

Company Number: 10827606

THE COMPANIES ACT 2006  
COMPANY LIMITED BY SHARES  
WRITTEN RESOLUTIONS

of

ADARE SEC HOLDINGS LIMITED (the "Company")

*23 May* . . . . . 2019 (the "Circulation Date")



We, the undersigned, being all 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 to be passed as ordinary resolutions 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 "**2006 Act**").

**ORDINARY RESOLUTIONS**

- 1 **THAT** the two E Ordinary Shares of £400.00 each in the issued share capital of the Company be sub-divided into 800 E Ordinary Shares of £1.00 each in the issued share capital of the Company.
- 2 **THAT**, subject to the passing of Resolution 1 above, all 677 B Ordinary Shares of £1.00 each, 1,706 C Ordinary Shares of £1.00 each, 2 D1 Ordinary Shares of £1.00 each, 1,260 D2 Ordinary Shares of £1.00 each and 800 E Ordinary Share of £1.00 each (following the passing of Resolution 1 above) comprised in the issued share capital of the Company be and are hereby re-designated as 4,445 Ordinary Shares of £1.00 each in the issued share capital of the Company with such Ordinary Shares having the rights set out in the New Articles to be adopted pursuant to Resolution 4 below.
- 3 **THAT**, subject to the passing of Resolution 2 above, 1,409 of the Ordinary Shares of £1.00 each registered in the name of Endless III (GP) LP, as general partner of Endless Fund IIIA LP be re-designated as 1,409 Deferred Shares of £1.00 each in the issued share capital of the Company with such Deferred Shares having the rights set out in the New Articles to be adopted pursuant to Resolution 4 below.

**SPECIAL RESOLUTIONS**

- 4 **THAT** the regulations contained in the document 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 (the "**New Articles**") and in substitution for to the exclusion of all existing articles of association of the Company (the "**Old Articles**").
- 5 **THAT** the rights of pre-emption in respect of the transfer of shares in the capital of the Company whether contained in the Old Articles or the New Articles be dis-applied in respect of the transfer of in aggregate 2,219 Ordinary Shares of £1 each and 1,409 Deferred Shares of £1 each in the capital of the Company as follows:

Transferee	Number of Shares	Class of Shares
Rachael Nevins	78	Ordinary Shares of £1.00
Giovanni Iandolo	426	Ordinary Shares of £1.00
Thomas Prestwich	426	Ordinary Shares of £1.00
Neil Gaydon	288	Ordinary Shares of £1.00
Endless Fund IIIA LP	943	Ordinary Shares of £1.00
	1,327	Deferred Shares of £1.00
Endless Fund IIIB LP	54	Ordinary Shares of £1.00
	77	Deferred Shares of £1.00
Endless Fund IIIC LP	4	Ordinary Shares of £1.00
	5	Deferred Shares of £1.00

## AGREEMENT

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

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

### Shareholder Name

Endless III (GP) LP\*

### Signature & Date

 31/03/19

Rachael Nevins

.....

\* in its own capacity and as general partner of Endless Fund IIIA LP, Endless Fund IIIB LP and Endless Fund IIIC LP

Transferee	Number of Shares	Class of Shares
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Giovanni Iandolo	426	Ordinary Shares of £1.00
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	5	Deferred Shares of £1.00

## AGREEMENT

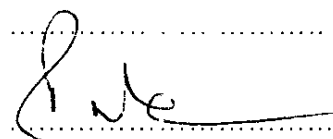
Please read the notes at the end of this document before signifying your agreement to the Resolutions.

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

### Shareholder Name

### Signature & Date

Endless III (GP) LP\*

.....  
 31/05/14

Rachael Nevins

\* in its own capacity and as general partner of Endless Fund IIIA LP, Endless Fund IIIB LP and Endless Fund IIIC LP

## NOTES

- 1 You may agree to all of the Resolutions or none of them, but you cannot agree to only one of them. If you agree with the Resolutions, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company using one of the following methods:
  - (a) **By hand:** delivering the signed copy to c/o Guy Ruddy, Squire Patton Boggs (UK) LLP, 6 Wellington Place, Leeds LS1 4AP.
  - (b) **By email:** emailing the signed copy to [guy.ruddy@squirepb.com](mailto:guy.ruddy@squirepb.com) with the email headed "*Written Resolutions*".
  - (c) **By post:** returning the signed copy by post c/o Guy Ruddy, Squire Patton Boggs (UK) LLP, 6 Wellington Place, Leeds LS1 4AP.

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, by 28 days following 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 this date.
- 4 In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.
- 5 If you are signing this document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document.

**Company Number: 10827606**

**THE COMPANIES ACT 2006**

**ARTICLES OF ASSOCIATION  
of  
ADARE SEC HOLDINGS LIMITED**

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Adopted on *31 May* 2019

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Squire Patton Boggs (UK) LLP  
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Leeds  
LS1 4AP  
United Kingdom  
DX 26441 Leeds

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Reference: JJJ/GR1/ADA 134-0002

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**

of

**ADARE SEC HOLDINGS LIMITED**

Adopted on **31 May** 2019

**1 DEFINITIONS AND INTERPRETATION**

1.1 In these Articles, unless the context otherwise requires:

"**Act**" means the Companies Act 2006, including any statutory modification or re-enactment thereof.

"**acting in concert**" has the meaning given by the City Code on Takeovers and Mergers as in force and construed on the Adoption Date.

"**Adoption Date**" means **31 May** 2019

"**Allocation Notice**" has the meaning given to it in Article 8.14.

"**Articles**" means these articles of association, whether as originally adopted or as from time to time as altered by special resolution.

"**A Share**" means an A ordinary share of £1 in the capital of the Company and "**A Shares**" shall be interpreted accordingly.

"**A Shareholder**" means a holder of A Shares.

"**Auditors**" means the auditors for the time being of the Company.

"**authenticated**" in respect of documents sent to the Company has the meaning given to it in section 1146 of the Act.

"**Bad Leaver**" means a Relevant Shareholder who is not a Good Leaver.

"**Board**" means the board of directors of the Company from time to time, including any committee appointed and authorised by the board of directors.

"**Board Invitee**" has the meaning given to it in Article 8.12.

"**Business Day**" means any day (other than Saturday, Sunday or public holidays) when clearing banks in London are open for a full range of transactions.

"**Change of Control**" means the acquisition whether by purchase, transfer, renunciation or otherwise (but excluding a transfer of Shares made in accordance with Article 7 (*Permitted Transfers*)) by or to (as the case may be) any Third Party Purchaser of any interest in any Shares if, upon completion of that acquisition, the

Third Party Purchaser, together with persons acting in concert or connected with him (excluding any person who was an original party to an Investment Agreement), would hold more than 50 per cent of the voting rights at a general meeting of the Company attached to the issued Shares at the relevant time.

**"Conflict Situation"** means any situation or matter (other than one which cannot reasonably be regarded as likely to give rise to a conflict of interest) in which any 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) any such situation or matter which relates to the exploitation of any property, information or opportunity (irrespective of whether the Company could take advantage of the property, information or opportunity).

**"connected with"** has the meaning given to it in section 1122 of the Corporation Tax Act 2010 that there shall be deemed to be control for that purpose whenever section 450 or section 1124 of that act would so require.

**"Deed of Adherence"** has the meaning given to it in the Investment Agreement.

**"Deemed Transfer Notice"** has the meaning given to it in Article 9.2.

**"Deemed Transfer Shareholder"** has the meaning given to it in Article 9.2.

**"Deferred Share"** means a deferred share of £1 in the capital of the Company and **"Deferred Shares"** shall be interpreted accordingly.

**"Deferred Shareholder"** means a holder of Deferred Shares.

**"Director"** means a director of the Company from time to time.

**"Employee Benefit Trust"** means any trust which may be established for the benefit of the employees (which may include past employees) of the Company and/or any other Group Company, and which satisfies the definition of an "employees' share scheme" set out in section 1166 of the Act.

**"Encumbrance"** means any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security, trust, right of set-off, interest, title retention or any other security, agreement or arrangement however created or arising having similar effect.

**"Fair Value"** has the meaning given to it in Article 8.5(a) (and shall be computed on the basis set out in Article 8.6).

**"Family Member"** means, in relation to a Shareholder who is an individual, any of his spouse (or widow or widower), children and grandchildren (including step and adopted children and grandchildren).

**"Family Trust"** means, in relation to a Shareholder who is an individual, a trust which does not permit any of the settled property or the income from it to be applied otherwise than for the benefit of that Shareholder or any of his Family Members or any charity and under which no power of control over the voting powers conferred by any Shares the subject of the trust is capable of being exercised by, or being subject

to the consent of, any person other than the trustees or such Shareholder or any of his Family Members.

**"FCA"** means the Financial Conduct Authority.

**"Financing Documents"** shall have the meaning given to it in the Investment Agreement.

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

**"Fund"** means any fund, unit trust, partnership, limited partnership, limited liability partnership, bank, investment trust or investment company, any other collective investment scheme or vehicle, pension fund or insurance company, any portfolio of assets managed pursuant to a discretionary investment management agreement or any person who is authorised or exempted person under the FSMA, which term will include any subsidiary undertaking of any of the foregoing and any co-investment scheme in relation to any of the foregoing.

**"Good Leaver"** means a Relevant Shareholder who:

- (a) ceases or ceased (as the context so requires) to be an employee or director (including non-executive director) of any Group Company as a result of:
  - (i) death;
  - (ii) ill health or permanent disability (save where such illness or permanent disability is due to the abuse of alcohol or drugs) which is sufficiently serious to prevent him from carrying out his normal duties in accordance with his terms of employment or engagement; or
- (b) is resolved by the Board (with Investor Consent) to be treated as a Good Leaver notwithstanding that the Relevant Shareholder does not fall within any of the categories set out in paragraph (a) above.

**"Group"** means the Company, all its subsidiaries and subsidiary undertakings from time to time and any undertakings in which the Company holds shares and/or any other interests (whether directly or indirectly) from time to time and **"Group Company"** shall be construed accordingly.

**"Investment Agreement"** means the agreement entered into on 31 July 2017 between (1) Endless Fund IIIA LP & Others, (2) the Managers (as defined therein), (3) Endless LLP, (4) the Company and (5) Adare SEC LNC Limited as amended, waived, supplemented, restated or modified from time to time.

**"Investor Consent"** means the prior consent or approval of the Investors acting through the Investor Manager (including any conditions to which such consent or approval is subject) given in writing.

**"Investor Director"** means any person appointed by an Investor to be a Director pursuant to Article 15 (including his alternate).

**"Investor Financing Documents"** has the meaning given in the Investment Agreement.

**"Investor Majority"** means the holder or holders of at least 51 per cent. of the A Shares for the time being in issue.

