including the Investor Director(s)), notwithstanding his office:

- (a) may be a party to, or otherwise directly or indirectly interested in any contract, arrangement, transaction or proposal with the Company or in which the Company is otherwise interested and may hold any other office or place of profit under the Company (except that of auditor or of auditor of a Subsidiary) in addition to the office of director and may act by himself or through his firm in a professional capacity for the Company and in any such case on such terms as to remuneration and otherwise as the directors may arrange either in addition to or in lieu of any remuneration provided for by any other Article;
- (b) may be a member, director or other officer of, or employed by, or hold any other office or position with, or be directly or indirectly interested in, any contract, arrangement, transaction or proposal with or a party to or otherwise directly or indirectly interested in, any Group Company, (and in the case of the Investor Director only, in the Investor and/or in any Investor Affiliate);
- (c) shall not, by reason of his office, be liable to account to the Company for any dividend, profit, remuneration, superannuation payment or other benefit which he derives from:
  - (i) any matter, office, employment or position which relates to a Conflict Situation authorised in accordance with Article 35.1; or
  - (ii) any office, employment, contract, arrangement, transaction or proposal or other interest permitted pursuant to paragraphs (a) and (b) of this Article 35.3,

and no contract, arrangement, transaction or proposal shall be avoided on the grounds of any director having any such interest or receiving any such dividend, profit, remuneration, superannuation, payment or other benefit authorised in accordance with Article 35.1 or permitted pursuant to paragraphs (a) or (b) of this Article 35.3 and the receipt of any such dividend, profit, remuneration, superannuation, payment or other benefit so authorised or permitted shall not constitute a breach of the duty not to accept benefits from third parties as set out in Section 176, CA2006.

35.4 For the avoidance of doubt, a director may be or become subject to one or more Conflict Situations as a result of any matter referred to in paragraph (b) of Article 35.3 without requiring authorisation under the provisions of Article 35.1 provided he has declared, as soon as reasonably practicable, the nature and extent of his interest in the Conflict Situation (save in respect of a Conflict Situation of the Investor Director permitted under paragraph (b) of Article 35.3 where such Investor Director shall not be required to make any such declaration). The provisions of Section 177(2), Section 177(3), Section 177(5), Section 177(6), Section 184 and Section 185, CA2006 shall be applied (with any necessary modifications) in respect of any declaration required pursuant to this Article.

### **36 DIRECTORS MAY HAVE INTERESTS AND VOTE AND COUNT FOR QUORUM**

- 36.1 Subject to Section 175(6), CA2006 and save as otherwise provided in these Articles, a director may vote at any meeting of the directors or any meeting of any committee of which he is a member on any resolution and a director may participate in the transaction of the business of the directors and count in the quorum at any such meeting of the directors or meeting of any committee of which he is a member notwithstanding that it concerns or relates in any way to a matter in which has directly or indirectly any kind of interest or duty. This Article does not affect any obligation of a director to disclose any such interest, whether pursuant to Section 177, CA2006, Section 182, CA2006 or otherwise.
- 36.2 Subject to Article 36.3, if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the NXD whose ruling in relation to any director other than the NXD is to be final and conclusive (except in a case where the nature or extent of any interest of the director has not been fairly disclosed).
- 36.3 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the NXD, the question is to be decided by a decision of the directors at that meeting, for which purpose the NXD is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

### **37 RECORDS OF DECISIONS TO BE KEPT**

The directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors. Notwithstanding the provisions of Article 28, where the Company only has one director, the provisions of this Article 37 shall apply to any decision taken by such director, howsoever taken by him.

### **38 DIRECTORS' DISCRETION TO MAKE FURTHER RULES**

Subject to these Articles, the directors 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.

## **REMUNERATION OF DIRECTORS**

### **39 DIRECTORS' REMUNERATION**

- 39.1 Directors may undertake any services for the Company that the directors decide.
- 39.2 Directors, acting with Investor Consent, are entitled to such remuneration as the directors determine:
- (a) for their services to the Company as directors; and
  - (b) for any other service which they undertake for the Company,



(provided that any remuneration for their services to the Company as directors pursuant to Article 39.2(a) shall not exceed £10,000 per annum for each director).

39.3 Subject to these Articles, a director's remuneration may:

- (a) take any form; and
- (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.

39.4 Unless the directors decide otherwise, directors' remuneration accrues from day to day.

39.5 Unless the directors decide otherwise, directors are not accountable to the Company for any remuneration which they receive as directors or other officers or employees of the Subsidiaries or of any other body corporate in which the Company is interested.

#### **40 DIRECTORS' EXPENSES**

The Company may pay any reasonable expenses which the directors and the Company secretary (if any) properly incur in connection with their attendance at (or returning from):

- (a) meetings of directors or committees of directors;
- (b) general meetings; or
- (c) separate meetings of the holders of any class of shares or of debentures of the Company, or otherwise in connection with the business of the Company, the exercise of their powers and the discharge of their duties and responsibilities in relation to the Company.

