

**VICUÑITA MINERALS UK LIMITED**

(RCN: 11123678)

**COMPANIES ACT 2006  
PRIVATE COMPANY LIMITED BY SHARES  
WRITTEN RESOLUTIONS  
OF  
VICUÑITA MINERALS UK LIMITED**

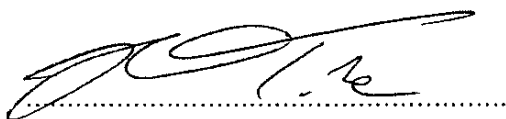
Passed on *28<sup>th</sup> November* 2019

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Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the following resolution was duly passed as a special resolution with the requisite majority by way of a written resolution of the Company:

**SPECIAL RESOLUTION**

- 1 **THAT** the articles of association attached hereto be adopted as the articles of association of the Company in substitution for and to the exclusion of the Company's existing articles of association.



Director

WEDNESDAY



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18/12/2019

#166

COMPANIES HOUSE

Private & Confidential

Company Number 11123678

THE COMPANIES ACT 2006

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PRIVATE COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

OF

VICUÑITA MINERALS UK LIMITED  
(the "Company")

(Adopted by Special Resolution passed on 28 November 2019)

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## **PART 1: INTERPRETATION**

### **1 DEFINED TERMS**

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

<b>A Shares</b>	the A ordinary shares of 0.1 cent each in the capital of the Company;
<b>Articles</b>	the Company's Articles of association;
<b>Asset Sale</b>	the disposal by the Company of assets (whether together with associated liabilities or otherwise and as part of an <i>undertaking or otherwise</i> ) which represent more than 50% (by book value) of the consolidated gross tangible assets of the Company at that time,
<b>B Shares</b>	the B ordinary shares of 0.1 cent each in the capital of the Company;
<b>Bad Leaver</b>	a Leaver who is not a Good Leaver;
<b>Bankruptcy</b>	includes individual insolvency proceedings in jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
<b>Business Days</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
<b>CA 2006</b>	the Companies Act 2006;
<b>Chairman</b>	has the meaning given in Article 13;
<b>Chairman of the meeting</b>	has the meaning given in Article 64;
<b>Change of Control</b>	the acquisition whether by purchase, transfer, renunciation or otherwise (but excluding a transfer of Shares made in accordance with Article 37 (Lien)) by any third party purchaser of any interest in any Shares if, upon completion of that acquisition, the third party purchaser would, or together with persons acting in concert or connected with him would, hold more than 75% of the voting rights at a general meeting of the Company attached to the issued Shares for the time being;

<b>Companies Acts</b>	the Companies Acts (as defined in section 2 of the CA 2006), in so far as they apply to the Company;
<b>connected with</b>	has the meaning ascribed to it in section 1122 Corporation Tax Act 2010 ("CTA") or section 993 of the Finance Act 2007, save that there shall be deemed to be control for that purpose whenever either section 450 or section 1124 of CTA would so require;
<b>Continuing Shareholders</b>	has the meaning given in Article 44.8;
<b>Deemed Transfer Notice</b>	has the meaning given in Article 45.1;
<b>Deferred Conversion Date</b>	the date that Shares convert into Deferred Shares pursuant to Article 46.1;
<b>Deferred Shares</b>	deferred shares of 0.1 cent each in the capital of the Company from time to time;
<b>Director</b>	a Director of the Company, and includes any person occupying the position of Director, by whatever name called;
<b>Distribution Recipient</b>	has the meaning given in Article 55;
<b>Dividend Access Shares</b>	the class B shares issued by MV SAC,
<b>Dividend Shareholders</b>	<b>Access</b> a person who is the Holder of a Dividend Access Share;
<b>document</b>	includes, unless otherwise specified, any document sent or supplied in electronic form;
<b>electronic form</b>	has the meaning given in section 1168 of the CA 2006;
<b>eligible director</b>	a Director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);
<b>Equity Shares</b>	the Shares, other than the Deferred Shares;
<b>Fair Value</b>	in relation to shares, as determined in accordance with Article 48;
<b>Founders</b>	as defined in the Shareholders' Agreement;

<b>Good Leaver</b>	<p>a Leaver:</p> <p>(a) who becomes a Leaver as a result of:</p> <ul style="list-style-type: none"> <li>(i) death;</li> <li>(ii) an illness or disability certified by an independent general medical practitioner (nominated or approved by the board of directors, such nomination or approval not to be unreasonably withheld or delayed) as rendering the Leaver permanently incapable of carrying out his role as an employee, consultant and/or director of any Group Company, save where such incapacity has arisen as a result of the abuse of drugs or alcohol,</li> <li>(iii) retirement at normal retirement age; or</li> <li>(iv) dismissal by the Company which is determined, by an employment tribunal or at a court of competent jurisdiction from which there is no right to appeal, to be wrongful or constructive; or</li> </ul> <p>(b) whom the board of directors unanimously agree shall be a Good Leaver;</p>
<b>Group</b>	the Company, each holding company for the time being of the Company and all the subsidiaries or subsidiary undertakings for the time being of the Company or such holding company or any one of them,
<b>Group Company</b>	any member of the Group for the time being;
<b>fully paid</b>	in relation to a share, means that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company;
<b>hard copy form</b>	has the meaning given in section 1168 of the CA 2006;
<b>Holder</b>	in relation to Shares means the person whose name is entered in the register of members as the Holder of the Shares,
<b>Instrument</b>	a document in hard copy form,
<b>Investor Director</b>	a director appointed pursuant to clause 10 of the Shareholders' Agreement;
<b>Issue Price</b>	the amount paid up or credited as paid up (including any premium on issue) on the shares concerned;
<b>Leaver</b>	a Shareholder who is employed by or is a consultant to or is a director of any Group Company from time to time (other than an Investor Director) and who ceases to be (and is not immediately re-employed or re-appointed) an employee or



		consultant and/or director of any Group Company (for whatever reason and whether or not his contract of employment or appointment to office is validly terminated);
<b>Leaver Transfer Notice</b>		has the meaning given in Article 47.1;
<b>Listing</b>		either: <ul style="list-style-type: none"> <li>(a) the admission by the UK Listing Authority to listing, together with admission by the London Stock Exchange to trading, on the Official List of any of the issued equity Share capital of the Company, and such admission becoming effective; or</li> <li>(b) the admission by the London Stock Exchange of any of the issued equity Share capital of the Company to trading on AIM market of the London Stock Exchange, and such admission becoming effective; or</li> <li>(c) any equivalent admission to any other Recognised Investment Exchange becoming unconditionally effective in relation to any of the issued equity Share capital of the Company;</li> </ul>
<b>Listing Shares</b>		the issued Equity Shares (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),
<b>Listing Value</b>		in the event of a Listing, 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 financial advisers to the Company or, if none, the broker appointed by the board of Directors to advise in connection with the Listing;
<b>Management</b>		as defined in the Shareholders' Agreement,
<b>Management Incentive Shares Deed of Agreement</b>		the agreement relating to shares of the Company issued and to be issued to members of Management dated on or around the date of adoption of these Articles and made between the Founders and the Company, as varied, amended, supplemented, superseded and adhered to from time to time;
<b>Management Incentive</b>		the aggregate shares in the capital of the Company for