**"Investor Manager"** means Endless LLP (registered number OC316569) or such replacement investor manager appointed by written notice given by the Investors to the Company.

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

**"Investors' Group"** means:

- (a) an Investor and their nominees, any partnership (whether limited liability or not), business, body corporate, investment trust, investment company or fund in which an Investor has any interest (directly or indirectly) of any kind from time to time; and
- (b) any partnership (whether limited liability or not), business, body corporate, investment trust, investment company or Fund from time to time in which any member of an Investor has any interest (directly or indirectly) of any kind from time to time; and
- (c) in the case of an Investor which is a Fund, any Fund managed or advised by the manager or investment advisor for the time being of that Investor or by any company which is in the same group as the manager or investment advisor of that Investor,

and **"member of the Investors' Group"** shall be construed accordingly.

**"Issue Price"** means the amount paid up or credited as paid up (including any premium on issue) on the Shares concerned, which shall be deemed to be nominal value in respect of the Shares issued by the Company on the date of adoption of these Articles.

**"Leaver"** means any Shareholder who is at any time a director (including a non-executive director) and/or employee of a Group Company:

- (a) ceasing to be a director (including a non-executive director) or employee of any Group Company; or
- (b) the Group Company of which he or she is a director (including a non-executive director) or employee shall cease for any reason to be a Group Company;

and such Shareholder does not remain or thereupon immediately become a director (including a non-executive director) or employee of that company or another company which is still a Group Company.

**"Listing"** means either:

- (a) the admission by the FCA of all or any class of the issued equity share capital of the Company to the Official List and admission to the London Stock Exchange plc's market for listed securities, and such admissions becoming effective; or

- (b) the granting of permission by the London Stock Exchange plc for the admission of all or any class of the issued equity share capital of the Company to trading on the AIM market of the London Stock Exchange plc, and such permission becoming effective; or
- (c) any equivalent admission to, or permission to deal or trade on, any other recognised investment exchange (as defined in section 285 of the FSMA) becoming unconditionally effective in relation to all or any of the issued equity share capital of the Company.

**"Listing Shares"** means the issued equity share capital of the Company (excluding any equity share capital to be subscribed and issued on such Listing other than new shares to be paid up by way of capitalisation of reserves or arising from any sub-division, consolidation or conversion of shares).

**"Management Loan Notes"** has the meaning given to it in the Investment Agreement.

**"Material Default"** has the meaning given to it in the Investment Agreement.

**"Member of the same Group"** means, in relation to a body corporate, any other body corporate which is for the time being a holding company of that body corporate or a subsidiary of that body corporate or a subsidiary of any holding company of which that body corporate is also a subsidiary.

**"Model Articles"** means Schedule 1 to the Companies (Model Articles) Regulations 2008.

**"Offer Notice"** has the meaning given to it in Article 8.10.

**"Ordinary Share"** means an ordinary share of £1 in the capital of the Company and **"Ordinary Shares"** shall be interpreted accordingly.

**"Ordinary Shareholder"** means a holder of Ordinary Shares.

**"Permitted Transfer"** means any transfer of Shares permitted under Articles 7.1 to 7.6 (inclusive).

**"Proposed Sale Price"** has the meaning given to it in Article 8.3(c).

**"Purchaser"** has the meaning given to it in Article 8.14.

**"Realisation"** means the acceptance of an offer or the making of an agreement which upon the satisfaction of the conditions (if any) of such offer or agreement results in the sale of all of the issued Shares to a single purchaser (or to one or more purchasers as part of a single transaction) including a sale of the Shares pursuant to Article 10 (*Drag Along*) or Article 11 (*Tag Along*) or the making of one or more agreements (whether conditional or not) for the disposal, transfer, purchase, subscription or renunciation of the entire issued share capital of the Company and, for the purposes of this definition, **disposal** shall mean a sale, transfer, assignment or other disposition whereby a person ceases to be the absolute beneficial owner of the Share in question or of voting rights attached thereto or an agreement to enter into such disposal or the grant of a right to compel entry into such an agreement.

**"Realisation Value"** means the market value of the Listing Shares determined by reference to the price per share at which such shares are to be offered for sale, placed or otherwise marketed pursuant to the arrangements relating to the Listing, all as determined by the broker or, if none, the merchant bank, investment bank, sponsor or nominated adviser (as the case may be) appointed by the Board to advise in connection with the Listing.

**"Released Shares"** has the meaning given to it in Article 3.4.

**"Relevant Person"** has the meaning given to it in Article 8.12

**"Relevant Shareholder"** has the meaning given to it in Article 9.1(c).

**"Sale Price"** has the meaning given to it in Article 8.5.

**"Sale Shares"** has the meaning given to it in Article 8.3(a).

**"Shareholder"** means a registered holder of a Share for the time being.

**"Shares"** means the A Shares, the Ordinary Shares and the Deferred Shares and any shares issued in exchange for those shares by way of conversion or reclassification and any shares representing or deriving from those shares as a result of any increase in, or the reorganisation or variation of, the capital of the Company.

**"Third Party Purchaser"** means any person who (a) was not an original party to (or connected with any original party to) the Investment Agreement and (b) is a bona fide arm's length purchaser for value who acquires or who is to acquire Shares or any interest in any Shares otherwise than pursuant to a Permitted Transfer and, where the relevant acquisition was effected by the renunciation of a renounceable letter of allotment, shall include the relevant renounee.

**"Total Transfer Condition"** has the meaning given to Article 8.3(e).

**"Transfer Notice"** has the meaning given to it in Article 8.2.

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

**"Valuers"** means the Auditors unless such Auditors give notice to the Company that they decline an instruction to report on Fair Value when the Valuers shall be a firm of chartered accountants agreed between the Vendor and the Board or, in default of agreement within 10 Business Days of the first name being proposed by either of them, as nominated by the President from time to time of the Institute of Chartered Accountants in England and Wales on the application of the Vendor or the Board.

**"Vendor"** has the meaning given to it in Article 8.2.

- 1.2 The Model Articles shall apply to the Company except to the extent that they are excluded or varied by these Articles and the Model Articles (save as so excluded or varied) and these Articles shall be the regulations of the Company. No other regulations set out in any statute concerning companies, or in any statutory instrument or other subordinate legislation made under any statute, shall apply as the regulations or articles of the Company.

- 1.3 Words and expressions defined in or for the purposes of the Act or the Model Articles shall, unless the context otherwise requires, have the same meaning in these Articles but excluding any statutory modification not in force when these Articles become binding on the Company.
- 1.4 In these Articles, words importing a gender include every gender and references to persons shall include bodies corporate, unincorporated associations and partnerships and words denoting the singular shall include the plural and vice versa.
- 1.5 The headings in these Articles are for convenience only and shall not affect their construction or interpretation. References in these Articles to writing include references to any method of representing or reproducing words in a legible and non-transitory form.
- 1.6 The Contracts (Rights of Third Parties) Act 1999 shall not apply to any rights under these Articles.
- 1.7 Whenever under these Articles it is desired or necessary for any two or more persons to give any notice, consent or approval in writing, the same may be done by them executing two or more documents either in identical form or adapted only for execution.

## **2 RIGHTS ATTACHING TO SHARES**

### **2.1 General**

The share capital of the Company is divided into A Shares, Ordinary Shares and Deferred Shares and save as specified in these Articles, the A Shares, the Ordinary Shares and the Deferred Shares shall rank *pari passu* in all respects.

### **2.2 Dividends**

- (a) No dividends shall be declared, made or paid without Investor Consent.
- (b) Subject to Article 2.2(a), the A Shares and the Ordinary Shares shall rank *pari passu* with regard to any dividends to be paid by the Company.
- (c) The Deferred Shares shall not entitle their holders to participate in any dividend.

### **2.3 Capital**

On a return of capital whether on liquidation or capital reduction or otherwise (other than a redemption of shares or the purchase by the Company of its own shares, in each case made in accordance with these Articles) the surplus assets and retained profits of the Company remaining after the payment of its liabilities (including the repayment or payment in full of all sums (including but not limited to all amounts of principal, interest, fees and redemption premium) due or outstanding under the Financing Documents, the Investor Financing Documents, the Management Loan Notes and any other third party facilities then in place which are being repaid) shall be applied as if they were the proceeds of a Realisation under Article 2.5.

### **2.4 Voting**

(a) Subject to Articles 2.4(b) and 9.4, the A Shareholders and the Ordinary Shareholders shall be entitled to receive notice of and to attend and speak at any general meetings of the Company, and in accordance with Article 13.5, no business shall be transacted at any general meeting of the Company save by way of a poll, and, on a poll or a written resolution of the shareholders of the Company:-

- (i) the holders of A Shares as a class shall be entitled to votes representing 75% of the votes cast, such votes to be distributed amongst them pro rata to the number of A Shares held by each of them; and
- (ii) the holders of Ordinary Shares as a class shall be entitled to votes representing 25% of the votes cast, such votes to be distributed amongst them pro rata to the number of Ordinary Shares held by each of them.

The holders of Deferred Shares shall not be entitled to receive notice of nor attend, speak and vote at any general meetings of the Company nor on any poll or written resolution.

(b) If any Material Default occurs then any Investor may serve written notice of the same upon the Company whereupon the following provisions shall apply and the voting rights attached to the Shares or the powers of the Investors and/or the Investor Director(s) shall, subject to the remaining provisions of this Article 2.4. be enhanced as follows:

- (i) if any Investor votes at any meeting of the Company against any resolution put to that meeting or does not sign any written resolution of the Shareholders as being approved, that resolution shall be deemed not to have been carried notwithstanding that the number of votes cast in its favour exceeds those cast against it or the number of Shareholders signing the written resolution in favour of it is the requisite number to pass the resolution and notwithstanding any other provisions of these Articles or the Model Articles to the contrary;
- (ii) any resolution in favour of which any Investor has voted or in respect of which the Investors have signed a written resolution in favour of it shall be deemed to have been carried notwithstanding that the number of votes cast against such resolution exceeds those cast in its favour or there are insufficient numbers of Shareholders signing the written resolution in favour of it to pass the resolution and notwithstanding any other provisions of the Articles or the Model Articles to the contrary;
- (iii) if the Investor Director(s) vote at any meeting of the Board against any resolution put to that meeting, or does not sign any written resolution of the Board as being approved, that resolution shall be deemed not to have been carried notwithstanding that the number of votes cast in its favour exceeds those cast against it, or the number of directors signing the written resolution is the requisite number to pass the resolution, and notwithstanding any other provisions of these Articles or the Model Articles to the contrary; and

- (iv) if the Investor Director(s) votes at any meeting of the Board in favour of any resolution put to that meeting, or signs any written resolution of the Board as being approved, that resolution shall be deemed to have been carried notwithstanding that the number of votes cast against such resolution exceeds those cast in its favour, or there are an insufficient number of directors signing the written resolution to pass the resolution, and notwithstanding any other provisions of these Articles or any applicable article of the Model Articles to the contrary,

and such enhanced rights shall continue until the Material Default is remedied to the reasonable satisfaction of the Investors.