#### **ALTERNATE DIRECTORS**

#### **41 APPOINTMENT AND REMOVAL OF ALTERNATES**

41.1 Subject to Investor Consent, any director (other than an alternate director) (the "**appointor**") may appoint as an alternate any other director, or any other person who is willing to act to:

- (a) exercise that director's powers; and
- (b) carry out that director's responsibilities,

in relation to the taking of decisions by the directors in the absence of the alternate's appointor. A person (whether or not otherwise a director) may be appointed as an alternate by more than one appointor.

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

- 41.3 The notice must identify the proposed alternate and, in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.
- 41.4 The appointment of an alternate director who is not otherwise a director shall be valid notwithstanding that he is approved by a resolution of the directors after his appointment as alternate director. Where an alternate director who is not otherwise a director attends a meeting of the directors and no objection is raised at the meeting to his presence then he shall be deemed to have been approved by a resolution of the directors.

## **42 RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS**

- 42.1 Except as these Articles specify otherwise, an alternate director has the same rights in relation to any directors' meeting, directors' written resolution or any other directors' decision-making as the alternate's appointor, including, but not limited to, the right to receive notice of all meetings of directors and all meetings of committees of directors of which his appointor is a member.
- 42.2 Except as these Articles specify otherwise, alternate directors:
- (a) are deemed for all purposes to be directors;
  - (b) are liable for their own acts and omissions;
  - (c) are subject to the same restrictions as their appointors; and
  - (d) are not deemed to be agents of or for their appointors.
- 42.3 A person who is an alternate director but not otherwise a director:
- (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating); and
  - (b) may participate in a unanimous decision of the directors (but only if that person's appointor is an eligible director in respect of such decisions and only that person's appointor does not participate),
- provided that (notwithstanding any other provision of these Articles) such person shall not be counted as more than one director for the purposes of paragraphs (a) and (b) above.
- 42.4 A director who is also an alternate for one or more directors is entitled, in the absence of the relevant appointor, to a separate vote on behalf of each appointor in addition to his own vote on any decision of the directors (provided the relevant appointor is an eligible director in relation to that decision) but shall not count as more than one director for the purposes of determining whether a quorum is present.
- 42.5 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company.

### **43 TERMINATION OF ALTERNATE DIRECTORSHIP**

An alternate director's appointment as an alternate terminates:

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

### **LIENS, SHARE CERTIFICATES AND DISTRIBUTIONS**

#### **Liens, calls and forfeiture**

### **44 COMPANY'S LIEN**

- 44.1 The Company has a lien (the "**Company's lien**") over every share (whether fully paid or not) registered in the name of any person (whether he is the sole registered holder or one of two or more joint holders) for all moneys payable by him or his estate (and whether payable by him alone or jointly with any other person) to the Company (whether presently payable or not).
- 44.2 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 assets attributable to it) 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.
- 44.3 The directors may, at any time, decide that a share which is or would otherwise be subject to a lien pursuant to these Articles shall not be subject to it, either wholly or in part.

### **45 ENFORCEMENT OF THE COMPANY'S LIEN**

- 45.1 Subject to the provisions of this Article 45, if a lien enforcement notice has been given in respect of a share and 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.
- 45.2 A lien enforcement notice:
- (a) may only be given in respect of a share which is subject to the Company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;
  - (b) must specify the share concerned;

- (c) must require payment of the sum payable 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 any transmittee of that holder or any other person otherwise entitled to the share; and
- (e) must state the Company's intention to sell the share if the notice is not complied with.

45.3 Where any share is sold pursuant to this Article:

- (a) the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
- (b) the transferee of the share(s) shall be registered as the holder of the share(s) to which the transfer relates notwithstanding that he may not be able to produce the share certificate(s) and such transferee is not bound to see to the application of the consideration and the transferee's title to the share is not affected by any irregularity in or invalidity of the process leading or relating to the sale.

45.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the 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;
- (b) second, to the person entitled to the share(s) immediately before the sale took place, but only after the certificate for the share(s) sold has been surrendered to the Company for cancellation or an indemnity in a form acceptable to the directors has been given to the Company for any lost certificate(s) and subject to a lien (equivalent to the Company's lien over the share(s) immediately before the sale took place) for all moneys payable by such person or his estate (whether immediately payable or not) in respect of all share(s) registered in the name of such person (whether he is the sole registered holder or one of two or more joint holders) and in respect of any other moneys payable (whether immediately payable or not) by him or his estate to the Company, after the date of the lien enforcement notice.

45.5 A statutory declaration by a director or the Company secretary (if any) 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(s); and
- (b) subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the share(s).