<b>Shares</b>		which Management are collectively entitled to subscribe in accordance with clause 8 of the Shareholders' Agreement;
<b>Minimum Condition</b>	<b>Transfer</b>	has the meaning given in Article 44.1(d);
<b>MV SAC</b>		Minera Vicuña SAC, a company incorporated and registered in Peru with company registration number 20602917241;
<b>MV Sale Shares</b>		has the meaning given in Article 44.3;
<b>Offer Period</b>		has the meaning given in Article 44.8;
<b>Ordinary Resolution</b>		has the meaning given in section 282 of the CA 2006'
<b>paid</b>		paid or credited as paid;
<b>Participate</b>		in relation to a Directors' meeting, has the meaning given in Article 10;
<b>Proposed Sale Price</b>		has the meaning given in Article 44.1;
<b>Proxy Notice</b>		has the meaning given in Article 70.1;
<b>Qualifying Offer</b>		has the meaning given in Article 49;
<b>Realisation</b>		an Asset Sale, a Listing, a Sale or a Winding Up;
<b>Recognised Investment Exchange</b>		shall have the meaning ascribed to it in section 285(1)(a) of the Financial Services and Markets Act 2000;
<b>Sale</b>		the making of one or more agreements (whether conditional or not but which agreement(s) become(s) unconditional) for the disposal, transfer, purchase, subscription or renunciation of any part of the Share capital of the Company giving rise to a Change of Control and for the purposes of this definition " <b>disposal</b> " 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;
<b>Sale Shares</b>		has the meaning given in Article 44.1;
<b>Seller</b>		has the meaning given in Article 44.1;

<b>Shareholder</b>	a person who is the Holder of a share;
<b>Shareholders' Agreement</b>	the agreement relating to the Company dated on or around the date of adoption of these Articles between the Original Shareholders, LG, the Initial Investors and the Company (each as defined therein), as varied, amended, supplemented, superseded and adhered to from time to time;
<b>Shares</b>	Shares in the Company;
<b>Special Resolution</b>	has the meaning given in section 283 of the CA 2006;
<b>Start Date</b>	the date of the Management Incentive Shares Deed of Agreement;
<b>subsidiary</b>	has the meaning given in section 1159 of the CA 2006;
<b>Transfer Notice</b>	has the meaning given in Article 44.1;
<b>Transfer Price</b>	has the meaning given in Article 44.6;
<b>Transmittee</b>	a person entitled to a share by reason of the death or Bankruptcy of a Shareholder or otherwise by operation of law;
<b>Valuers</b>	the auditors for the time being of the Company or, if they decline the instruction, an independent firm of accountants jointly appointed by the shareholders or, in the absence of agreement between the shareholders on the identity of the expert within 10 Business Days of a shareholder serving details of a suggested expert on the other, an independent firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants in England and Wales (in each case acting as an expert and not as an arbitrator);
<b>Winding Up</b>	the passing of any resolution for the winding up of the Company, or any other return of capital (on liquidation, capital reduction or otherwise); and
<b>Writing</b>	the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in Electronic Form or otherwise.

Unless the context otherwise requires, other words or expressions contained in these Articles bear the same meaning as in the CA 2006, in force on the date when these

Articles become binding on the Company.

## **2 LIABILITY OF MEMBERS**

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

## **3 EXCLUSION OF MODEL ARTICLES**

No articles set out in any statute, or in any statutory instrument or other subordinate legislation made under any statute, concerning companies shall apply as the Articles.

## **PART 2: DIRECTORS AND COMPANY SECRETARY**

### ***Directors' Powers and Responsibilities***

## **4 DIRECTORS' GENERAL AUTHORITY**

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

## **5 SHAREHOLDERS' RESERVE POWER**

5.1 The Shareholders may, by Special Resolution, direct the Directors to take, or refrain from taking, specified action.

5.2 No such Special Resolution invalidates anything which the Directors have done before the passing of the resolution.

## **6 DELEGATION TO DIRECTORS**

6.1 Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles:

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

(e) on such terms and conditions, as they think fit.

6.2 If the Directors so specify, any such delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.

6.3 The Directors may revoke any delegation in whole or part, or alter its terms and conditions.

### ***Decision-making by Directors***

## **7 DIRECTORS TO TAKE DECISION COLLECTIVELY**

7.1 The general rule about decision-making by Directors is that any decision of the Directors must be either a majority decision at a meeting or a decision taken in writing in accordance with Article 8

7.2 If:

(a) the Company only has one Director; and

(b) no provision of the Articles requires it to have more than one Director,

the general rule does not apply, and the Director may take decisions without regard to any of the provisions of the Articles relating to Directors' decision-making.

## **8 DECISIONS IN WRITING**

8.1 A decision may take the form of a resolution in writing, copies of which have been signed by each eligible Director or to which each eligible Director has otherwise indicated agreement in writing:

(a) references in this Article to eligible Directors are to Directors who would have been entitled to vote on the matter had it been proposed as a resolution at a Directors' meeting;

(b) a decision may not be taken in accordance with this Article if the eligible Directors would not have formed a quorum at such a meeting.

## **9 CALLING A DIRECTORS' MEETING**

- 9.1 Any director may call a Directors' meeting by giving notice of the meeting to the Directors or by authorising the Company Secretary (if any) to give such notice

Notice of any Directors' meeting must indicate:

- (a) its proposed date and time;
- (b) where it is to take place, and
- (c) if it is anticipated that Directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

- 9.2 Notice of a Directors' meeting must be given to each Director, but need not be in writing.

- 9.3 Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

## **10 PARTICIPATION IN A DIRECTORS' MEETING**

- 10.1 Directors participate in a Directors' meeting, or part of a Directors' meeting, when:

- (a) the meeting has been called and takes place in accordance with the Articles; and
- (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

- 10.2 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.

- 10.3 If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place where any of them may be.

## **11 QUORUM FOR DIRECTORS' MEETING**

- 11.1 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 11.2 Subject to Article 11.3, the quorum for Directors' meetings may be fixed from time to time by a decision of the Directors, but it must never be less than two eligible directors, and unless otherwise fixed it is two eligible directors.
- 11.3 For the purposes of any meeting (or part of a meeting) held pursuant to Article 16 to authorise a Director's conflict, if there is only one eligible director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one eligible director.
- 11.4 If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision other than one:
- (a) to appoint further Directors; or
  - (b) to call a general meeting so as to enable the Shareholders to appoint further Directors.
- 11.5 *If and for so long as the Company only has a sole Director the quorum for the transaction of the business of the Director at a meeting of Directors shall be one.*

## **12 CHANGE OF NAME**

The Company may change its name by resolution of the board of directors.

## **13 CHAIRING OF DIRECTORS' MEETINGS**

- 13.1 The Directors may appoint a Director to chair their meetings.
- 13.2 The person so appointed for the time being is known as the Chairman.
- 13.3 The Directors may terminate the Chairman's appointment at any time.
- 13.4 If the Chairman is not participating in a Directors' meeting within ten minutes of the time at which it was to start, the participating Directors must appoint one of themselves to chair it.

## **14 CASTING VOTE**

- 14.1 If the numbers of votes for and against a proposal are equal, the Chairman or other Director chairing the meeting has a casting vote.
- 14.2 Article 14.1 shall not apply if, in accordance with the Articles, the Chairman or other Director is not to be counted as participating in the decision-making process for quorum or voting purposes.