## 2.5 Realisation

- (a) On a Realisation, the proceeds available to Shareholders after repaying all sums due or outstanding under the Financing Documents, the Investor Financing Documents, the Management Loan Notes and any other third party facilities then in place which are being repaid (the "**Proceeds**"), shall as between Shareholders be allocated as follows:
  - (i) first, by paying the sum of £500,000 to the Ordinary Shareholders to be distributed amongst them pro rata to the number of Ordinary Shares held by them;
  - (ii) second, by paying the sum of £1 to each Deferred Shareholder in respect of all Deferred Shares held by them save that if this results in the aggregate amount payable to the Deferred Shareholders as a class exceeding £10, then an amount of £10 shall be paid to the Deferred Shareholders to be distributed amongst them pro rata to the number of Deferred Shares held by them; and
  - (iii) finally, by distributing the balance of Proceeds after the distributions pursuant to Articles 2.5(i) and (ii) above amongst the holders of A Shares and Ordinary Shares (pari passu as if one class of share) amongst them in proportion to the number of A Shares or Ordinary Shares they hold.
- (b) Immediately prior to and conditionally upon a Listing, the Shareholders shall enter into such reorganisation of the share capital of the Company as they may agree or, in default, as the Investors may reasonably specify, to ensure that the Realisation Value is reallocated between the Shareholders in the same proportions as the preceding provisions of this Article would provide on a Realisation.

## 2.6 Buy-back of Deferred Shares

The Company may at any time and to the extent permitted under the Act buy back any number of Deferred Shares then in issue from any Deferred Shareholder at an aggregate price of £1.00 per holder of Deferred Shares being bought back (regardless of the number of Deferred Shares being bought back from each Deferred Shareholder), upon giving the registered holders of the Deferred Shares not less than 2 Business Days' prior written notice of its intention and conferring a time and place for the buy-back. Each Deferred Shareholder is deemed to have agreed to the buy-

back of any Deferred Shares held by them on the terms set out in this Article. Each transferee of Deferred Shares pursuant to this Article shall be deemed to transfer them with full title guarantee free from any encumbrances.

### 3 ISSUE OF SHARES

- 3.1 Subject to the provisions of the Act, Investor Consent and of every other statute for the time being in force concerning companies and affecting the Company and to the provisions of these Articles (including, without limitation, Article 6.4), the Directors are authorised to offer, allot, issue, grant options or rights over or otherwise dispose of Shares (including redeemable shares) to such persons, at such times and for such consideration and upon such terms and conditions and with such preferred, deferred or other special rights or restrictions whether in regard to dividend, voting, return of capital or otherwise as the Directors may determine, but so that no Shares shall be issued at a discount.
- 3.2 In accordance with section 567 of the Act, sections 561 and 562 of the Act will not apply to the Company.
- 3.3 Subject to Article 3.7 and Investor Consent, all unissued Shares (save for any Shares issued on the Adoption Date) and rights to subscribe for Shares shall, before issue, (or before offering any right to any person to convert any security into Shares) be offered on identical terms to the Shareholders in proportion as nearly as circumstances admit (fractions being disregarded) to the amount of the existing issued Shares of which they are holders pro rata, such notice being served in accordance with the procedure set out in Article 3.6. An offer, if not accepted within the period specified in such notice as regards any Shares, will be deemed to be declined as regards those Shares.
- 3.4 If the Shares of any class proposed to be allotted by the Board and offered to the Shareholders pursuant to Article 3.3 are not taken up, then such Shares shall be re-offered to the other Shareholders holding Shares in proportion to the number of the existing Shares held by them respectively in accordance with the procedure set out in Article 3.6 and at the same price as an offer made pursuant to Article 3.3 unless the Company by special resolution with Investor Consent otherwise directs (any Shares the subject of such a direction being referred to in this Article 3.4 as **Released Shares**). Any Shares not accepted pursuant to an offer made in accordance with Article 3.3 or further offer as referred to in this Article 3.4 or not capable of being offered pursuant to that offer or further offer except by way of fractions shall not be issued.
- 3.5 Subject to Investor Consent, any Released Shares shall be under the control of the Directors, who may allot, grant options over or otherwise dispose of the same to such persons, on such terms and in such manner as they think fit. No Released Share shall be issued at a discount or otherwise in breach of the provisions of the Act.
- 3.6 Any offer of Shares pursuant to Articles 3.3 and 3.4 shall be by a notice in writing, specifying:
- (a) the total number and class of Shares being offered to the Shareholders as a whole;

- (b) the proportionate entitlement of the Shareholder to whom the notice is addressed;
- (c) the price per Share to which the offer is subject; and
- (d) a requirement for the Shareholder to whom the notice is being addressed to state in writing within a period (not being less than 20 Business Days) specified in the notice whether he is willing to take any and, if so, what maximum number of the said Shares up to his proportionate entitlement.

3.7 The Company does not need to make an offer under Article 3.3:

- (a) where such issue is carried out as part of a Listing or secondary offering or any restructuring of the Group prior to a Listing or recapitalisation of the Group in each case where each Shareholder holds the same proportionate economic entitlement before and after such restructuring; or
- (b) if a Material Default has occurred and is continuing, in which case the Company may issue such number of new Shares to any Investor (or their nominee) or such other person as an Investor Majority shall specify (the **Offer**), and the rights of pre-emption of the holders of Shares (other than the Investors allotted Shares in the Offer) shall be deemed to be waived in respect of any such issue.

3.8 If any of Articles 3.7(a) or 3.7(b) apply (a **Relevant Issue**), all Shareholders shall.

- (a) consent to any board or shareholders' meeting of a member of the Group being held on short notice to implement the Relevant Issue and to procure (so far as it is able) that any director appointed by it will so consent;
- (b) vote in favour of all resolutions as a shareholder and (subject to his fiduciary duties) as a director of the relevant member of the Group, which are proposed by the Investors to implement the Relevant Issue; and
- (c) procure the circulation to the board of directors or shareholders of the relevant member of the Group of such board or shareholder written resolutions (respectively) proposed by the Investors to implement the Relevant Issue and (subject to their fiduciary duties as a director of the relevant member of the Group) to sign (or to the extent permitted by applicable law in the case of a written resolution, to indicate their agreement to) such resolutions and return them (or the relevant indication) to the Company as soon as possible.

3.9 It shall be a term of any offer under Article 3.3 that the offerees must acquire the same proportion of other securities (debt or equity) to be issued by any member of the Group on or about the date of the further issue of Shares as is equal to the proportion of Shares being offered to them.

3.10 The Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Share or any interest in any fractional part of a Share or (except only as otherwise provided by these Articles or by law) any other rights in respect of any Share except

an absolute right to the entirety thereof held by the registered holder. The Company shall however be entitled to register trustees as such in respect of any Shares.

#### **4 VARIATION OF CLASS RIGHTS**

- 4.1 Whenever the capital of the Company is divided into different classes of Shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern, or during or in contemplation of a winding up, with the consent in writing of the holders of three fourths of the issued shares of the class or with the sanction of a special resolution passed at a separate meeting of the Shareholders of that class, but not otherwise. To every such separate meeting, all the provisions of these Articles relating to general meetings of the Company shall apply *mutatis mutandis* (with such amendments to give efficacy) except that the necessary quorum shall be at least two persons (or one person where there is only one Shareholder holding that class of Shares) holding or representing by proxy one third in nominal amount of the issued Shares of the class, but so that at any adjourned meeting of such Shareholders at which such quorum is not present the Shareholder or Shareholders present shall be a quorum.
- 4.2 Without prejudice to the generality of their rights, the special rights attached to the A Shares shall each be deemed to be varied at any time by any of the following occurring without the consent of the A Shareholders in accordance with Article 4.1:
- (a) an increase, reduction or other alteration in the issued share capital of the Company or any other Group Company or a variation in the rights attaching to any class of Shares other than the issue of Reserved Shares in accordance with the Investment Agreement;
  - (b) the grant of an option to subscribe for shares in the Company or any other Group Company or the issue of any securities or instruments convertible into shares in any such company;
  - (c) the creation by the Company or any other Group Company of any mortgage, charge, pledge, lien, Encumbrance or other security interest (excluding an interest arising by operation of law in the ordinary course of business) other than pursuant to the Financing Documents, the Investor Financing Documents and the Management Loan Notes;
  - (d) the making of any material change (including cessation) in the nature of the business of the Group taken as a whole;
  - (e) the alteration of the Articles or the passing of any special resolution of the Shareholders;
  - (f) the declaration or payment of any dividend or the making of any other distribution in respect of the profits (including, without limitation, the capitalisation of any undistributed profits), assets or reserves (including without limitation any share premium account or capital redemption reserve) of the Company or any other Group Company;
  - (g) the institution of any proceedings for, or the passing of any resolution for the winding up or administration of the Company or any other Group Company;

- (h) a Realisation or a Listing occurring;
- (i) the Company or any other Group Company incurring an obligation to do any of the foregoing (whether unconditional or conditional and whether or not legally binding); and
- (j) the registration or purported registration of any transfer of any share or interest therein other than as expressly permitted by these Articles.

## **5 LIEN**

- 5.1 The Company shall have a first and paramount lien on all Shares (not being fully paid) standing registered in the name of any person indebted or under liability to the Company, whether he shall be the sole registered Shareholder or shall be one of two or more joint Shareholders, for all moneys presently payable by him or his estate to the Company.
- 5.2 The Company may sell any Shares on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen clear days after notice has been given to the holder of the Shares or to the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the Shares may be sold. All Shares to be sold in the enforcement of the Company's lien shall be offered in accordance with Article 9 (*Compulsory Transfers*) as if a Deemed Transfer Notice were deemed given in respect of such Shares.
- 5.3 To give effect to a sale the Directors may authorise some person to execute an instrument of transfer of the Shares sold to, or in accordance with the directions of, the purchaser. The title of the transferee to the Shares shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- 5.4 The net proceeds of the sale, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable, and any residue shall (upon surrender to the Company for cancellation of the certificate for the Shares sold and subject to a like lien for any moneys not presently payable as existed upon the Shares before the sale) be paid to the person entitled to the Shares at the date of the sale.