## **46 CALL NOTICES**

- 46.1 Subject to these Articles and the terms on which shares are allotted, the directors may send a notice (a "**call notice**") to a shareholder (or his estate) requiring such shareholder (or his estate) to pay the Company a specified sum of money (a "**call**") which is payable to the Company in respect of shares which that shareholder (or his estate) holds at the date when the directors decide to send the call notice.
- 46.2 A call notice:
- (a) may not require a shareholder (or his estate) to pay a call which exceeds the total sum unpaid on the shares in question (whether as to nominal value or any amount payable to the Company by way of premium);
  - (b) must state when and how any call to which it relates is to be paid; and
  - (c) may permit or require the call to be paid by instalments.
- 46.3 A shareholder (or his estate) must comply with the requirements of a call notice but shall not be obliged to pay any call before 14 clear days (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) have passed since the notice was sent.
- 46.4 Before the Company has received any call due under a call notice, the directors may revoke it wholly or in part or specify a later date and/or time for payment than is specified in the notice, by a further notice in writing to the shareholder (or his estate) in respect of whose shares the call is made.

## **47 LIABILITY TO PAY CALLS**

- 47.1 Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid. Joint holders of a share are jointly and severally liable to pay all calls in respect of that share.
- 47.2 Subject to the terms on which shares are allotted, the directors may, when issuing shares, provide that call notices sent to the holders of those shares may require them to pay calls which are not the same or to pay calls at different times.

## **48 PAYMENT IN ADVANCE OF CALLS**

- 48.1 The directors may, if they think fit, receive from any shareholder willing to advance it all or any part of the moneys uncalled and unpaid on the shares held by him. Such payment in advance of calls shall extinguish only to that extent the liability on the shares on which it is made.
- 48.2 The directors may at any time repay the amount so advanced on giving to such shareholder not less than 14 days' notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) of its intention in that regard, unless before the expiration of such notice the amount so advanced shall have been called up on the shares in respect of which it was advanced.

- 48.3 No sum paid in advance of calls shall entitle the holder of a share in respect of them to any portion of a dividend subsequently declared in respect of any period prior to the date upon which such sum would, but for such payment, become payable.

#### **49 WHEN CALL NOTICE NEED NOT BE ISSUED**

- 49.1 A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the Company in respect of that share (whether in respect of nominal value or premium):

- (a) on allotment;
- (b) on the occurrence of a particular event; or
- (c) on a date fixed by or in accordance with the terms of issue.

- 49.2 If, however, the due date for payment of such a sum has passed and it has not been paid, the holder of the share(s) concerned (or his estate) is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

#### **50 FAILURE TO COMPLY WITH CALL NOTICE: AUTOMATIC CONSEQUENCES**

- 50.1 If a person is liable to pay a call and fails to do so by the call payment date (as such is defined below) the directors may issue a notice of intended forfeiture to that person and unless and until the call is paid, that person must pay the Company interest on the call from the call payment date at the relevant rate (as such is defined below).

- 50.2 Subject to 50.3, for the purposes of this Article:

- (a) the "**call payment date**" is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "call payment date" is that later date;
- (b) the "**relevant rate**" is:
  - (i) the rate fixed by the terms on which the share in respect of which the call is due was allotted; or, if none,
  - (ii) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors,

provided that if no rate is fixed in either of the manners specified in paragraph (b)(i) or (b)(ii) above it shall be, 5 per cent per annum.

- 50.3 The relevant rate must not exceed by more than 5 percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998(a).

- 50.4 The directors may waive any obligation to pay interest on a call wholly or in part.

## **51 NOTICE OF INTENDED FORFEITURE**

A notice of intended forfeiture:

- (a) may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;
- (b) must be sent to the holder of that share (or to all the joint holders of that share) or to a transmittee of that holder;
- (c) must require payment of the call and any accrued interest together with all costs and expenses that may have been incurred by the Company by reason of such non-payment by a date which is not less than 14 clear days after the date 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 state how the payment is to be made; and
- (e) must state that if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited.

## **52 DIRECTORS' POWER TO FORFEIT SHARES**

If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, the directors may decide that any share in respect of which it was given is forfeited, and the forfeiture is to include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.

## **53 EFFECT OF FORFEITURE**

53.1 Subject to these Articles, the forfeiture of a share extinguishes all interests in that share, and all claims and demands against the Company in respect of it and all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the Company.

53.2 Any share which is forfeited in accordance with these Articles:

- (a) is deemed to have been forfeited when the directors decide that it is forfeited;
- (b) is deemed to be the property of the Company; and
- (c) may be sold, re-allotted or otherwise disposed of as the directors think fit.

53.3 If a person's shares have been forfeited:

- (a) the Company must send that person notice that forfeiture has occurred and record it in the register of members;
- (b) that person ceases to be a shareholder in respect of those shares;
- (c) that person must surrender the certificate for the shares forfeited to the Company for cancellation;

- (d) that person remains liable to the Company for all sums payable by that person under these Articles at the date of forfeiture in respect of those shares, including any interest, costs and expenses (whether accrued before or after the date of forfeiture); and
- (e) the directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.