## **15 ALTERNATIVE DIRECTORS**

- 15.1 Any Director (the "**appointor**") may appoint as an alternate any other Director, or any other person approved by a decision of the Directors, to:
- (a) exercise that Directors' powers; and
  - (b) carry out that Director's responsibilities,
- in relation to the making of decisions by the Directors in the absence of the alternate's appointor.
- 15.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the Directors. 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 he is willing to act as the alternate of his appointor.
- 15.3 An alternate Director has the same rights to participate in any Directors' meeting or decision of the Directors reached unanimously, as the alternate's appointor.
- (a) Except as these Articles specify otherwise, alternate Directors:
    - (i) are deemed for all purposes to be Directors;
    - (ii) are liable for their own acts or omissions;



- (iii) are subject to the same restrictions as their appointors,
  - (iv) are not deemed to be agents of or for their appointors;
- (b) A person who is an alternate Director but not a Director:
- (i) 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
  - (ii) may sign or otherwise signify his agreement in writing to such written resolution.

No alternate may be counted as more than one Director for such purposes.

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

15.5 The Company may pay any reasonable expenses which the alternate Director properly incurs in connection with his attendance at:

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

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

- (a) when his 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 office as Director;

- (c) on the death of his appointor; or
- (d) when his appointor's appointment as a Director terminates.

15.7 Alternates voting at Directors' meetings

- (a) A Director who is also an alternate Director has an additional vote on behalf of each appointor who is:
  - (i) not participating in a Directors' meeting; and
  - (ii) would have been entitled to vote if they were participating in it.

**16 CONFLICTS OF INTEREST**

16.1 The Directors may, in accordance with the requirements set out in this Article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a Director (an **Interested Director**) breaching his duty under section 175 of the CA 2006 to avoid conflicts of interest (**Conflict**)

16.2 Any authorisation under this Article 16. will be effective only if:

- (a) to the extent permitted by the CA 2006, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine;
- (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director or any other interested director; and
- (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's and any other interested director's vote had not been counted.

16.3 Any authorisation of a Conflict under this Article 16. may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected

*to arise out of the matter or situation so authorised;*

- (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the Directors or otherwise) related to the Conflict,
- (c) provide that the Interested Director shall or shall not be an eligible director in respect of any future decision of the Directors in relation to any resolution related to the Conflict;
- (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the Directors think fit;
- (e) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a Director of the company) information that is confidential to a third party, he will not be obliged to disclose that information to the company, or to use it in relation to the company's affairs where to do so would amount to a breach of that confidence; and
- (f) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the Directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.

16.4 Where the Directors authorise a Conflict, the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the Directors in relation to the Conflict.

16.5 The Directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.

16.6 A director is not required, by reason of being a Director (or because of the fiduciary relationship established by reason of being a Director), to account to the company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the Directors or by the company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

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

17.1 The Directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the Directors.

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

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

Subject to the Articles, the Directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to Directors.

### ***Appointment of Directors***

## **19 NUMBER OF DIRECTORS**

Unless otherwise determined by Ordinary Resolution, the number of Directors (other than alternate Directors) shall not be subject to any maximum.

## **20 METHODS OF APPOINTING DIRECTORS**

20.1 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.

20.2 In any case where, as a result of death, the Company has no Shareholders and no Directors, the personal representatives of the last Shareholder to have died have the right, by notice in writing, to appoint a person to be a Director.

20.3 For the purposes of 20.2, where 2 or more Shareholders die in circumstances rendering it uncertain who was the last to die, a younger Shareholder is deemed to have survived an older Shareholder.

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

21.1    A person ceases to be a Director as soon as:

- (a)      that person ceases to be a Director by virtue of any provision of the CA 2006 or is prohibited from being a Director by law;
- (b)      a Bankruptcy order is made against such person;
- (c)      a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d)      a registered medical practitioner who is treating that person gives a written opinion to the Company stating that, that person has become physically or mentally incapable of acting as a Director and may remain so for more than three months;
- (e)      notification is received by the Company from the Director that the Director is resigning from the office, and such resignation has taken effect in accordance with its terms.

## **22      DIRECTOR'S REMUNERATION**

22.1    *Directors may undertake any services for the Company that the Directors decide.*

22.2    Directors are entitled to such remuneration as the Directors determine:

- (a)      for their services to the Company as Directors; and
- (b)      for any other service which they undertake for the Company.

22.3    Subject to the Articles, a Director's remuneration may:

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

22.4    Unless the Directors decide otherwise, Directors' remuneration accrues from day to day.

- 22.5 Unless the Directors decide otherwise, Directors are not accountable to the Company for any remuneration which they receive as Directors or other officers or employees of the Company's subsidiaries or of any body corporate in which the Company is interested.

## **23 DIRECTORS' EXPENSES**

- 23.1 The Company may pay any reasonable expense which the Directors or the Company Secretary (if any) properly incur in connection with their attendance at:

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

## **24 DIRECTORS' TRANSACTION OR OTHER ARRANGEMENTS WITH THE COMPANY**

Subject to section 177(5) and 177(6) and sections 182(5) and 182(6) of the CA 2006 and provided he has declared the nature and extent of his interest in accordance with the requirements of the Companies Acts, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested,
- (b) shall be an eligible Director for the purpose of any decision of the Directors (or committee of Directors) in respect of such contract or proposed contract in which he is interested;
- (c) shall be entitled to vote at a meeting of Directors or of a committee of the Directors, or participate in any decision, in respect of such contract or proposed contract in which he is interested;
- (d) may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director;

- (e) may be a Director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
- (f) shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the CA 2006)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and so such contract, transaction or arrangement shall not be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the CA 2006:
  - (i) for the purposes of this Article, references to proposed decisions and decision-making processes include any Directors' meeting or part of a Directors' meeting;
  - (ii) subject to Article 21, if a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chairman whose ruling in relation to any Director other than the Chairman is to be final and conclusive;
  - (iii) if any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chairman, the question is to be decided by a decision of the Directors at the meeting, for which purpose the Chairman is not to be counted as participated in the meeting (or that part of the meeting) for voting or quorum purposes.

## **25 COMPANY SECRETARY**

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

### **PART 3: SHARES AND DISTRIBUTIONS**

#### **Shares**

#### **26 SHARE CAPITAL**

- 26.1 Shares may be issued as nil, partly or fully paid.
- 26.2 The A Shares and the B Shares will be separate classes of shares but will rank *pari passu* in all respects except as set out in these Articles.
- 26.3 Only the holders of Dividend Access Shares in MV SAC are eligible to hold B Shares and the Directors shall not issue B Shares to any person unless they already hold, or shall simultaneously acquire, an equal number of Dividend Access Shares in MV SAC.

#### **27 DIVIDEND ACCESS ARRANGEMENTS RELATING TO THE B SHARES**

- 27.1 Where any amount paid by way of dividend by MV SAC is received by any Holder of B Shares, the entitlement of such Holder of B Shares to be paid any dividend declared pursuant to these Articles will be reduced by the corresponding amount that has been paid by MV SAC to such Holder of B Shares.
- 27.2 Without altering the continuing effect of Article 27.1, if a dividend is declared pursuant to these Articles and the entitlement of any Holder of B Shares to be paid its pro rata share of such dividend is not fully extinguished on the relevant payment date by virtue of a payment made by MV SAC, the Company has a full and unconditional obligation to make payment in respect of the outstanding part of such dividend entitlement immediately.
- 27.3 Where amounts are paid by MV SAC in one currency and a dividend is declared by the Company in another currency, the amounts so paid by MV SAC will, for the purposes of the comparison required by Articles 27.1 and 27.2 above, be converted into the currency in which the Company has declared the dividend at such rate as the Directors shall consider appropriate.
- 27.4 For the purposes of Articles 27.1 and 27.2, the amount that MV SAC has paid to any holder of B Shares in respect of any particular dividend paid by MV SAC will be deemed to include a pro rata share of any tax that MV SAC is obliged to withhold or to deduct from the same.