## **6 TRANSFER OF SHARES - GENERAL**

- 6.1 The Board shall not register the transfer of any Share or any interest in any Share unless the transfer has been made in accordance with Articles 6.3 and 6.4 (where appropriate) and:
  - (a) is permitted by Article 7 (*Permitted Transfers*); or
  - (b) is made in accordance with Article 8 (*Voluntary Transfer*), Article 9 (*Compulsory Transfer*), Article 10 (*Drag Along*) or Article 11 (*Tag Along*);and, in any such case, is not prohibited under Article 12 (*Prohibited Transfers*).

6.2

- (a) For the purpose of ensuring that a transfer of Shares is in accordance with these Articles or that no circumstances have arisen whereby a Shareholder may be bound to give or be deemed to have given a Transfer Notice, the Board may (and will if requested by the Investors) from time to time require any Shareholder or any person named as transferee in any transfer lodged for registration to furnish to the Board such information and evidence as they reasonably deem relevant for such purpose.
  - (b) Failing such information or evidence being furnished to their reasonable satisfaction within a reasonable time after request under Article 6.2(a) the Board may (with Investor Consent) in their absolute discretion refuse to register the transfer in question or (with the approval of the Investors where no transfer is in question) require by notice in writing to the Shareholder(s) concerned that a Transfer Notice be given in respect of the Shares concerned and Article 9.4 shall apply in respect of the Shares concerned.
  - (c) If the Board refuse to register a transfer of a Share they shall, as soon as practicable and in any event within two months after the date on which the transfer was lodged with the Company, send to the transferee notice of, and the reasons for, the refusal.
  - (d) If such information or evidence requested under Article 6.2(a) discloses to the reasonable satisfaction of the Board (with Investor Consent) that circumstances have arisen whereby a Shareholder may be bound to give or be deemed to have given a Transfer Notice, the Board may (with Investor Consent) by notice in writing to the Shareholder(s) concerned require that a Transfer Notice be given in respect of the Shares concerned.
- 6.3 An obligation to transfer a Share under these Articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free from any Encumbrance, save for any interest of beneficiaries under any Family Trust (where applicable).
- 6.4 Prior to the registration of any allotment or transfer of Shares or of any interest in any Shares, the Investor Manager may, in its absolute discretion, request that a legal opinion, in a form reasonably satisfactory to the Investor Manager, is provided to the Investor Manager and to the Board at the proposed allottee's or transferee's cost confirming, inter alia, the legal status of the proposed allottee or transferee and the capacity of the proposed allottee or transferee to hold Shares (or any interest in any Share) and to enter into a Deed of Adherence to and in the manner required by the Investment Agreement.

## **7 PERMITTED TRANSFERS**

### **7.1 Transfers to relations and trustees**

- (a) Subject to Articles 7.1(b) to 7.1(e) inclusive and to Article 12 (*Prohibited Transfers*), any Shareholder who is an individual may at any time during his lifetime transfer up to 50 per cent of the Shares originally allotted and still held by him to a person or persons shown to the reasonable satisfaction of the Board to be:
  - (i) a Family Member of his; or

- (ii) trustees of a Family Trust in relation to that Shareholder.
- (b) Subject to Article 7.1(d), no Shares shall be transferred under Article 7.1(a) by any person who previously acquired those Shares by way of transfer under Article 7.1(a).
- (c) No such transfer of Shares under Article 7.1(a)(ii) shall be made unless the Investors (acting reasonably) have confirmed in writing their satisfaction:
  - (i) with the terms of the instrument constituting the relevant Family Trust and in particular with the powers of the trustees including, but not limited to, the express power to give warranties and indemnities on any disposal of trust property;
  - (ii) with the identity of the trustees and the procedures for the appointment and removal of trustees;
  - (iii) with the restrictions on changes in the terms of the trust instrument and on distributions by the trustees; and
  - (iv) that none of the costs incurred in establishing or maintaining the relevant Family Trust will be payable by any Group Company.
- (d) Where Shares are held by trustees under a Family Trust:
  - (i) those Shares may, on any change of trustees, be transferred by those trustees to any new trustee of that Family Trust whose identity has been approved in writing by the Investors (such approval not to be unreasonably withheld or delayed);
  - (ii) those Shares may at any time be transferred by those trustees to the settlor of that trust, provided that person has not, as at the date of transfer, ceased to be a Family Member or any other person to whom that settlor could have transferred them under Article 7.1(a) if he had remained the holder of them; and
  - (iii) if and whenever any of those Shares cease to be held under a Family Trust (other than by virtue of a transfer made under Article 7.1(d)(ii)), the trustees shall forthwith give a Transfer Notice in respect of all the Shares then held by those trustees and in any event within 20 Business Days of the Shares ceasing to be so held.
- (e) If any person has acquired Shares as a Family Member of a Shareholder by way of one or more Permitted Transfers and that person ceases to be a Family Member of that Shareholder, that person shall forthwith (and in any event within 20 Business Days of such cessation) transfer all the Shares then held by that person back to that Shareholder, for such consideration as they agree, or in default of such agreement, at the Fair Value (calculated in accordance with Article 8.6).
- (f) If the personal representatives of a deceased Shareholder are permitted under these Articles to become registered as the holders of any of the deceased Shareholder's Shares and elect to do so, such Shares may at any

time be transferred by those personal representatives under this Article 7.1 to any person to whom the deceased Shareholder could have transferred such Shares under this Article 7 if he had remained the holder of them. No other transfer of such Shares by personal representatives shall be permitted under this Article 7.

## **7.2 Transfers within groups of companies**

- (a) Subject to Article 7.2(b), any Shareholder which is a body corporate may at any time transfer any Shares held by it to a Member of the same Group.
- (b) Where Shares have been transferred under Article 7.2(a) (whether directly or by a series of such transfers) from a Shareholder (the **Transferor**) to a Member of the same Group as the Transferor (the **Transferee**) and subsequent to such transfer the Transferee shall cease to be a Member of the same Group as the Transferor then the Transferee shall forthwith transfer all the Shares held by it to the Transferor, for such consideration as they agree and if they do not do so within 20 Business Days of the date upon which the Transferee ceased to be a Member of the same Group the Directors may (with Investor Consent) require the Transferee by notice in writing to serve a Transfer Notice in respect of such Shares.

## **7.3 Transfers by the Investors**

- (a) Each Investor may at any time transfer any Shares held by it to another member of the Investors' Group
- (b) Where Shares have been transferred under Article 7.3(a) (whether directly or by a series of such transfers) from an Investor (the **Investor Transferor**) to a member of the Investor's Group (the **Investor Transferee**) and subsequent to such transfer the Investor Transferee shall cease to be a member of the Investor's Group then the Investor Transferee shall forthwith transfer all the Shares held by it to the Investor Transferor, for such consideration as they agree or, failing such agreement, at the Issue Price of the relevant Shares.
- (c) Where any Investor is or holds shares as trustee or nominee for, or otherwise on behalf of, a Fund, such Investor may transfer Shares to:
  - (i) any unit holder, shareholder, partner, participant in or manager of the Fund;
  - (ii) any other Fund managed or advised by the same manager or adviser of the transferring Fund (or any other fund on behalf of whom any such Share is held by the transferor as nominee or trustee) or to any other body corporate which is the manager's or adviser's subsidiary or holding company or another subsidiary of its holding company;
  - (iii) any trustee, nominee or general partner of or custodian for the Fund or any other transferee under Articles 7.3(c)(i) or 7.3(c)(ii) and by such trustee, nominee, general partner or custodian to another trustee, nominee, general partner or custodian for the Fund or any transferee under Articles 7.3(c)(i) or 7.3(c)(ii); or

- (iv) by an Investor to a "**co-investment scheme**", being a scheme under which certain officers, employees or partners of an Investor or of its advisers or manager are entitled (as individuals through a body corporate or any other vehicle) to acquire shares.
- (d) Where any Investor is a co-investment scheme which holds Shares through a body corporate, such Investor may transfer Shares to:
  - (i) another body corporate or another vehicle which holds or is to hold Shares for the co-investment scheme; or
  - (ii) an officer, employee or partner entitled to the Shares under the co-investment scheme.
- (e) Each Investor may at any time transfer any Shares held by it to an Employee Trust or any employee and/or director of any Group Company and upon such transfer the shares transferred shall automatically without need for a shareholder resolution be converted into an equal number of Ordinary Shares.

#### **7.4 Transfers pursuant to a syndication**

Any Shares may be transferred pursuant to the syndication provisions set out in clause 9 of the Investment Agreement.

#### **7.5 Transfers by Employee Benefit Trusts**

- (a) Any Shares (or any interest in them) held by an Employee Benefit Trust may be transferred to any beneficiary of that trust or to any replacement trustees or into the joint name of the existing and any new or additional trustees with Investor Consent.
- (b) Any Shares (or any interest in any Shares) jointly held by an Employee Benefit Trust and any beneficiary of that trust or other Shareholders may be transferred to that Employee Benefit Trust with Investor Consent.

#### **7.6 Transfers with consent**

An Ordinary Shareholder may transfer Ordinary Shares to any person at any time with Investor Consent.

#### **7.7 Transfers of Unallocated Shares**

Nothing in these Articles shall prevent any member of the Investor's Group transferring any Ordinary Shares it holds from time to time in accordance with the provisions of Article 8.12(d).

#### **7.8 Re-designation**

Any A Share transferred to a person will, if so required by the Investors in writing, immediately and automatically and without resolution of the Directors or the Shareholders be re-designated as an Ordinary Share and any Ordinary Shares transferred to a person holding A Shares will, if so required by the Investors,

automatically and without resolution of the Directors or the Shareholders be re-designated as A Shares.