53.4 At any time before the Company disposes of a forfeited share, the directors may decide to cancel the forfeiture on payment of all calls and interest, costs and expenses due in respect of it and on such other terms as they think fit.

#### **54 PROCEDURE FOLLOWING FORFEITURE**

54.1 If a forfeited share is to be disposed of by being transferred, the Company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer.

54.2 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 forfeited on a specified date is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share and subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the share.

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

54.4 If the Company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the Company the proceeds of such sale, net of any commission, and excluding any amount which:

- (a) was, or would have become, payable; and
- (b) had not, when that share was forfeited, been paid by that person in respect of that share,

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

#### **55 SURRENDER OF SHARES**

55.1 A shareholder may surrender any share:

- (a) in respect of which the directors may issue a notice of intended forfeiture;
- (b) which the directors may forfeit; or
- (c) which has been forfeited.



- 55.2 The directors may accept the surrender of any such share. The effect of surrender on a share is the same as the effect of forfeiture on that share. A share which has been surrendered may be dealt with in the same way as a share which has been forfeited.

## **56 COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS**

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

## **57 SHARE CERTIFICATES**

- 57.1 The Company must issue each shareholder with one or more certificates in respect of the shares which that shareholder holds and, save as provided otherwise in these Articles, such certificates must be issued free of charge.

- 57.2 Every certificate must specify:

- (a) in respect of how many shares, of what class, it is issued;
- (b) the nominal value of those shares;
- (c) the amount paid up on the shares; and
- (d) any distinguishing numbers assigned to them.

- 57.3 No certificate may be issued in respect of shares of more than one class.

- 57.4 If more than one person holds a share, only one certificate may be issued in respect of it.

- 57.5 Certificates must:

- (a) have affixed to them the Company's common seal; or
- (b) be otherwise executed in accordance with the Companies Acts.

## **58 REPLACEMENT SHARE CERTIFICATES**

- 58.1 If a certificate issued in respect of a shareholder's shares is:

- (a) damaged or defaced; or
- (b) said to be lost, stolen or destroyed,

that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

- 58.2 A shareholder exercising the right to be issued with such a replacement certificate:

- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
- (b) must return the certificate which is to be replaced to the Company if it is damaged or defaced; and
- (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

## **59 INSTRUMENTS OF TRANSFER**

- 59.1 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor and unless the share is fully paid, by and on behalf of the transferee.
- 59.2 No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- 59.3 The Company may retain any instrument of transfer which is registered.
- 59.4 The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
- 59.5 Any instrument of transfer which the directors refuse to register must (unless they suspect that the proposed transfer may be fraudulent) be returned to the transferee.

## **60 FRACTIONAL ENTITLEMENTS**

- 60.1 Whenever, as a result of a consolidation or division of shares, any shareholders are entitled to fractions of shares, the directors may:
  - (a) sell the shares representing the fractions to any person (including (provided permitted by law) the Company) for the best price reasonably obtainable;
  - (b) authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
  - (c) distribute the net proceeds of sale in due proportion among those shareholders.
- 60.2 Whenever any shareholder's entitlement to a portion of sale amounts to less than a minimum figure determined by the directors, that shareholder's portion may be distributed to an organisation which is a charity for the purposes of the law of England and Wales, Scotland or Northern Ireland.
- 60.3 The person to whom the shares are transferred is not obliged to ensure that any purchase money is received by the person entitled to the relevant fractions and nor shall such transferee's title to the shares be affected by any irregularity in or invalidity of the process leading to their sale.

## **DIVIDENDS AND OTHER DISTRIBUTIONS**

## **61 PROCEDURE FOR DECLARING DIVIDENDS**

- 61.1 The Company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends, save that Investor Consent shall be required where such dividends are not required by the provisions of these Articles.
- 61.2 A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- 61.3 No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- 61.4 If the Company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrears.
- 61.5 The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- 61.6 If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.
- 61.7 This Article 61 is subject to the provisions of Article 6.

## **62 CALCULATION OF DIVIDENDS**

- 62.1 Except as otherwise provided by these Articles and by the rights attached to shares, all dividends must be:
- (a) declared and paid according to the amounts paid up on the shares on which the dividend is paid; and
  - (b) apportioned and paid pro rata according to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.
- 62.2 If any share is issued on terms providing that it shall rank for dividend as from a particular date or be entitled to dividends declared after a particular date it shall rank for or be entitled to dividends accordingly.
- 62.3 For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of a call or otherwise paid up in advance of its due payment date.

## **63 PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS**

- 63.1 Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means:
- (a) transfer to a bank or building society account specified by the distribution recipient in writing;

- (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient in writing;
- (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing; or
- (d) any other means of payment as the directors agree with the distribution recipient in writing.