27.5 The arrangements outlined in Articles 27.1 to 27.4 above are terminable by the Directors at any time and upon any such termination occurring, the B Shares will form one uniform class with the A Shares ranking *pari passu* in all respects and the A Shares and the B Shares will thereafter be known as ordinary shares without further distinction.

27.6 For the purposes of this Article, MV SAC is to be treated as having paid an amount to a Holder of B Shares if a cheque, warrant or similar financial instrument in respect of that amount is properly despatched to that Holder of B Shares or if a payment is made through a bank transfer or other electronic means.

## **28 REALISATION AND RETURN OF CAPITAL ARRANGEMENTS RELATING TO THE B SHARES**

28.1 On a Realisation or a return of assets on reduction of capital or otherwise, the surplus assets of the Company remaining after payment of its liabilities (on an Asset Sale or a Winding-Up) or the proceeds (in the case of a Sale, Listing or capital reduction or otherwise) shall be allocated and paid out to the holders of the A Shares and the B Shares *pro rata* based on the number of A Shares and B Shares held by such holders (as if the same constituted one class of shares) PROVIDED THAT:

(a) a Holder of B Shares shall only be entitled to receive payment from the Company to the extent that such Holder(s) of B Shares have not already received payment from:

(i) MV SAC; or

(ii) a third party purchaser,

in respect of an event equivalent to a Realisation or a return of assets on reduction of capital or otherwise by MV SAC in respect of Dividend Access Shares.

28.2 The Deferred Shares do not carry a right to participate in the surplus assets of the Company on a Realisation or return of assets on reduction of capital or otherwise.

28.3 Where amounts are paid by MV SAC in one currency and a payment of capital is proposed by the Company under Article 28.1 in another currency, the amounts so paid by MV SAC will, for the purposes of the comparison required by Article 28.1, be converted into the currency in which the Company is proposing to make payment at such rate as the Directors shall consider appropriate.

- 28.4 For the purposes of Article 28.1, the amount that MV SAC has paid to any Holder of B Shares in respect of any particular capital payment paid by MV SAC will be deemed to include a pro rata share of any tax that MV SAC is obliged to withhold or to deduct from the same.

## **29 PROVISIONS ON REALISATION**

- 29.1 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 board of Directors may reasonably specify, and the Holders of B Shares shall enter into such reorganisation of the share capital of MV SAC as the board of Directors may reasonably specify, to ensure that the Listing Value is allocated between the Shareholders in the same proportions as the preceding provisions of this Article 29 would otherwise provide on a Sale, Asset Sale or Winding Up at that Listing Value.
- 29.2 In the event of a Realisation occurring where the whole or any part of the proceeds are to be received on completion of the Realisation by the Shareholders in a form other than cash, the Shareholders shall enter into such arrangements in relation to such proceeds as they may agree or, in default of such agreement, as the board of Directors may reasonably specify, to ensure that such non-cash consideration paid or satisfied as at completion of the Realisation is allocated amongst the holders of Equity Shares so as to achieve the same commercial effect as would be the case pursuant to Article 28.1 if such consideration had actually been received in cash (and as between such holders of Equity Shares, such non-cash consideration shall be apportioned between the different classes of Equity Shares in the same proportions as those proportions in which they are entitled to receive the overall proceeds, unless all of the Holders of Equity Shares should reach any unanimous agreement in writing to the contrary). Where any proceeds have been deferred on any basis but which have not been taken into account and apportioned on completion of a Sale in accordance with this Article 29.2 (the "**Deferred Proceeds**"), the provisions of Article 28.1 shall be reapplied at the time of receipt of such Deferred Proceeds (provided that all amounts previously distributed will be taken into account in determining the proper allocation).
- 29.3 For the purposes of this Article 29, where any agreement is required to be reached as between the Shareholders, then unless otherwise specified the agreement of the holders of over 50% (by reference to nominal value) of any one class of Shares for the time being in issue shall be binding on all of the holders of Shares in such class.

## **30 VARIATION OF RIGHTS**

- 30.1 Subject to the Companies Acts, the rights attached to any class of shares can be changed if this is approved either in writing by Shareholders holding at least three quarters of the issued shares of that class by amount (excluding any shares of that class held as treasury shares) or by a special resolution passed at a separate meeting of the Holders of the relevant class of shares. This is called a "**class meeting**".
- 30.2 All the Articles relating to general meetings will apply to any class meeting, with any necessary changes. The following changes will also apply:
- (i) a quorum will be present if at least one Shareholder who is entitled to vote is present in person or by proxy who owns at least one-third in amount of the issued shares of the relevant class (excluding any shares of that class held as treasury shares);
  - (ii) any Shareholder who is present in person or by proxy and entitled to vote can demand a poll; and
  - (iii) at an adjourned meeting, one person entitled to vote and who holds shares of the class, or his proxy, will be a quorum.
- 30.3 The provisions of this Article will apply to any change of rights of shares forming part of a class. Each part of the class which is being treated differently is treated as a separate class in applying this Article.

## **31 SUSPENSION OF RIGHTS WHERE NON-DISCLOSURE OF INTEREST**

- 31.1 The Company can under the CA 2006 send out notices to those it knows or has reasonable cause to believe have an interest in its shares. In the notice, the Company will ask for details of those who have an interest and the extent of their interest in a particular holding of Shares. In these Articles this notice is referred to as a "**statutory notice**" and the holding of shares is referred to as the "**identified shares**".
- 31.2 When a person receives a statutory notice, he has 14 days to comply with it. If he does not do so or if he makes a statement in response to the notice which is false or inadequate in some important way, the Company can decide to restrict the rights relating to the identified shares and send out a further notice to the Holder, known as a restriction notice. The restriction notice will take effect when it is delivered. The restriction notice will state that the identified shares no longer give the Shareholder any right to attend or vote either personally or by proxy at a Shareholders' meeting or to exercise any other right in relation to Shareholders' meetings.

- 31.3 Where the identified shares make up 0.25 per cent or more (in amount or in number) of the existing shares of a class (calculated exclusive of any shares of that class held as treasury shares) at the date of delivery of the restriction notice, the Directors can withhold any dividend or part of a dividend (including scrip dividend) or other money which would otherwise be payable in respect of the identified shares without any liability to pay interest when such money is finally paid to the Shareholder.
- 31.4 Once a restriction notice has been given, the Directors are free to cancel it or exclude any Shares from it at any time the Directors think fit. In addition, the Directors must cancel the restriction notice within seven days of being satisfied that all information requested in the statutory notice has been given. Where any of the identified shares are sold and the Directors are satisfied that they were sold outright to an independent third party, it must cancel the restriction notice within seven days of receipt of notification of the sale. If a restriction notice is cancelled or ceases to have effect in relation to any Shares, any moneys relating to those Shares which were withheld will be paid to the person who would have been entitled to them or as he directs.
- 31.5 The restriction notice will apply to any further Shares issued in right of the identified shares. The Directors can also make the restrictions in the restriction notice apply to any right to an allotment of further Shares associated with the identified shares.
- 31.6 If a Shareholder receives a restriction notice, he can ask the Company for a written explanation of why the notice was given, or why it has not been cancelled. The company must respond within 14 days of receiving the request.
- 31.7 If the Company gives a statutory notice to a person it has reasonable cause to believe has an interest in any of its Shares, it will also give a copy at the same time to the person who is the Holder of those Shares. If the Company does not do so or the Holder does not receive the copy, this will not invalidate the statutory notice.
- 31.8 This Article does not restrict in any way the provisions of the CA 2006 which apply to failures to comply with notices under the CA 2006.