## **8 VOLUNTARY TRANSFERS**

- 8.1 Except as permitted under Article 7 (*Permitted Transfers*) and subject to Article 8.2, Article 9 (*Compulsory Transfer*), Article 10 (*Drag Along*), Article 11 (*Tag Along*) and Article 12 (*Prohibited Transfer*) any Shareholder, other than the Investors, may only transfer Shares or an interest in Shares with Investor Consent and then, only in accordance with the provisions of this Article 8.
- 8.2 Any Shareholder who wishes to transfer any Share (a **Vendor**) shall before transferring or agreeing to transfer such Share or any interest in it, serve notice in writing (a **Transfer Notice**) on the Company of his wish to make that transfer. No Transfer Notice may be served whilst a Material Default is continuing.
- 8.3 In the Transfer Notice the Vendor shall specify:
- (a) the number of Shares (**Sale Shares**) which he wishes to transfer;
  - (b) the identity of the person (if any) to whom the Vendor wishes to transfer the Sale Shares;
  - (c) the price per share at which the Vendor wishes to transfer the Sale Shares (the **Proposed Sale Price**);
  - (d) any other terms and conditions relating to the transfer of the Sale Shares; and
  - (e) whether the Transfer Notice is conditional upon all (and not part only) of the Sale Shares being sold pursuant to the following provisions of this Article 8 (a **Total Transfer Condition**).
- 8.4 Each Transfer Notice shall:
- (a) relate to one class of Shares only;
  - (b) constitute the Company as the agent of the Vendor for the sale of the Sale Shares on the terms of this Article 8; and
  - (c) save as provided in Article 8.9, be irrevocable.
- 8.5 The Sale Shares shall be offered for purchase in accordance with this Article 8 at a price per Sale Share (the **Sale Price**) agreed between the Vendor and the Board (with Investor Consent) by the end of the 15th Business Day after the date of service of the Transfer Notice or, in default of such agreement in such period:
- (a) if the Board or an Investor Director so elects within or on the expiry of that 15 Business Day period after the date of service of the Transfer Notice, the price per Share reported on by the Valuers as their written opinion of the open market value of each Sale Share (the **Fair Value**) as at the date of service of the Transfer Notice (in which case for the purposes of these Articles the Sale Price shall be deemed to have been determined on the date of the receipt by the Company of the Valuers' report); and

- (b) failing such election, the Sale Price shall be the Proposed Sale Price, in which case for the purpose of these Articles the Sale Price shall be deemed to have been agreed at the end of that 15th Business Day.
- 8.6 If instructed to report on their opinion of Fair Value under Article 8.5(a) the Valuers shall:
  - (a) act as expert and not as arbitrator and (save in the case of manifest error) their written determination shall be final and binding on the Shareholders; and
  - (b) proceed on the basis that the open market value of each Sale Share shall be the sum which a willing purchaser would agree with a willing vendor to be the purchase price for all the class of Shares of which the Sale Shares form part, divided by the number of issued Shares then comprised in that class taking no account of any premium or any discount by reference to the size of the holding which is the subject of the Transfer Notice and working on the basis that the Sale Shares are capable of being transferred without restriction, but taking into account the provisions of Article 2.5(a) and any other factors which the Valuers reasonably believe should be taken into account.
- 8.7 The Company will use its reasonable endeavours to procure that the Valuers deliver their written opinion of the Fair Value to the Board and to the Vendor within 20 Business Days of being requested to do so.
- 8.8 The costs of the Valuers shall be apportioned as between the Vendor and the Company on the following basis, unless the Vendor revokes the Transfer Notice pursuant to Article 8.9 when the Vendor shall pay all the Valuers' fees:
  - (a) by the Company in full where the Fair Value as determined by the Valuers is equal to or more than the Proposed Sale Price specified by the Vendor;
  - (b) by the Leaver in full where the Fair Value as determined by the Valuers is equal to or less than the proposed value specified in writing by the Board; and
  - (c) otherwise on a straight line basis in accordance with the following formula:
 
$$A = (B - C) / (D - C)$$

where:

A = the proportion of the Valuers fees to be borne by the Company (the remainder to be borne by the Vendor);

B = the value determined by the Valuers;

C = the value specified by the Board; and

D = the value specified by the Vendor.
- 8.9 Subject to Article 9.5(c), if the Fair Value is reported on by the Valuers under Article 8.5(a) to be less than the Proposed Sale Price, the Vendor may, within the period of 5 Business Days after the date on which the Board serves on the Vendor the

Valuers' written opinion of the Fair Value, by written notice given to the Board revoke the Transfer Notice.

8.10 Subject to Article 8.19, if no revocation notice is given pursuant to Article 8.9 above, the Board shall give a notice in writing (an **Offer Notice**) to all Shareholders (other than the Vendor or any other Shareholder who has served or who is deemed to have served a Transfer Notice in respect of his entire holding Shares where the sale of such Shares has not been concluded) and any Board Invitees (as the case may be) to whom the Sale Shares are to be offered in accordance with these Articles at least 5 Business Days after and no more than 20 Business Days after whichever is the first to occur of:

- (a) Board Invitee(s) having been determined in respect of all the Sale Shares;
- (b) the Investors waiving the requirement to offer Sale Shares to Board Invitees; or
- (c) the period to find Board Invitees prescribed in Article 8.12(d) having expired without Board Invitees having been found in respect of all the Sale Shares.

8.11 An Offer Notice shall:

- (a) specify the Sale Price;
- (b) contain the other details included in the Transfer Notice save for the Proposed Sale Price, if this is different from the Sale Price; and
- (c) invite the relevant offerees to respond in writing, before expiry of the Offer Notice, to purchase the numbers of Sale Shares specified by them in their application,

and shall expire on the earlier of (i) 35 Business Days after its service and (ii) the date on which responses to the Offer Notice have been received, either from all relevant offerees, or from all offerees who are entitled to purchase the Sale Shares in priority to other offerees pursuant to the provisions of Article 8.12, where such offerees have indicated a willingness to purchase all of the Sale Shares.

8.12 Ordinary Shares shall be treated as offered:

- (a) in the first instance, to Board Invitees;
- (b) to the extent not accepted by Board Invitees, to Ordinary Shareholders; and
- (c) to the extent not accepted by Ordinary Shareholders, to the A Shareholders,

provided always that:

- (i) no Shares shall be treated as offered to the Vendor or any other Shareholder who is then bound to give, has given or is deemed to have given a Transfer Notice in respect of the Shares registered in his name (for the purposes of this Article 8.12 a **Relevant Person**); and

- (ii) shares offered pursuant to this Article 8.12 to a Relevant Person shall be treated as withdrawn prior to acceptance.
  - (d) The expression **Board Invitees** in these Articles means: (a) any person or persons being an actual or proposed officer or employee of a Group Company, or (b) any member of the Investors' Group (as directed by an Investor Director) to be held pending reallocation to any person or persons being an actual or proposed officer or employee of a Group Company, or (c) the trustees of any Employee Benefit Trust selected, or (d) the Company to be bought back subject to compliance with the requirements of the Act (in the 60 Business Days immediately following the date on which the Sale Price is agreed or determined), as approved by the Board with Investor Consent. If no such selection occurs for whatever reason in this period then the Investors may, with the written approval of the Board, select the Board Invitees within a further period of 60 Business Days.
- 8.13 After the expiry date of the Offer Notice the Board shall, in the priorities and in respect of each class of persons set out in the columns in the table in Article 8.12, allocate the Sale Shares in accordance with the applications received, save that:
- (a) if there are applications from any class of offerees for more than the number of Sale Shares available for that class of offerees, they shall be allocated to those applicants in proportion (as nearly as possible but without allocating to any Shareholder more Sale Shares than the maximum number applied for by him) to the number of Shares of the class which entitles them to receive such offer then held by them respectively;
  - (b) if it is not possible to allocate any of the Sale Shares without involving fractions, they shall be allocated amongst the applicants of each class in such manner as the Board shall think fit;
  - (c) any allocation of Sale Shares between two or more Board Invitees shall be at the discretion of the Board with the approval of the Investor Directors; and
  - (d) if the Transfer Notice contained a valid Total Transfer Condition, no allocation of Sale Shares shall be made unless all the Sale Shares are allocated.
- 8.14 The Board shall, within five Business Days of the expiry date of the Offer Notice, give notice in writing (an **Allocation Notice**) to the Vendor and to each person to whom Sale Shares have been allocated (each a **Purchaser**) specifying the name and address of each Purchaser, the number of Sale Shares agreed to be purchased by him and the aggregate price payable for them.
- 8.15 Completion of a sale and purchase of Sale Shares pursuant to an Allocation Notice shall take place at the registered office of the Company at the time specified in the Allocation Notice when the Vendor shall, upon payment to him by a Purchaser of the Sale Price in respect of the Sale Shares allocated to that Purchaser, transfer those Sale Shares and deliver the relative share certificates to that Purchaser.
- 8.16 The Vendor may, during the period of 120 Business Days commencing five Business Days after the expiry date of the Offer Notice, sell all or any of those Sale Shares for which an Allocation Notice has not been given by way of bona fide sale to the proposed transferee (if any) named in the Transfer Notice or, if none was so named,

to any transferee at any price per Sale Share which is not less than the Sale Price, without any deduction, rebate or allowance to the proposed transferee, provided that:

- (a) the Vendor may not transfer such Sale Shares and Board shall not register any transfer to a transferee who is not at that date a Shareholder unless such transferee is first approved in writing by the Investors; and
- (b) if the Transfer Notice contained a Total Transfer Condition, the Vendor shall not be entitled, save with Investor Consent, to sell only some of the Sale Shares under this Article 8.16.

8.17 If a Vendor fails for any reason (including death) to transfer any Sale Shares when required pursuant to this Article 8 or Article 9 (*Compulsory Transfers*) below, the Board may authorise any Director (who shall be deemed to be irrevocably appointed as the agent of the Vendor for the purpose) to execute each necessary transfer of such Sale Shares and deliver it on the Vendor's behalf. The Company may receive the purchase money for such Sale Shares from the Purchaser and shall upon receipt (subject, if necessary, to the transfer being duly stamped) register the Purchaser as the holder of such Sale Shares. The Company shall hold such purchase money in a separate bank account on trust for the Vendor but shall not be bound to earn or pay interest on any money so held. The Company's receipt for such purchase money shall be a good discharge to the Purchaser who shall not be bound to see to the application of it, and after the name of the Purchaser has been entered in the register of Shareholders in purported exercise of the power conferred by this Article 8.17 the validity of the proceedings shall not be questioned by any person.

8.18 The provisions of this Article 8 may be waived or varied in whole or in part in relation to any proposed transfer of Shares with the consent of all Shareholders who, but for such waiver, would have been entitled to have such shares offered to them in accordance with this Article 8.

8.19 Notwithstanding the provisions of Articles 8.9 to 8.18 and subject always to:

- (a) Investor Consent; and
- (b) compliance with the provisions of the Act; and
- (c) any applicable Total Transfer Conditions,

the Board may and shall if requested by an Investor Director determine that the Company may purchase some or all of the Sale Shares at the Sale Price.

8.20 Subject to the provisions of Article 10 (*Drag Along*) and Article 11 (*Tag Along*) the Investors may at any time while a Material Default is continuing (but not otherwise) transfer any Shares held by them to any person.