63.2 If:

- (a) a share is subject to the Company's lien; and
- (b) the directors are entitled to issue a lien enforcement notice in respect of it,

they may, instead of issuing a lien enforcement notice, deduct from any dividend or other sum payable in respect of the share any sum of money which is payable to the Company in respect of that share to the extent that they are entitled to requirement payment under a lien enforcement notice. Money so deducted must be used to pay any of the sums payable in respect of that share.

63.3 The Company must notify the distribution recipient in writing of:

- (a) the fact and amount of any such deduction;
- (b) any non-payment of a dividend or other sum payable in respect of a share resulting from any such deduction; and
- (c) how the money deducted has been applied.

63.4 In these Articles, "**the distribution recipient**" means, in respect of a share in respect of which a dividend or other sum is payable:

- (a) the holder of the share; or
- (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
- (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

## 64 NO INTEREST ON DISTRIBUTIONS

The Company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by:

- (a) the terms on which the share was issued; or
- (b) the provisions of another agreement between the holder of that share and the Company.

## **65 UNCLAIMED DISTRIBUTIONS**

65.1 All dividends or other sums which are:

- (a) payable in respect of shares; and
- (b) unclaimed after having been declared or become payable,

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

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

65.3 If:

- (a) twelve years have passed from the date on which a dividend or other sum became due for payment; and
- (b) the distribution recipient has not claimed it,

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

## **66 NON-CASH DISTRIBUTIONS**

66.1 Subject to the terms of issue of the share in question, the Company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any Company).

66.2 For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:

- (a) fixing the value of any assets;
- (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
- (c) vesting any assets in trustees.

## **67 WAIVER OF DISTRIBUTIONS**

Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the Company notice in writing to that effect, but if:

- (a) the share has more than one holder; or
- (b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

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

## CAPITALISATION OF PROFITS

### 68 AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS

68.1 Subject to these Articles, the directors may, if they are so authorised by an ordinary resolution:

- (a) decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and
- (b) appropriate any sum which they so decide to capitalise (a "**capitalised sum**") to:
  - (i) the holders of A Preference Shares, subject to Investor Consent; or
  - (ii) the persons who would have been entitled to it if it were distributed by way of dividend,

in each case (the "**persons entitled**").

68.2 Capitalised sums must be applied:

- (a) on behalf of the persons entitled; and
- (b) in the same proportions as:
  - (i) the number of A Preference Shares held if the persons entitled are holders of A Preference Shares; or otherwise
  - (ii) a dividend would have been distributed to them.

68.3 Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct. A capitalised sum which was appropriated from profits available for distribution may be applied:

- (a) in or towards paying up any amounts unpaid on existing shares held by the person(s) entitled; or
- (b) in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.

68.4 Subject to these Articles, the directors may:

- (a) apply capitalised sums in accordance with Article 68.3 and Article 68.3 partly in one way and partly in another;

- (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this Article (including the issuing of fractional certificates or the making of cash payments); and
- (c) authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this Article.

## **DECISION-MAKING BY SHAREHOLDERS**

### **69 NOTICE OF GENERAL MEETINGS**

- 69.1 A general meeting of the Company (other than an adjourned meeting) shall be called by notice of at least 14 clear days (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) but a general meeting may be called by shorter notice if it is so agreed by a majority in number of the shareholders having a right to attend and vote being a majority together holding not less than ninety percent in number of the shares giving that right.
- 69.2 Every notice convening a general meeting shall specify:
- (a) the place, the date and the time of the meeting;
  - (b) the general nature of the business to be dealt with at the meeting;
  - (c) if the meeting is convened to consider a special resolution, the text of the resolution and intention to propose the resolution as a special resolution; and
  - (d) with reasonable prominence, that a member is entitled to appoint another person (who does not have to be a member) as his proxy to exercise all or any rights of his to attend, speak and vote at the meeting and that a member may appoint more than one proxy in relation to the meeting (provided that each proxy is appointed to exercise the rights attached to a different share or shares held by him) and shall also specify any more extensive rights (if any) conferred by these Articles to appoint more than one proxy.
- 69.3 The notice shall be given to the members (other than any who under the provisions of these Articles or of any restrictions imposed on any shares are not entitled to receive notice from the Company), to the directors and to the auditors and if more than one for the time being, to each of them.
- 69.4 Subject to the provisions of these Articles, notice of a general meeting of the Company may be given:
- (a) in hard copy form;
  - (b) in electronic form; or
  - (c) by means of a website,
- or partly by one such means and partly by another and the provisions of Article 85 (*Company Communications*) shall apply accordingly.

- 69.5 The accidental failure to give notice of general meeting or, in cases where it is intended that it be sent out with the notice, an instrument of proxy, or to give notice of a resolution intended to be moved at a general meeting to, or the non-receipt of any of them by, any person or persons entitled to receive the same shall not invalidate the proceedings at that meeting and shall be disregarded for the purpose of determining whether the notice of the meeting, instrument of proxy or resolution were duly given.