## **32 PARI PASSU ISSUES**

- 32.1 If new Shares are created or issued which rank equally with any other existing Shares, the rights of the existing Shares will not be regarded as changed or abrogated unless the terms of the existing Shares expressly say otherwise.

### **33 PRE-EMPTION RIGHTS ON THE ISSUE OF SHARES**

- 33.1 Unless the members of the Company by Special Resolution direct otherwise, all Shares which the Directors propose to issue must first be offered to the members in accordance with the following provisions of this Article.
- 33.2 Shares must be offered to members in proportion as nearly as may be to the number of existing Equity Shares held by them respectively.
- 33.3 The offer shall be made by notice specifying the number of Shares offered, and limiting a period (not being less than 14 days) within which the offer, if not accepted, will be deemed to be decline.
- 33.4 *After the expiration of the period referred to in 33.3 above, those Shares so deemed to be declined shall be offered in the proportion aforesaid to the persons who have, within the said period, accepted all the Shares offered to them; and such further offer shall be made in the like terms in the same manner and limited by a like period as the original offer:*
- (a) any Shares not accepted pursuant to the offer referred to in 33.3 and the further offer referred to in 33.4 or not capable or being offered as aforesaid except by the way of fractions and any Shares released from the provisions of this Article by any such Special Resolution as aforesaid shall be under the control of the Directors, who may allot, grant options over or dispose of the same to such persons, on such terms, and in such manner as they think fit;
  - (b) in accordance with section 567 of the CA 2006, sections 561 and 562 of the CA 2006 are excluded.
- 33.5 On the issue of any new Shares:
- (a) an A Share issued to a non-shareholder who is domiciled in Peru for Peruvian tax purposes shall (unless the transferee of such share requests otherwise and subject to the remaining provisions of these Articles) automatically be redesignated immediately following its issue to such person as a B Share;
  - (b) a B Share issued to a non-shareholder who is domiciled outside of Peru for Peruvian tax purposes shall automatically be redesignated immediately following its issue to such person as an A Share; and

- (c) a Share issued to an existing Shareholder shall automatically be redesignated immediately following its issue as a share of the same class as those shares already held by the Shareholder.

#### **34 POWERS TO ISSUE DIFFERENT CLASSES OF SHARES**

- 34.1 Subject to the Articles, but without prejudice to the rights attached to any existing share, the Company may issue Shares with such rights or restriction as may be determined by Ordinary Resolution.
- 34.2 The Company may issue Shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the Holder, and the Directors may determine the terms, conditions and manner of redemption of any such Shares.

#### **35 DIRECTORS' AUTHORITY TO ALLOT SHARES**

- 35.1 Save as to the extent authorised from time to time by an Ordinary Resolution of the Shareholders, the Directors shall not exercise any power to allot Shares or to grant rights to subscribe for, or to convert any security into, any Shares in the Company.
- 35.2 Subject to the provisions of this Article, the Directors are generally and unconditionally authorised, for the purposes of section 551 of the CA 2006 and generally, to exercise any power of the Company to
  - (a) offer or allot,
  - (b) grant right to subscribe for to convert any security into; or
  - (c) otherwise deal in or dispose of,

any ordinary Shares in the Company may, at any time and subject to any terms and conditions as the Directors think proper.

#### **36 PAYMENT OF COMMISSION**

In connection with any share issue or any sale of treasury shares for cash, the Company can use all the powers given by the Companies Acts to pay commission or brokerage. The

Company can pay the commission in cash or by allotting fully or partly-paid shares or other securities or by a combination of both.

## **37 LIEN**

37.1 The Company has a first and paramount lien on all Shares (whether or not such Shares are fully paid) standing registered in the name of any person indebted or under liability to the Company, whether he is the sole registered Holder thereof or is one of two or more joint Holders, for all moneys payable by him or his estate to the Company (whether or not such moneys are presently due and payable).

37.2 The Company's lien over Shares:

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

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

37.4 Subject to the provisions of this Article, if:

- (a) a notice of the Company's intention to enforce the lien ("**lien enforcement notice**") has been sent in respect of the Shares; and
- (b) the person to whom the lien enforcement notice was sent has failed to comply with it,

the Company may sell those Shares in such manner as the Directors decide.

37.5 A lien enforcement notice:

- (a) may only be sent in respect of Shares if a sum is payable to the Company by the sole registered Holder or one of two or more joint registered Holders of such Shares and the due date for payment of such sum has passed;
- (b) must specify the Shares concerned,

- (c) must include a demand for payment of the sum payable within 14 days;
- (d) must be addressed either to the Holder of such Shares or to the person entitled to such Shares by reason of the Holder's death, Bankruptcy or otherwise; and
- (e) must state the Company's intention to sell the Shares if the notice is not complied with.

37.6 If Shares are sold under this Article 37:

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

37.7 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied:

- (a) First, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice; and
- (b) second, in payment to the person entitled to the Shares at the date of the sale, but only after the certificate for the Shares sold has been surrendered to the Company for cancellation or a suitable indemnity has been given for any lost certificates, and subject to a lien equivalent to the Company's lien over the Shares before the sale for any money payable in respect of the Shares after the date of the lien enforcement notice

37.8 A statutory declaration by a director or the Company Secretary that the declarant is a director or the Company Secretary and that a share has been sold to satisfy the Company's lien on a specified date:

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



## **38 CALLS ON SHARES AND FORFEITURE**

- 38.1 Subject to these Articles and the terms on which Shares are allotted, the Directors may send a notice (a "**call notice**") to a member requiring the member to pay the Company a specified sum of money (a "**call**") which is payable in respect of Shares which that member holds at the date when the Directors decide to send the call notice.
- 38.2 A call notice:
- (a) may not require a member to pay a call which exceeds the total sum unpaid on that member's Shares (whether as to the share's nominal value or any amount payable to the Company by way of premium);
  - (b) must state when and how any call to which it relates is to be paid; and
  - (c) may permit or require the call to be paid by installments.
- 38.3 A member must comply with the requirements of a call notice, but no member is obliged to pay any call before 14 days have passed since the call notice was sent
- 38.4 *Before the Company has received any call due under a call notice the Directors may:*
- (a) revoke it wholly or in part; or
  - (b) specify a later time for payment than is specified in the call notice,
- by a further notice in writing to the member in respect of whose Shares the call was made.
- 38.5 Liability to pay a call is not extinguished or transferred by transferring the Shares in respect of which the call is required to be paid.
- 38.6 Joint Holders of a share are jointly and severally liable to pay all calls in respect of that share.
- 38.7 Subject to the terms on which Shares are allotted, the Directors may, when issuing Shares, make arrangements for a difference between the Holders in the amounts and times of payment of calls on their Shares.
- 38.8 A call notice need not be issued in respect of sums which are specified, in the terms on which

a share is allotted, as being payable to the Company in respect of that share (whether in respect of nominal value or premium):

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

but if the due date for payment of such a sum has passed and it has not been paid, the Holder of the share concerned is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

38.9 If a person is liable to pay a call and fails to do so by the call payment date:

- (a) the Directors may send a notice of forfeiture (a "**forfeiture notice**") to that person; and
- (b) until the call is paid, that person must pay the Company interest on the call from the call payment date at the relevant rate.