## **9 COMPULSORY TRANSFERS**

9.1 In this Article 9, a **Transfer Event** occurs, in relation to any Shareholder:

### **Bankruptcy, death etc of individual**

- (a) if that Shareholder being an individual:

- (i) shall have a bankruptcy order made against him or shall be declared bankrupt by any court of competent jurisdiction; or
- (ii) shall make an offer to make any arrangement or composition with his creditors generally;
- (iii) shall die; or
- (iv) shall suffer from mental disorder and be admitted to hospital as a result of that mental disorder or shall become subject to any court order referred to in Article 18(e) of the Model Articles,

and in any such case and within the following 6 months either the Investors shall notify the Company or the Board shall resolve that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article;

#### **Corporate dissolution or insolvency etc**

- (b) if that Shareholder being a body corporate:
  - (i) shall have a receiver, manager or administrative receiver appointed over all or any part of its undertaking or assets;
  - (ii) shall have an administrator appointed in relation to it; or
  - (iii) shall enter into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or
  - (iv) shall have any equivalent action in respect of it taken in any jurisdiction outside England and Wales,

and within the following 6 months either the Investors shall notify the Company or the Board shall resolve that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article;

#### **Ceasing to be director or employee in the Group**

- (c) if an Ordinary Shareholder becomes a Leaver (a **Relevant Shareholder**) and within the following 6 months either an Investor Majority notifies the Company or the Board shall resolve that such event is a Transfer Event in relation to that holder for the purposes of this Article 9.1(c);

#### **Shares acquired following ceasing to be a director or employee**

- (d) if a Relevant Shareholder (other than the Investors) acquires Shares pursuant to the exercise of an option to acquire or be issued Shares and at such time of acquisition, the Relevant Shareholder has ceased to be an employee or director (including a non-executive director) of any Group Company and within the following 6 months either an Investor Majority shall notify the Company or the Board shall resolve that such event is a Transfer Event for the purposes of this Article 9.1(d);

### **Unauthorised attempted transfer**

- (e) if that Shareholder or any Family Member or the trustees of any Family Trust of a Shareholder shall attempt to deal with or dispose of any Share or any interest in it otherwise than in accordance with these Articles and within the following 6 months either an Investor Majority shall notify the Company or the Board shall resolve that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 9.1(e); or

### **Failure to serve Transfer Notice under specified provisions**

- (f) if that Shareholder shall for any reason not give a Transfer Notice in respect of any Shares or transfer any Shares (as the case may be) as required by any of the provisions of these Articles within 5 Business Days of the notice being served on them to do so and within the following 6 months either an Investor Majority shall notify the Company or the Board shall resolve that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 9.1(f).

### **Consequences of Transfer Event determination**

- 9.2 Upon the making of a notification or resolution under Article 9.1 that the same is a Transfer Event (as the case may be) the Shareholder in respect of whom it is a Transfer Event (the **Deemed Transfer Shareholder**) and any other Shareholder who has acquired Shares from him under a Permitted Transfer (directly or by means of a series of two or more Permitted Transfers) shall be deemed to have immediately given a Transfer Notice in respect of all the Shares then held by such Shareholder(s) provided that where a Shareholder is deemed to have given a Transfer Notice in respect of his Shares by reason of being a person who acquired Shares under a Permitted Transfer from the Deemed Transfer Shareholder, only those Shares so acquired shall be deemed to be the subject of a Deemed Transfer Notice for the purposes of this Article 9.2) (a **Deemed Transfer Notice**) but so that for the purposes of Article 9.1(c) or 9.1(d) the Deemed Transfer Notice shall be deemed served on notification by an Investor Majority or on a resolution of the Board that the same should be a Transfer Event.
- 9.3 A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice. For the purpose of Article 9.2, any Shares received by way of rights or on a capitalisation by any person to whom Shares may have been transferred (directly or by means of a series of two or more Permitted Transfers) shall also be treated as included within the Deemed Transfer Notice.

### **Disenfranchisement**

- 9.4 Notwithstanding any other provision of these Articles, any Shareholder holding Shares in respect of which a Deemed Transfer Notice is given shall not be entitled to exercise any voting rights at general meetings of the Company or execute any written resolution in respect of those Shares (and any Shares received thereafter by way of rights or on a capitalisation in respect of those Shares) or participate in any new issue of Shares, transfer of Shares, or in any dividend or other distribution of profits of the Company to Shareholders on and from the date of the relevant Deemed

Transfer Notice until the entry in the register of members of the Company in accordance with the Articles of another person as the holder of those Shares provided that nothing in this Article 9.4 shall prejudice the right of any such Shareholder to receive his proportional entitlement to the proceeds of a Realisation in accordance with Article 2.5(a).

#### **Offer for sale**

- 9.5 Subject to the provisions of this Article 9.5, the Shares which are the subject of any Deemed Transfer Notice shall be offered for sale in accordance with Article 8 (*Voluntary Transfers*) as if they were Sale Shares in respect of which a Transfer Notice had been given and treating as the Vendor the person who is deemed to have given the Deemed Transfer Notice save that:
- (a) subject to Article 9.6, the Sale Price shall be a price per Sale Share agreed between the Vendor and the Board with Investor Consent or, in default of agreement within 10 Business Days after the making of the notification or resolution under Articles 9.1(a), 9.1(b), 9.1(e) or 9.1(f) that the same is a Transfer Event, the Fair Value;
  - (b) in the case of a Deemed Transfer Notice deemed to be given following a Transfer Event set out in Articles 9.1(c) or 9.1(d), the 60 Business Days' time period for selecting Board Invitees referred to in Article 8.12(d) shall be increased to 120 Business Days;
  - (c) a Deemed Transfer Notice shall be deemed not to contain a Total Transfer Condition and shall not be revocable whether under Article 8.9 or otherwise;
  - (d) no proposed transferee shall be specified in the Transfer Notice;
  - (e) subject to Article 9.4, the Vendor may retain any Sale Shares for which Purchasers are not found;
  - (f) references to the date of service of the Transfer Notice in Article 8.5 shall be replaced by the date that the Transfer Notice was deemed to be served in accordance with Article 9.2;
  - (g) Article 9.6 shall apply; and
  - (h) any Sale Shares which were transferred to the Vendor pursuant to Article 7.3(e), shall not be offered for sale in accordance with Article 8 but shall be sold back to the Investors from who they were transferred at the Sale Price determined in accordance with Article 9.6 and shall upon transfer to the Investors automatically without need for a shareholder resolution convert into an equal number of A Shares.

#### **Special provision on ex director/employee**

- 9.6 The Sale Price for any Sale Shares which are the subject of a Deemed Transfer Notice given as a consequence of a Transfer Event falling within Articles 9.1(c) or 9.1(d) shall:

- (a) in the case where the Relevant Shareholder is a Good Leaver (or in the case of Article 9.1(d) where the Relevant Shareholder was at the time of such cessation of employment or directorship a Good Leaver), be their Fair Value;
- (b) in the case where the Relevant Shareholder is a Bad Leaver (or in the case of Article 9.1(d) where the Relevant Shareholder was at the time of such cessation of employment or directorship a Bad Leaver), be the lower of:
  - (i) their Issue Price; and
  - (ii) their Fair Value.

#### **Dispute not to delay sale**

9.7 A dispute as to whether Articles 9.6(a) or 9.6(b) applies to any Sale Shares shall not affect the validity of a Deemed Transfer Notice but any person who acquires Sale Shares (the **Purchaser**) pursuant to a Deemed Transfer Notice while such a dispute is continuing shall pay to the Vendor the amount calculated in accordance with Article 9.6(b) and shall pay to the Company an amount equal to the difference between the amount which would be due under Article 9.6(a) and the amount paid pursuant to Article 9.6(b). The Company shall hold that amount in a separate interest-bearing bank deposit account as trustee to pay it, and interest earned thereon, upon final determination of the dispute:

- (a) to the Purchaser(s) in respect of any Sale Shares determined to be sold at the lower of Issue Price and Fair Value; or
- (b) to the Vendor in respect of any Sale Shares determined to be sold at their Fair Value,

provided always that if the Vendor and Purchaser(s) otherwise agree in writing and notify such agreement to the Company it shall hold and deal with the monies paid into such account and interest as such agreement and notice may specify even though the issue of whether the Relevant Shareholder was a Good Leaver or a Bad Leaver has not been resolved.

#### **Date of end of employment**

9.8 For the purpose of Articles 9.1(c), 9.1(d) and 16 (*Retirement & Removal of Directors*), the date upon which a Shareholder ceases to hold office as an employee or director (including a non-executive director) as described therein shall:

- (a) where the employer terminates or purports to terminate a contract of employment or engagement by giving notice to the employee of the termination of the employment or directorship (including a non-executive directorship), whether or not the same constitutes a wrongful or unfair dismissal, be the date of that notice;
- (b) where the employee terminates or purports to terminate a contract of employment or engagement by giving notice to the employer of the termination of the employment or directorship (including a non-executive directorship) (whether or not he is lawfully able so to do), be the date of that notice;

- (c) where an employee or a director (including a non-executive director) wrongfully repudiates the contract of employment and the other respectively accepts that the contract of employment or directorship (including a non-executive directorship) has been terminated, be the date of such acceptance by the employee or employer respectively;
- (d) where a contract of employment or engagement is terminated under the doctrine of frustration, be the date of the frustrating event; or
- (e) where a contract of employment or engagement is terminated for any other reason be the date on which the person actually ceases to be employed by the employer or ceases to be a director (including a non-executive director).

9.9 Once a Transfer Notice or a Deemed Transfer Notice shall under these Articles be given in respect of any Share then no Permitted Transfer under Article 7 (*Permitted Transfers*) may be made in respect of such Share unless and until an Offer Notice shall have been served in respect of such Share and the period of allocation permitted under Article 8 (*Voluntary Transfers*), as applied by Article 9.5, shall have expired without such allocation.

## 10 DRAG ALONG

- 10.1 If Shareholders constituting an Investor Majority (together the **Selling Shareholders**) wish to transfer all their Shares to a Third Party Purchaser, the Selling Shareholders shall have the option (the **Drag Along Option**) to require all the other holders of Shares to transfer all their Shares with full title guarantee to the Third Party Purchaser or as the Third Party Purchaser shall direct in accordance with this Article 10.
- 10.2 The Selling Shareholders may exercise the Drag Along Option by giving notice to that effect (a **Drag Along Notice**) to all other Shareholders (the **Called Shareholders**) at any time before the registration of the transfer of the Shares held by the Selling Shareholders. A Drag Along Notice shall specify that the Called Shareholders are required to transfer all their Shares (the **Called Shares**) pursuant to Article 10.1 to the Third Party Purchaser, the price at which the Called Shares are to be transferred (determined in accordance with Article 10.4) the proposed date of transfer (if known) and the identity of the Third Party Purchaser.
- 10.3 A Drag Along Notice may be revoked at any time prior to completion of the sale of the Called Shares.
- 10.4 The Called Shareholders shall be obliged to sell the Called Shares at the price specified in the Drag Along Notice (whether in cash, securities or otherwise) which shall attribute a value to each Share held by the Selling Shareholders and each Share held by the Called Shareholders consistent with the provisions of Article 2.5(a).
- 10.5 Completion of the sale of the Called Shares shall take place on the same date as the date of actual completion of the sale of the Selling Shareholders' Shares unless all of the Called Shareholders and the Selling Shareholders agree otherwise.
- 10.6 Each Called Shareholder shall on service of the Drag Along Notice be deemed to have irrevocably appointed each of the Selling Shareholder(s) severally to be his

agent to execute any stock transfer and covenant for full title guarantee in respect of the Called Shares registered in the name of such Called Shareholders and to do such other things as may be necessary or desirable to accept, transfer and complete the sale of the Called Shares pursuant to this Article 10.