## **70 ATTENDANCE AND SPEAKING AT GENERAL MEETINGS**

- 70.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- 70.2 A person is able to exercise the right to vote at a general meeting when:
- (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
  - (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- 70.3 The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- 70.4 In determining attendance at a general meeting, it is immaterial whether any two or more shareholders attending it are in the same place as each other.
- 70.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

## **71 QUORUM FOR GENERAL MEETINGS**

- 71.1 No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting unless the persons attending it constitute a quorum when the meeting proceeds to business (and nothing in these Articles shall prevent any other business being transacted at such general meeting if the persons attending it do not constitute a quorum from time to time thereafter throughout the meeting).
- 71.2 Whenever the Company has only one member, the member present (being an individual) in person or by proxy, or (being a corporation) by a duly authorised representative or by proxy, shall be a quorum. Subject to the provisions of Section 318(2), CA2006, whenever the Company has two or more members, two persons entitled to vote upon the business to be transacted each being a member (being an individual) present in person or by proxy, or (being a corporation) present by a duly authorised representative or by proxy (at least one of whom must be a holder of A Ordinary Shares or a proxy or a duly authorised representative of such a holder), shall be a quorum.



## **72 CHAIRING GENERAL MEETINGS**

- 72.1 If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.
- 72.2 If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:
- (a) the directors present; or
  - (b) (if no directors are present), the meeting,
- must appoint a director or shareholder (which may not include any proxy appointed by a shareholder) to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.
- 72.3 The person chairing a meeting in accordance with this Article is referred to as **"the chairman of the meeting"**.

## **73 ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS**

- 73.1 Directors may attend and speak at general meetings, whether or not they are shareholders.
- 73.2 The chairman of the meeting may permit other persons who are not:
- (a) shareholders of the Company; or
  - (b) otherwise entitled to exercise the rights of shareholders in relation to general meetings,
- to attend and speak at a general meeting.

## **74 ADJOURNMENT**

- 74.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, the chairman of the meeting must adjourn it.
- 74.2 The chairman of the meeting may adjourn a general meeting at which a quorum is present if:
- (a) the meeting consents to an adjournment; or
  - (b) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 74.3 The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- 74.4 When adjourning a general meeting, the chairman of the meeting must:

- (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors; and
  - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 74.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
- (a) to the same persons to whom notice of the Company's general meetings is required to be given; and
  - (b) containing the same information which such notice is required to contain.
- 74.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place. If a quorum is not present at any such adjourned meeting within half an hour from the time appointed for that meeting (or if, during the meeting, a quorum ceases to be present), the meeting shall be dissolved.

## **75 VOTING: GENERAL**

- 75.1 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with these Articles.
- 75.2 No shareholder shall, unless the directors otherwise decide, be entitled to vote (either in person or by proxy) at a general meeting, at any adjournment of it or on any poll called at or in relation to it in respect of any share held by him or to exercise any right as a shareholder unless all calls or other sums presently payable by him in respect of that share in the Company have been paid to the Company.

## **76 ERRORS AND DISPUTES**

- 76.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 76.2 Any such objection must be referred to the chairman of the meeting, whose decision is final and conclusive.

## **77 DEMANDING A POLL AND PROCEDURE ON A POLL**

- 77.1 A poll on a resolution may be demanded:
- (a) in advance of the general meeting where it is to be put to the vote; or
  - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 77.2 A poll may be demanded by:
- (a) the chairman of the meeting;

- (b) the directors;
- (c) two or more persons having the right to vote on the resolution;
- (d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution; or
- (e) by a person or persons holding shares in the Company conferring a right to vote on the resolution, being shares on which an aggregate sum has been paid up to not less than one tenth of the total sum paid up on all the shares conferring that right.

77.3 A demand for a poll may be withdrawn if:

- (a) the poll has not yet been taken; and
- (b) the chairman of the meeting consents to the withdrawal,

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.

77.4 Polls must be taken immediately and in such manner as the chairman of the meeting directs.

## **78 CONTENT OF PROXY NOTICES**

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

- (a) states the name and address of the shareholder appointing the proxy;
- (b) identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed;
- (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
- (d) is delivered to the Company in accordance with these Articles and any instructions contained in the notice of the general meeting to which they relate.

78.2 The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

78.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

78.4 Unless a proxy notice indicates otherwise, it must be treated as:

- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
- (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

## **79 DELIVERY OF PROXY NOTICES**

79.1 The appointment of a proxy and the power of attorney or other authority (if any) under which it is signed (or a copy of such authority certified notarially or in some other way approved by the directors) shall be sent or supplied in hard copy form, or (subject to any conditions and limitations which the directors may specify) in electronic form:

- (a) to the registered office of the Company; or
- (b) to such other address (including electronic address) as is specified in the notice convening the meeting or in any instrument of proxy or any invitation to appoint a proxy sent or supplied by the Company in relation to the meeting; or
- (c) as the directors shall otherwise direct,

to be received before the time for the holding of the meeting or adjourned meeting to which it relates or, in the case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the poll.