38.10 For the purposes of this Article 38:

- (a) the "**call payment date**" is the date on which the call notice states that a call is payable, unless the Directors give a notice specifying a later date, in which case the "**call payment date**" is that later date, and
- (b) the "**relevant rate**" is the rate fixed by the terms on which the share in respect of which the call is due was allotted or, if no such rate was fixed when the share was allotted, five percent per annum.

38.11 The relevant rate must not exceed by more than five percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998

38.12 The Directors may waive any obligation to pay interest on a call wholly or in part.

38.13 A forfeiture notice:

- (a) may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;
- (b) must be sent to the Holder of that share or to a person entitled to it by reason of the Holder's death, Bankruptcy or otherwise;
- (c) must require payment of a call and any accrued interest by a date which is not less than 14 days after the date of the forfeiture notice;
- (d) must state how the payment is to be made; and
- (e) must state that if the forfeiture notice is not complied with, the Shares in respect of which the call is payable will be liable to be forfeited.

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

38.15 Subject to the following provisions of this Article 38, the forfeiture of a share extinguishes:

- (a) all interests in that share, and all claims and demands against the Company in respect of it; and
- (b) all other rights and liabilities incidental to the share as between the person in whose name the share is registered and the Company.

38.16 Any share which is forfeited:

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

38.17 If a person's Shares have been forfeited:

- (a) the Company must send that person notice that forfeiture has occurred and record it in

the register of members;

- (b) that person ceases to be a member in respect of those Shares forfeited to the Company for cancellation;
- (c) that person remains liable to the Company for all sums due and payable by that person at the date of forfeiture in respect of those Shares, including any interest (whether accrued before or after the date of forfeiture); and
- (d) the Directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal.

38.18 At any time before the Company disposes of a forfeited share, the Directors may decide to cancel the forfeiture on such terms as they think fit.

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

38.20 A statutory declaration by a Director or the company secretary that the declarant is a Director or the secretary and that a share has been forfeited on a specified date:

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

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

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

- (a) was, or would have become, payable; and

- (b) had not, when that share was forfeited, been paid by that person in respect of that share,

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

## **39 SURRENDER**

39.1 A member may surrender any share:

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

39.2 The Directors may accept the surrender of any such share.

39.3 The effect of surrender on a share is the same as the effect of forfeiture on that share.

39.4 A share which has been surrendered may be dealt with in the same way as a share which has been forfeited.

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

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

## **41 SHARE CERTIFICATES**

41.1 The Company must issue each Shareholder, free of charge, with one or more certificates in respect of the Shares which that Shareholder holds.

41.2 Every certificate must specify:

- (a) in respect of how many Shares and of what class, it is issued;

- (b) the nominal value of those Shares;
- (c) that the Shares are fully paid; and
- (d) any distinguishing numbers assigned to them.

41.3 No certificate may be issued in respect of Shares of more than one class.

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

41.5 Certificates must:

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

41.6 Every share certificate will be sent at the risk of the Shareholder or other person entitled to the certificate. The company will not be responsible for any share certificate which is lost or delayed in the course of delivery.

## **42 REPLACEMENT SHARE CERTIFICATES**

42.1 If a certificate issued in respect of a Shareholder's Shares is:

- (a) damaged or defaced; or
- (b) said to be lost, stolen or destroyed, that Shareholder is entitled to be issued with a replacement certificate in respect of the same Shares.

42.2 A Shareholder exercising the right to be issued with such a replacement certificate:

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

reasonable fee as the Directors decide.

**43 SHARE TRANSFERS – GENERAL**

- 43.1 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the Directors, which is executed by or on behalf of the transferor.
- 43.2 No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- 43.3 The Company may retain any instrument of transfer which is registered
- 43.4 The transferor remains the Holder of a share until the transferee's name is entered in the register of members as Holder of it.
- 43.5 The Directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.
- 43.6 Other than in connection with a Leaver Transfer Notice served in accordance with Article 44, the Directors shall refuse to register the transfer of any Management Incentive Shares purportedly made on or before the fifth anniversary of the adoption of these Articles. The instrument of transfer purporting to transfer such Management Incentive Shares shall be returned to the transferee with the notice of refusal unless the Directors suspect that the proposed transfer may be fraudulent.
- 43.7 On the transfer of any share as permitted by these Articles:
- (a) an A Share transferred to a non-shareholder who is domiciled in Peru for Peruvian tax purposes shall (unless the transferee of such share requests otherwise and subject to the remaining provisions of these Articles) automatically be redesignated on transfer to such person as a B Share;
  - (b) a B Share transferred to a non-shareholder who is domiciled outside of Peru for Peruvian tax purposes shall automatically be redesignated on transfer to such person as an A Share; and
  - (c) a Share transferred to an existing Shareholder shall automatically be redesignated on

transfer as a share of the same class as those shares already held by the Shareholder

- 43.8 If no shares of a class remain in issue following a re-designation under this Article, these Articles shall be read as if they do not include any reference to that class or to any consents from, or attendance at any meeting or votes to be cast by, Shareholders of that class.
- 43.9 In these Articles, reference to the transfer of a share includes the transfer, assignment or other disposal of a beneficial or other interest in that share, or the creation of a trust or encumbrance over that share, and reference to a share includes a beneficial or other interest in a share.
- 43.10 No Shares shall be transferred unless the transfer is made in accordance with these Articles.
- 43.11 The Directors may, as a condition to the registration of any transfer of Shares in the Company require the transferee to provide the Company with the required particulars under section 790K of the CA 2006 if the transferee is a registrable person or relevant legal entity within the meaning of section 790C of the CA 2006 and to execute and deliver to the Company a deed under which the transferee agrees to be bound by the terms of any shareholders' agreement (or similar document) in force between the Shareholders in such form as the Directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor under any such agreement or other document).
- 43.12 To enable the Directors to determine whether or not there has been a transfer of Shares in the Company in breach of these Articles, the Directors may from time to time require any Shareholder to provide the Company with such information and evidence as they may reasonably require relevant to that purpose. If a Shareholder fails to provide information or evidence in respect of any Shares registered in his name to the reasonable satisfaction of the Directors within 14 days of their request, the Directors may serve a notice on the Shareholder stating that the Shareholder shall not, in relation to those shares, be entitled to be present or to vote in person or by proxy at any general meeting of the Company or any meeting of the holders of shares of that class, or to vote on a written resolution of the Shareholders or to receive dividends on the Shares until such evidence or information has been provided to the Directors' satisfaction. The Directors may reinstate these rights at any time.
- 43.13 Any transfer of Shares by way of a sale that is required to be made under Article 49 (*Drag Along*) or Article 50 (*Tag Along*) shall be deemed to include a warranty that the transferor sells the shares with full title guarantee.