- 10.7 The rights of pre-emption and other restrictions on transfer of Shares contained in these Articles shall not apply on any sale and transfer of Shares by the Selling Shareholder(s) or the Called Shareholders to the Third Party Purchaser named in a Drag Along Notice in connection with the transfer contemplated by this Article 10.1 and the Drag Along Notice.
- 10.8 Any Transfer Notice or Deemed Transfer Notice served in respect of any Share which has not been allocated in accordance with Article 8 (*Voluntary Transfers*) shall automatically be revoked by the service of a Drag Along Notice.
- 10.9 In connection with a sale under this Article 10 the provisions of Article 2.5(a) shall apply to the proceeds of the Share Sale and save as aforesaid the provisions of this Article 10 shall prevail over any contrary provisions of these Articles.
- 10.10 Upon any person, following the issue of a Drag Along Notice, becoming a Shareholder pursuant to the exercise of a pre-existing option to acquire Shares (a **New Member**), a Drag Along Notice, on the same terms as the previous Drag Along Notice, shall be deemed to have been served upon the New Member 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 10 shall apply mutatis mutandis to the New Member save that completion of the sale of such Shares shall take place forthwith upon the Drag Along Notice being deemed served on the New Member or, if later, upon the date of completion under the previous Drag Along Notice.

## 11 TAG ALONG

- 11.1 Subject to Article 10 (*Drag Along*), but notwithstanding any other provision in these Articles no sale, transfer or other disposition of any Share (the **Specified Shares**) shall have any effect if it would result in a Change of Control unless, before the sale, transfer or other disposition takes effect, the Third Party Purchaser has made a bona fide offer in accordance with these Articles to purchase at the Specified Price (defined in Article 11.3) all the Shares held by Shareholders who are not acting in concert or connected with the Third Party Purchaser (the **Uncommitted Shares**).
- 11.2 An offer made under Article 11.1 shall be in writing, given in accordance with Article 22, open for acceptance for at least 15 Business Days and shall be deemed to be rejected by any Shareholder who has not accepted the offer in accordance with its terms within 15 Business Days of the offer being made to the Shareholder and the consideration under such offer shall be settled in full on completion of the purchase and, in any event, within 30 Business Days of the date of the offer.
- 11.3 For the purposes of Article 11.1 the expression **Specified Price** means in the case of Shares a price per Share at least equal to the highest price paid or payable by the Third Party Purchaser to the Investors for any Shares plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified Shares which, having regard to the

substance of the transaction as a whole, can reasonably be regarded as part of the overall consideration paid or payable for the Specified Shares.

## **12 PROHIBITED TRANSFERS**

Notwithstanding any other provision of these Articles, no transfer of any Share shall be registered if it is to any minor, undischarged bankrupt, trustee in bankruptcy or person of unsound mind or any person (other than a Third Party Purchaser named in a Drag Along Notice) who has not executed a Deed of Adherence to, and in the manner required by the Investment Agreement.

## **13 GENERAL MEETINGS AND RESOLUTIONS**

- 13.1 The Directors or any of the Investor Directors acting alone may call general meetings, and on the requisition of Shareholders pursuant to the provisions of the Act, shall forthwith proceed to convene a general meeting for a date not later than 28 days after receipt of the requisition. If there are not sufficient Directors to call a general meeting, any Director or any Shareholder may call a general meeting.
- 13.2 The chairman shall not be entitled to exercise a second or casting vote in addition to any other vote he may have at any meeting of the Board or at any meeting of Shareholders.
- 13.3 Article 38 of the Model Articles is modified so that no business shall be transacted at any general meeting unless a quorum of Shareholders is present throughout the meeting. Subject to Article 13.4, a quorum shall consist of 2 Shareholders one of whom must be an A Shareholder present in person or by proxy. If a meeting is adjourned pursuant to Article 41 of the Model Articles because a quorum is not present, and at the adjourned meeting (which, in default of agreement, shall take place on the date falling two weeks after the adjourned meeting at the same time of the adjourned meeting) a quorum is not present within half an hour from the time appointed for the meeting, the Shareholders present will form a quorum (provided that the Investors are then present). Article 41 of the Model Articles is modified accordingly.
- 13.4 At any time and from time to time after a Material Default shall have occurred, any general meeting shall be deemed to be quorate provided one A Shareholder is present.
- 13.5 Subject always to the provisions of Article 2.4, a resolution put to the vote of a meeting shall be decided on a poll. Article 42 of the Model Articles shall not apply to the Company.
- 13.6 A general meeting may consist of a conference between Shareholders, some or all of whom are in different places if each Shareholder who participates is able:
  - (a) to hear each of the other participating Shareholders addressing the meeting; and
  - (b) if he so wishes, to address all of the other participating Shareholders simultaneously

whether directly, by conference telephone or by any other form of communications equipment (whether in use at the Adoption Date or not) or by a combination of those methods.

- 13.7 A quorum is deemed to be present if the conditions set out in the Article 13.3 are satisfied in respect of at least the number and class of Shareholders required from a quorum. A meeting held in this way is deemed to take place at the place where the largest group of participating Shareholders is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates. A resolution put to the vote of a meeting will be decided by each Shareholder indicating to the chairman (in any such manner as the chairman may direct) whether the Shareholder votes in favour of or against the resolution or abstains. References in this Article 13 to Shareholders includes their duly appointed proxies and, in the case of corporate Shareholders, their duly authorised representatives.
- 13.8 Article 45(1) of the Model Articles shall be amended by the insertion of the words: "*unless a majority of the Board (an Investor Director being part of that majority) resolve otherwise*" at the beginning of that Article.

#### **14 NUMBER OF DIRECTORS AND APPOINTMENT OF CHAIRMAN**

- 14.1 Subject to Article 20.2, the number of Directors of the Company shall not be less than 2 and shall not be more than 5 unless otherwise agreed with Investor Consent.
- 14.2 The chairman of the Board shall be appointed in accordance with the terms of the Investment Agreement. The provisions of Article 13.2 shall apply.
- 14.3 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.

#### **15 INVESTOR DIRECTOR**

- 15.1 The Investors shall be entitled at any time and on more than one occasion to appoint 2 persons to be a Director (an **Investor Director**) and at any time and on more than one occasion remove such person or persons from office.
- 15.2 Any appointment or removal of an Investor Director shall be in writing served on the Company signed by the Investor Manager and shall take effect at the time it is served on the Company or (if later) the date expressly stated therein, whichever is earlier. Any such appointment or removal by a body corporate or partnership (whether limited liability or not) may be signed on its behalf by its duly authorised representative.
- 15.3 Without prejudice to Article 15.2 the Investors will have the right at any time to appoint any 2 persons as observers to attend and speak at meetings of the Board or any committee of the Board (but not to vote) and the provisions of Article 15.2 shall apply as if they were set out in full in this Article 15.3, but any person so appointed will not be a Director.

- 15.4 The Investors will have the right to have its professional advisers present at any meetings of the Board or any committee of the Board.
- 15.5 Upon written request by the Investors, the Company shall procure that such Investor Director as has been appointed by the Investors is forthwith appointed as a director of any other Group Company indicated in such request.
- 15.6 At any time while a Material Default is continuing, the Investors may by notice to the Company appoint any person named therein and willing to act to be a director of the Company or any Group Company and/or may remove any director (other than an Investor Director) from office notwithstanding how or when he was appointed or anything else in these Articles or in any agreement between the Company or any Group Company and him. A notice under this Article 15.6 shall be in writing and shall take effect on deposit at the office or at such later time as may be specified in the same. A director so removed may not be reappointed to any office or employment under the Company without Investor Consent.

## **16 RETIREMENT AND REMOVAL OF DIRECTORS**

- 16.1 The Directors shall not be required to retire by rotation.
- 16.2 The office of a Director (other than an Investor Director) shall be vacated if both:
- (a) he ceases to hold office as an employee or any other appointment with the Company or any Group Company (the date of such cessation for the purpose of this Article 16.2(a) being the date as determined pursuant to Article 9.8) without being appointed or continuing to be an employee of another Group Company; and
  - (b) either a majority of the Board (including the Investor Directors) or the Investors so require. Article 18 of the Model Articles shall be extended accordingly.

## **17 REMOVAL OF DIRECTORS**

- 17.1 In addition and without prejudice to the provisions of section 168 of the Act, the Company may by special resolution remove any Director before the expiration of his period of office and may by ordinary resolution appoint another Director in his place. This Article 17 is not to be taken as depriving a person removed under it of compensation or damages payable to him in respect of the termination of his appointment as Directors or any appointment terminating with that as Director.
- 17.2 Upon any resolution pursuant to section 168 of the Act or Article 17.1 for the removal of any Investor Director for the time being holding office pursuant to this Article 17.2 and without prejudice to Article 2.4(b), the Shares held by the person or persons who appointed such Investor Director shall confer upon the holders thereof the right to an aggregate number of votes which is one vote greater than the number of votes capable of being cast on such resolution by all other Shareholders. Such votes shall be divided between such holders, if more than one, as nearly as may be in the proportion to the number of A Shares held by them respectively.

## **18 ALTERNATE DIRECTORS**

18.1 Any Director (the **appointor**) may appoint as an alternate any other Director or any other person approved by resolution of the Directors, 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.

18.2 The words approved by resolution of the directors in Article 18.1 shall not apply to the appointment of an alternate Director by an Investor Director.

18.3 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.

18.4 The notice must:

- (a) identify the proposed alternate; and
- (b) 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.

18.5 An alternate director has the same rights, in relation to any Directors' meeting or any decision of the Directors, as the alternate's appointor.

18.6 Except as the 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 their appointors,

and, in particular (without limitation), each alternate Director shall be entitled to receive notice of all meetings of Directors and of meetings of committees of Directors of which his appointor is a member.

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

- (a) may be counted as participating for the purposes of determining whether a quorum is 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 his appointor is an eligible Director in relation to that decision, and does not himself participate).