79.2 Any instrument of proxy not so sent or supplied or received shall be invalid.

79.3 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.

79.4 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

## **80 REVOCATION OF PROXY NOTICES**

80.1 The validity of:

- (a) a vote given or poll demanded in accordance with the terms of an appointment of a proxy; or
- (b) anything done by a proxy acting as duly appointed chairman of a meeting; or
- (c) any decision determining whether a proxy counts in a quorum at a meeting,

shall not be affected notwithstanding the death or mental disorder of the appointor or the revocation of the appointment of the proxy (or of the authority under which the appointment of the proxy was executed) or the transfer of the share in respect of which the appointment of the proxy is given, unless notice in writing of such death, mental disorder, revocation or transfer shall have been:

- (d) sent or supplied to the Company or any other person as the Company may require in the notice of the meeting, any instrument of proxy sent out by the Company in relation to the meeting or in any invitation to appoint a proxy issued by the Company in relation to the meeting, in any manner permitted for

the sending or supplying of appointments of proxy pursuant to these Articles; and

- (e) received at the registered office of the Company (or such other address (including electronic address) as has been designated for the sending or supplying of appointments of proxy), before the time for the holding of the meeting or adjourned meeting to which it relates or, in the case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the poll.

## **81 VOTES OF PROXIES**

- 81.1 The Company shall be under no obligation to ensure or otherwise verify that any vote(s) cast by a proxy are done so in accordance with any such instructions given by the member by whom such proxy is appointed. In the event that a vote cast by such proxy is not done so in accordance with the instructions of the member by whom such proxy is appointed, such vote shall not be deemed to be invalid.
- 81.2 On a vote on a resolution on a show of hands, where a proxy is appointed by more than one member (provided that, where some only of those members by whom the proxy is appointed instruct the proxy to vote in a particular way, those members all instruct such proxy to vote in the same way on a resolution (either "for" or "against")) such proxy shall be entitled to cast a second vote the other way in relation to any discretionary vote(s) given to him by other members by whom such proxy is appointed.

## **82 WRITTEN RESOLUTIONS OF SHAREHOLDERS**

A written resolution proposed in accordance with the provisions of Chapter 2 of Part 13 of the CA2006 shall lapse if it is not passed before the period of 14 days beginning with the circulation date (as such is construed pursuant to Section 290, CA2006).

## **83 AMENDMENTS TO RESOLUTIONS**

- 83.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
  - (a) notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine); and
  - (b) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- 83.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
  - (a) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and

- (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

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

## **ADMINISTRATIVE ARRANGEMENTS**

### **84 EXERCISE OF MEMBERS' RIGHTS**

No shareholder in the Company shall be entitled to nominate another person or persons to enjoy or exercise all or any specified rights of the shareholder in relation to the Company pursuant to Section 145, CA2006. Accordingly, the Company shall not be obliged to give effect to any purported nomination notice received by it.

### **85 COMPANY COMMUNICATIONS**

- 85.1 Subject to the provisions of the Acts (and save as otherwise provided in these Articles), any document or information required or authorised to be sent or supplied by the Company to any member or any other person (including a director) pursuant to these Articles, the Companies Acts or any other rules or regulations to which the Company may be subject, may be sent or supplied in hard copy form, in electronic form, by means of a website or in any other way in which documents or information may be sent or supplied by the Company pursuant to the Companies Acts.
- 85.2 Subject to these Articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked in writing to be sent or supplied with such notices or documents for the time being.
- 85.3 The provisions of the CA2006 which apply to sending or supplying a document or information required or authorised to be sent or supplied by the Companies Acts by making it available on a website shall, mutatis mutandis, apply to the sending or supplying of any document or information required or authorised to be sent by these Articles or any other rules or regulations to which the Company may be subject, by making it available on a website.
- 85.4 The Company may send or supply any document or information to a member or any other person (including a director) pursuant to these Articles, the Companies Acts or any other rules or regulations to which the Company may be subject, either personally, or by post in a prepaid envelope addressed to the member (or such other person) at his registered address or at his address for service, or by leaving it at that address or any other address for the time being notified to the Company by the member (or such other person) for the purpose, or by sending or supplying it using electronic means to an electronic address for the time being notified to the Company by the member (or such other person) for the purpose, or by any other means authorised in writing by the member (or such other person) concerned.
- 85.5 A shareholder whose registered address is not within the United Kingdom and who gives the Company an address within the United Kingdom to which documents or information may be sent or supplied to him or gives an electronic address to which documents or information may be sent or supplied using electronic means, shall be

entitled to have documents or information sent or supplied to him at that address, but otherwise no such shareholder shall be entitled to receive any document or information from the Company.