#### 44 PRE-EMPTION RIGHTS ON THE TRANSFER OF SHARES

44.1 Except where the provisions of Article 49 (*Drag Along*) or Article 50 (*Tag Along*) apply, a Shareholder (**Seller**) wishing to transfer any of his Shares (**Sale Shares**) must give notice in writing (a **Transfer Notice**) to the Company giving details of the proposed transfer, including:

- (a) the number of Sale Shares;
- (b) if he wishes to sell the Sale Shares to a third party, the name of the proposed buyer;
- (c) the price (in cash) at which he wishes to sell the Sale Shares (**Proposed Sale Price**);  
and
- (d) whether the Transfer Notice is conditional on all, or a specific number of, the Sale Shares being sold to Shareholders (**Minimum Transfer Condition**).

44.2 A Transfer Notice (or Deemed Transfer Notice or Leaver Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares in accordance with the provisions of these Articles.

44.3 A Transfer Notice (or Deemed Transfer Notice or Leaver Transfer Notice) shall be deemed to include the transfer of such number of the Seller's Dividend Access Shares (if any) as is equal to the number of Sale Shares (**MV Sale Shares**) and (where relevant) the Company shall, within 5 Business Days of receiving a Transfer Notice, provide a copy thereof to the directors of MV SAC.

44.4 A Transfer Notice (or Deemed Transfer Notice or Leaver Transfer Notice) constitutes the Company the agent of the Seller for the sale of the MV SAC Sale Shares in accordance with the provisions of the articles of association or other relevant constitutional documents of MV SAC.

44.5 Once given, a Transfer Notice may only be withdrawn by the Seller where the Transfer Price of the Sale Shares comprised within a Transfer Notice is to be the Fair Value and such Fair Value is less than the Proposed Sale Price. In such case, the Seller may, within 5 Business Days of receipt of notification of the Fair Value, withdraw the Transfer Notice.

44.6 The Transfer Price for each Sale Share the subject of a Transfer Notice shall, save where expressly provided otherwise in these Articles, be the price per Sale Share (in cash) agreed

between the Seller and the Directors or, in default of agreement within 15 Business Days of the date of service of the Transfer Notice, the Fair Value of each Sale Share determined in accordance with Article 48.

- 44.7 As soon as practicable following the determination of the Transfer Price, the Directors shall (unless the Transfer Notice is withdrawn in accordance with Article 44.5) offer the Sale Shares for sale in the manner set out in the remaining provisions of this Article 44 at the Transfer Price. Each offer shall be in writing and give details of the number and Transfer Price of the Sale Shares offered.
- 44.8 The Directors shall offer the Sale Shares to all Shareholders holding Equity Shares other than the Seller (the **Continuing Shareholders**), inviting them to apply in writing within the period from the date of the offer to the date 25 Business Days after the offer (both dates inclusive) (the **Offer Period**) for the maximum number of Sale Shares they wish to buy
- 44.9 If the Sale Shares are subject to a Minimum Transfer Condition, any allocation made under Article 44.10(a) to 44.10(c) shall be conditional on the fulfilment of the Minimum Transfer Condition.
- 44.10 If:
- (a) at the end of the Offer Period, the total number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Directors shall allocate the Sale Shares to each Shareholder who has applied for Sale Shares in the proportion which his existing holding of Equity Shares in the Company bears to the total number of Equity Shares in issue for the time being (excluding those held by the Seller). Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Sale Shares being allocated, in which case, the allocation of any such fractional entitlements among the Shareholders shall be determined by the Directors). No allocation shall be made to a Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy;
  - (b) not all Sale Shares are allocated following allocations in accordance with Article(a) but there are applications for Sale Shares that have not been satisfied, the Directors shall allocate the remaining Sale Shares to such applicants in accordance with the procedure set out in Article (a). The procedure set out in this Article (b) shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and

- (c) at the end of the Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Directors shall allocate the Sale Shares to the Shareholders in accordance with their applications. The balance (**Surplus Shares**) may be transferred to the buyer identified in the Transfer Notice (if any) in accordance with Article 44.15.

44.11 If the Transfer Notice includes a Minimum Transfer Condition and the total number of Sale Shares applied for is less than the number of Sale Shares specified in the Minimum Transfer Condition, the Directors shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under Article 44.10(a) to 44.10(c), stating that the Minimum Transfer Condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

44.12 If:

- (a) the Transfer Notice includes a Minimum Transfer Condition and such Minimum Transfer Condition has been satisfied, or the Transfer Notice does not include a Minimum Transfer Condition; and
- (b) allocations under Article 44.10(a) to 44.10(c) have been made in respect of some or all of the Sale Shares,

the Directors shall give written notice of allocation (an **Allocation Notice**) to the Seller and each Continuing Shareholder to whom Sale Shares have been allocated (each an **Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant, the amount payable by each Applicant for the number of Sale Shares allocated to them (**Consideration**) and the place and time for completion of the transfer of the Sale Shares (which shall be at least 10 Business Days, but not more than 15 Business Days, after the date of the Allocation Notice).

44.13 On the date specified for completion in the Allocation Notice, the Seller shall, against payment of the Consideration:

- (a) execute and deliver a transfer of the Sale Shares allocated to such Applicant, in accordance with the requirements specified in the Allocation Notice; and
- (b) execute and deliver such documents as may be required in order to transfer the legal and beneficial title to the MV SAC Sale Shares allocated to each Applicant in

accordance with the Allocation Notice.

44.14 If the Seller fails to comply with Article 44.13:

- (a) the chairperson of the Company (or, failing the chairperson, one of the other directors, or some other person nominated by a resolution of the Directors) may, as agent on behalf of the Seller:
  - (i) complete, execute and deliver in the Seller's name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
  - (ii) receive the Consideration and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Consideration); and
  - (iii) (subject to the transfers being duly stamped) enter the Applicants in the register of members as the holders of the Sale Shares purchased by them; and
- (b) the Company shall pay the Consideration into a separate bank account in the Company's name on trust (but without interest) for the Seller until the Seller has delivered its certificate(s) for the relevant Sale Shares or an indemnity, in a form reasonably satisfactory to the Directors, in respect of any lost certificate, together, in either case, with such other evidence (if any) as the Directors may reasonably require to prove good title to those Sale Shares, to the Company.

44.15 If an Allocation Notice does not relate to all of the Sale Shares or the Transfer Notice lapses pursuant to Article 44.11 then, subject to Article 44.16 and within 60 days following service of the Allocation Notice or the date of the lapse of the Transfer Notice (as the case may be), the Seller may transfer the Surplus Shares or the Sale Shares (in the case of a lapsed offer) (as the case may be) to any person at a price at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this Article 44.15 shall continue to be subject to any Minimum Transfer Condition.

44.16 The Seller's right to transfer Sale Shares under Article 44.15 does not apply if the Directors reasonably consider that:

- (a) the transferee is a person (or a nominee for a person) who is a competitor with (or an associate of a competitor with) the business of the Company or with a subsidiary of

the Company; or

- (b) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee, or
- (c) the Seller has failed or refused to provide promptly information available to the Seller and reasonably requested by the Directors to enable it to form the opinion mentioned above.

44.17 The restrictions imposed by this Article may be waived in relation to any proposed transfer of Sale Shares with the consent of Shareholders who, but for the waiver, would or might have been entitled to have such Sale Shares offered to them in accordance with this Article.