- 18.8 A director who is also an alternate Director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the Directors (provided that his appointor is an eligible Director in relation to that decision) but he shall only be counted once in determining whether a quorum is present.
- 18.9 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.
- 18.10 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; or
  - (c) when the alternate's appointor's appointment as a Director ceases for whatever reason.

## **19 DIRECTORS' EXPENSES**

Article 20 of the Model Articles shall be amended by the insertion of the words "*including alternate Directors and the secretary*" before the words "*properly incur*".

## **20 PROCEEDINGS OF DIRECTORS**

- 20.1 Subject to Article 20.2, the quorum for the transaction of business of the Board shall be 2 Directors and no meeting of the Directors shall be quorate unless an Investor Director is present (unless an Investor Majority have waived that requirement in writing) and in the event that at a validly convened meeting of the Directors a quorum is not so constituted within half an hour of the appointed time, the meeting shall stand adjourned to a time to be agreed by an Investor Director not later than one month after the date of adjourned meeting (and shall, in default of agreement before that date and time, be that date and time). Article 11(2) of the Model Articles shall be modified accordingly.
- 20.2 At any time while a Material Default is continuing, any meeting of Directors shall be deemed to be quorate provided one Investor Director is present, and in the event that the number of Directors consists of only one Investor Director, such Director may act alone for all purposes and Article 11(3) of the Model Articles shall be modified accordingly.
- 20.3 In the case of an equality votes, the Chairman will not have a second or casting vote and Article 13(1) of the Model Articles shall not apply to the Company.
- 20.4 Any Director or his alternate may validly participate in a meeting of the Board or a committee of the Board by conference telephone or other form of communication equipment if all persons participating in the meeting are able to hear and speak to each other throughout the meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and

be entitled to vote. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no group which is larger than any other group, where the chairman of the meeting then is.

20.5 Save with the consent of an Investor Director:

- (a) the Board shall not delegate any of its powers to a committee; and
- (b) meetings of the Board shall not be held outside the United Kingdom.

20.6 The Directors are empowered for the purposes of section 175 of the Act to authorise any Conflict Situation that may arise and to amend or vary any such authorisation so given. Any such authorisation, amendment or revocation shall be given by resolution of the Directors made in accordance with these Articles and, in the case of such authorisation, that section. The Directors may give any such authorisation subject to such terms as they shall consider appropriate and reasonable in the circumstances.

20.7 For the purposes of sections 175 and 180(4) of the Act and for all other purposes, it is acknowledged that an Investor Director may be or become subject to a Conflict Situation or Conflict Situations as a result of his also being or having been a party to an agreement, arrangement or understanding or circumstance under which he may become an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or a direct or indirect investor in and/or otherwise commercially involved with or economically interested in any of the following:

- (a) an Investor; and/or
- (b) any Investor Affiliate, which for the purpose of this Article 20.7(b) means any person who or which, as regards an Investor or any other Investor Affiliate:
  - (i) is a member of the Investors' Group or any associated company of any member of the Investors' Group; and/or
  - (ii) is an investment manager or investment adviser to or of it and/or another Investor Affiliate; and/or
  - (iii) is a person in which an Investor and/or another Investor Affiliate may have or acquire a direct or indirect economic interest, including without limitation any portfolio company investee; and/or
  - (iv) controls or is controlled, managed, advised (in an investment adviser capacity) or promoted by an Investor and/or such an Investor Affiliate; and/or
  - (v) a trustee, manager, beneficiary, shareholder, partner, unit-holder or other financier or any participant in or of it and/or that Investor Affiliate;

20.8 An Investor Director's duties to the Company arising from his holding office as a Director shall not be breached or infringed as a result of any Conflict Situation envisaged by Article 20.7 having arisen or existing in relation to him and he shall not be held accountable to the Company for any benefit he directly or indirectly derives from his involvement with any person or entity referred to in Article 20.7 (irrespective

of whether the activities of such person or entity are or may become competitive with those of the Company and/or any of its subsidiaries).

20.9 Any Investor Director who is the subject of a Conflict Situation envisaged by Article 20.7 shall be entitled to:

- (a) receive notice (including any relevant board papers) of, attend, count in the quorum towards and vote at board meetings relating in any way to, and deal generally with, matters concerning, connected with or arising from the Conflict Situation concerned; and
- (b) keep confidential and not disclose to the Company any information which comes into his possession as a result of such Conflict Situation where such information is confidential as regards any third party.

20.10 Without prejudice to the obligations of a Director to disclose the nature and extent of his interest in accordance with the Act and/or the terms on which any authorisation is given for the purposes of section 175 of the Act (as the case may be), a Director may vote at any meeting of the Board on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty:

- (a) which is material (otherwise than by virtue of his interests in shares or debentures or other securities of or otherwise in or through the Company) provided that the Director concerned has first obtained Investor Consent (unless the Director concerned is the Investor Director, in which case no such consent will be required); or
- (b) which is not within the terms of Article 20.10(a),

and, subject always to the foregoing, the Director concerned will be counted in the quorum present when any such resolution is under consideration and if he votes, his vote will be counted.

20.11 Article 14 of the Model Articles shall not apply to the Company.

20.12 A Director may in any way, directly or indirectly, be interested in any contract or arrangement or transaction with the Company and he may hold and be remunerated in respect of any office or place of profit (other than the office of auditor of the Company or any subsidiary of the Company) under the Company or any other company in which the Company is in any way interested and he (or any firm of which he is a member) may act in a professional capacity for the Company or any such other company and be remunerated for such acts and in any such case (save as otherwise agreed) he may retain for his own absolute use and benefit all profits and advantages accruing to him under or in consequence of such acts. For the avoidance of doubt, the Company shall have no claim arising from, or in consequence of, the Director's interest in any contract or arrangement or transaction within the scope of this Article 20.12, and the Director shall not breach any of his duties to the Company as a result of having that interest.

20.13 Notices of meetings of the Directors shall be given in writing and Article 9(3) of the Model Articles shall be modified accordingly.

## **21 DIVIDENDS**

Article 30(1) of the Model Articles is modified by the addition of the following words "*with Investor Consent*" after the words "*the directors*" in the first sentence.

## **22 NOTICES**

- 22.1 Subject to these Articles, a Director may agree with the Company that notices or documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 24 hours. Article 48(3) of the Model Articles shall be modified accordingly.
- 22.2 Where a notice is sent by first class post, proof of the notice having been posted in a properly addressed, prepaid envelope shall be conclusive evidence that the notice was given and shall be deemed to have been given at the expiration of 24 hours after the envelope containing the same is posted. Where a notice is sent by facsimile transmission proof of the notice having been sent to the correct facsimile number shall be conclusive evidence that the notice was given and shall be deemed to have been given at the time of the receipt by the sender of a transmission report confirming that the notice has been transmitted correctly.
- 22.3 If at any time by reason of the suspension or curtailment of postal services within the United Kingdom the Company is unable effectively to convene a general meeting by notices sent through the post, a general meeting may be convened by a notice advertised in at least one national daily newspaper and such notice shall be deemed to have been duly served on all members entitled to receive such notice at noon on the day when the advertisement appears. In any such case the Company shall send confirmatory copies of the notice by post if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom again becomes practicable.

## **23 DOCUMENTS SENT IN ELECTRONIC FORM OR BY MEANS OF A WEBSITE**

- 23.1 Where the Act permits the Company to send documents or notices to its members in electronic form or by means of a website, such documents and notices will be validly sent provided the Company complies with the requirements of the Act.
- 23.2 Subject to any requirements of the Act, documents and notices may be sent in electronic form to the address specified by the Company for that purpose and such documents or notices sent to the Company are sufficiently authenticated if the identity of the sender is confirmed in the way the Company has specified.

## **24 THE SEAL**

- 24.1 If the Company has a seal it shall only be used with the authority of the Directors (including the Investor Director) or of a committee of the Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and, unless otherwise so determined, every instrument to which the seal is affixed shall be signed by one Director and by the secretary (if there is one) or a second Director or by one Director in the presence of a witness. Article 49 of the Model Articles shall not apply to the Company.

- 24.2 The Company may exercise the powers conferred by the Act with regard to having an official seal for use abroad, and such powers shall be vested in the directors.

## **25 INDEMNITY**

- 25.1 Subject to the provisions of and so far as may be consistent with the Act, the Company may provide for a Director an indemnity out of the assets of the Company to the extent that such indemnity is a 'qualifying third party indemnity provision' within the meaning of section 234 of the Act and may provide a Director with funds in accordance with section 205 of the Act to meet expenditure incurred or to be incurred by him in defending any criminal or civil proceedings or in connection with any application under the provisions mentioned in section 205(5) of the Act, but so that any provision of funds will become repayable by the Director or any liability of the Company under any transaction connected with any provision of funds will become repayable by the Director not later than:

- (a) in the event of the Director being convicted in the proceedings, the date when the conviction becomes final;
- (b) in the event of judgment being given against him in the proceedings, the date when the judgment becomes final; or
- (c) in the event of the court refusing to grant him relief on the application, the date when the refusal of relief becomes final.

- 25.2 Subject to the provisions of the Act, the Directors may purchase and maintain insurance at the expense of the Company for the benefit of any Director or other officer or auditor of the Company against any liability which may attach to him or loss or expenditure which he may incur in relation to anything done or alleged to have been done or omitted to be done as a Director, officer or auditor.

- 25.3 Articles 52 and 53 of the Model Articles shall be modified accordingly.

## **26 SHARE CERTIFICATES**

In Article 25(2)(c) of the Model Articles, the words "*evidence, indemnity and the payment of a reasonable fee*" shall be replaced with the words "*evidence and indemnity*".

## **27 SUBSIDIARY UNDERTAKINGS**

- 27.1 The Board shall exercise all voting and other rights or powers of control exercisable by the Company in relation to itself and its subsidiary undertaking so as to secure (but as regards its subsidiary undertakings only in so far as by the exercise of such rights or powers of control the Board can secure) that:

- (a) no shares or other securities are issued or allotted by any such subsidiary and no rights are granted which might require the issue of any such shares or securities otherwise than to the Company or to one of its wholly-owned subsidiaries; and
- (b) neither the Company nor any of its subsidiaries transfers or disposes of any shares or securities of any subsidiary of the Company or any interest therein

or any rights attached thereto otherwise than to the Company or one of its wholly-owned subsidiaries,

without in either case Investor Consent.

- 27.2 The Board shall exercise all voting and other rights or powers of control exercisable by the Company in relation to its subsidiary undertaking so as to secure that all distributable reserves available for distribution to the Company (or to any intermediate subsidiary undertaking) are duly paid and any other necessary formalities duly met so as to permit the Company lawfully to pay all dividends and other distributions payable under these Articles.