- 85.6 In the case of joint holders of a share, if the Company sends or supplies any document or information to one of the joint holders, it shall be deemed to have properly sent or supplied such document or information to all the joint holders.
- 85.7 If, on at least 2 consecutive occasions, the Company has attempted to send any document or information by electronic means to an address specified (or deemed specified) for the purpose and a delivery failure (or other similar) notification has been received by the Company, the Company thereafter shall, send documents or information in hard copy form or electronic form (but not by electronic means) to such member at his registered address or address for service within the United Kingdom (whether by hand, by post or by leaving it or them at such address), in which case the provisions of Article 85.7 shall apply.
- 85.8 If on 3 consecutive occasions documents or information have been sent or supplied to any shareholder at his registered address or address for the service of such documents or information in the United Kingdom but have been returned undelivered, such shareholder shall not thereafter be entitled to receive any documents or information from the Company until he shall have communicated with the Company and supplied in writing a new registered address or address within the United Kingdom for the service of documents or information or an electronic address to which documents or information may be sent or supplied using electronic means.
- 85.9 Any shareholder present, in person or by proxy at any meeting of the Company or of the holders of any class of shares of the Company, shall be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was called.
- 85.10 Save as provided otherwise in these Articles, any document or information, addressed to a shareholder (or other person to whom such document or information is required or authorised to be sent pursuant to these Articles, the Companies Acts or otherwise) at his registered address or address for service (in the case of a shareholder, in the United Kingdom) or electronic address, as the case may be shall:
- (a) if hand delivered or left at a registered address or other address for service (in the case of a shareholder in the United Kingdom), be deemed to have been served or delivered on the day on which it was so delivered or left;
  - (b) if sent or supplied by post (whether in hard copy form or in electronic form), be deemed to have been received at the expiration of 48 hours after the envelope was posted;
  - (c) if sent or supplied by electronic means (other than by means of website), be deemed to have been received (if sent or supplied between the hours of 9 a.m. and 5 p.m. on a working day) at the time it was sent, or (if sent or supplied at any other time) at 9 a.m. on the next following working day; and
  - (d) if sent or supplied by means of a website, be deemed to have been received when the material was first made available on the website or, if later, when

the recipient received (or is deemed to have received) notice of the fact that the material was available on the website.

- 85.11 In calculating a period of hours for the purpose of Article 85.10, no account shall be taken of any part of a day that is not a working day.
- 85.12 A director may agree with the Company that documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than those set out in Article 85.10.
- 85.13 Subject to Article 85.9, in proving such service or delivery it shall be sufficient to prove that the envelope containing the document or information was properly addressed and put into the post in a prepaid envelope or, in the case of a document or information sent or supplied by electronic means, that it was sent or supplied in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators entitled "Electronic Communications with Shareholders 2007" (as such guidance is amended or updated from time to time).
- 85.14 The Company shall not be held responsible for any failure in transmission beyond its reasonable control and the provisions of Article 85.9 to Article 85.13 (inclusive) shall apply regardless of any document or information being returned undelivered and regardless of any delivery failure notification or "out of office" or other similar response and any such "out of office" or other similar response shall not be considered to be a delivery failure.
- 85.15 This Article 85 is subject to the provisions of the Investment Agreement.

## **86 COMPANY SEALS**

- 86.1 Any common seal may only be used by the authority of the directors or a committee of the directors.
- 86.2 The directors may decide by what means and in what form any common seal is to be used.
- 86.3 Unless otherwise decided by the directors, if the Company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.
- 86.4 For the purposes of this Article, an authorised person is:
- (a) any director of the Company;
  - (b) the Company secretary (if any); or
  - (c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.



## **87 NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**

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

## **88 PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS**

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

## **89 INDEMNITY AND FUNDS**

89.1 Subject to Article 89.2 (but otherwise to the fullest extent permitted by law) and without prejudice to any indemnity to which he may otherwise be entitled:

- (a) a relevant director, of the Company or an associated Company shall be indemnified out of the Company's assets against all or any part of any costs, charges, losses, expenses and liabilities incurred by that director or other officer:
  - (i) in the actual or purported exercise of his powers in relation to the affairs of the Company or associated Company; and
  - (ii) in connection with the activities of the Company or an associated Company in its capacity as a trustee of an occupational pension scheme; and
- (b) a relevant director of the Company or any holding Company shall be provided with funds to meet any expenditure incurred or to be incurred by him as provided in Section 205 and/or Section 206, CA2006 (or enable him to avoid incurring any such expenditure).

89.2 This Article does not authorise any indemnity or provision of funds which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

## **90 INSURANCE**

Subject to the provisions of the CA2006, the directors may in their absolute discretion decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant director of the Company or associated Company in respect of all or any part of any relevant loss.