#### **45 COMPULSORY TRANSFERS**

45.1 Subject to Article 46, unless and to the extent that a Transfer Notice has already been served, a Holder of B Shares is deemed to have served a Transfer Notice under Article 44.1 (**Deemed Transfer Notice**) immediately before the earlier of

- (a) the date of service of any transfer notice to MV SAC in respect of the transfer of all (or some only) of his Dividend Access Shares; or
- (b) (where no such transfer notice is served) completion of the transfer of any Dividend Access Shares held by him in MV SAC.

45.2 The Deemed Transfer Notice has the same effect as a Transfer Notice, except that:

- (a) The Deemed Transfer Notice shall relate to such number of B Shares as equate to the number of Dividend Access Shares being transferred in MV SAC by the Holder of such B Shares;
- (b) the Deemed Transfer Notice takes effect on the basis that it does not identify a proposed buyer or state a price for the Sale Shares and the price for the Sale Shares shall be the aggregate Fair Value of those shares, determined by the Valuers in accordance with Article 48; and
- (c) if the Continuing Shareholders do not accept the offer of Shares comprised in the Deemed Transfer Notice within 20 Business Days of receipt of the Valuers'

determination of the Fair Value, subject to Article 44.16 and within 60 days following the date of the lapse of the Deemed Transfer Notice, the Seller may transfer the B Shares subject to the Deemed Transfer Notice to the person(s) wishing to acquire his shares in MV SAC at a price at least equal to the Fair Value.

- 45.3 If the Seller fails to complete a transfer of Sale Shares as required under this Article 45, the chairperson of the Company (or, failing the chairperson, one of the other Directors, or some other person nominated by a resolution of the Directors) is irrevocably authorised to appoint any person it nominates for the purpose as agent to transfer the Sale Shares on the Seller's behalf and to do anything else that the Continuing Shareholders may reasonably require to complete the sale, and the Company may receive the purchase price in trust for the Seller (without any obligation to pay interest), giving a receipt that shall discharge the Continuing Shareholders.

#### **46 B SHARE CONVERSION TO DEFERRED SHARES**

- 46.1 In these Articles a Qualifying Subsidiary Offer shall mean an offer in writing on arm's length terms by or on behalf of any person to the holders of the entire issued share capital in MV SAC to acquire all their shares in MV SAC.
- 46.2 If the Company (by a decision of its board of Directors) wishes to accept a Qualifying Subsidiary Offer, all of the Holders of B Shares shall be required to sell and transfer all of their Dividend Access Shares in accordance with the provisions set out in the constitutional documents and any shareholders' agreement in place in respect of MV SAC from time to time.
- 46.3 Immediately following completion of the sale and purchase of the Dividend Access Shares pursuant to a sale of the entire issued share capital of MV SAC in accordance with article 46.2, all of the B Shares shall automatically convert into Deferred Shares (on the basis of one Deferred Share for each Dividend Access Share issued, rounded down to the nearest whole share), the date of such conversion being a "**Deferred Conversion Date**".
- 46.4 Upon a conversion into Deferred Shares on the basis set out in Article 46.1, the Company shall be entitled to enter the holder of the Deferred Shares on the register of members of the Company as the holder of the appropriate number of Deferred Shares as from the Deferred Conversion Date. Upon the Deferred Conversion Date, the Holder(s) of the Deferred Shares shall deliver to the Company at its registered office the shares certificate(s) (to the extent not already in the possession of the Company) (or an indemnity for lost certificate in a form acceptable to the Company) for the B Shares so converting and upon such delivery there shall

be issued to them share certificate(s) for the number of Deferred Shares resulting from the relevant conversion.

- 46.5 Subject to the CA 2006, any Deferred Shares may be purchased by the Company at any time at its option for the aggregate sum of one cent for all the Deferred Shares registered in the name of any holder(s).
- 46.6 The allotment or issue of Deferred Shares or the conversion or re-designation of shares into Deferred Shares shall be deemed to confer irrevocable authority on the Company at any time after their allotment, issue, conversion or re-designation, without obtaining the sanction of such holder(s), to:
- (a) appoint any person to execute any transfer (or any agreement to transfer) of such Deferred Shares to such person(s) as the Company may determine (as nominee or custodian thereof or otherwise), including (subject to the CA 2006) to the Company itself, in any such case for a price being not more than an aggregate sum of one cent for all the Deferred Shares registered in the name of such holder(s); and/or
  - (b) receive the consideration for such a transfer or purchase (and give a good discharge for it) and hold the same on trust for the transferor(s); and/or
  - (c) give, on behalf of such holder(s), consent to the cancellation of such Deferred Shares; and/or
  - (d) retain the certificate(s) (if any) in respect of such Deferred Shares pending the transfer, cancellation and/or purchase thereof.

#### **47 SPECIAL PROVISIONS ON EX DIRECTOR/EMPLOYEE**

- 47.1 A Bad Leaver is deemed to have served a Transfer Notice under Article 44.1 (**Leaver Transfer Notice**) immediately upon becoming a Bad Leaver.
- 47.2 The Leaver Transfer Notice has the same effect as a Transfer Notice, except that:
- (a) the Leaver Transfer Notice takes effect on the basis that it does not specify the number of Sale Shares or identify a proposed buyer or state a price for the Sale Shares;

- (b) the Sale Shares shall include Management Incentive Shares only and the number of Sale Shares shall be dependent upon the period of time elapsed between the Start Date and the date the Leaver became a Bad Leaver in accordance with the table below:

<b>Date of becoming a Bad Leaver</b>	<b>% of Management Incentive Shares held by the Bad Leaver which are subject to the Leaver Transfer Notice</b>
Prior to or on the first anniversary of the Start Date	100
After the first anniversary of the Start Date but prior to or on the second anniversary of the Start Date	95
After the second anniversary of the Start Date but prior to or on the third anniversary of the Start Date	85
After the third anniversary of the Start Date but prior to or on the fourth anniversary of the Start Date	65
After the fourth anniversary of the Start Date but prior to or on the fifth anniversary of the Start Date	30
After the fifth anniversary of the Start Date	0

- (c) the Sale Shares shall first be offered to the Company for repurchase, to be held in treasury or cancelled at the option of the Company, and secondly to the remaining members of Management (excluding the Bad Leaver) in the proportions which their respective existing holdings of shares in the Company bear to the total number of Management Incentive Shares held by Management for the time being (excluding those held by the Bad Leaver), in priority to being offered to the Continuing Shareholders. The provisions of Article 44.8 to 44.14 (inclusive) shall apply with such modifications as may be necessary and any reference to the Continuing Shareholders shall be construed as a reference to the Company or Management (as appropriate). In the event that the Company does not, or the remaining members of Management (excluding the Bad Leaver) do not, (as applicable) apply in writing to take up the full amount of the Sale Shares on or before the expiry of the Offer Period applicable to each of them, the provisions of Article 44.8 to 44.14 (inclusive) shall apply; and



(d) the price for the Sale Shares shall be the Issue Price

47.3 For the purpose of Article 47.2(d), in the case of any Sale Share which is the subject of a Leaver Transfer Notice which was originally acquired by the Shareholder to whom the Leaver Transfer Notice applies by way of a transfer rather than allotment, references to "Issue Price" shall, in relation to those Sale Shares, be deemed to be references to the amount originally paid by such Shareholder on such transfer.

47.4 If the Leaver fails to complete a transfer of Sale Shares as required under this Article 47, the chairperson of the Company (or, failing the chairperson, one of the other Directors, or some other person nominated by a resolution of the Directors) is irrevocably authorised to appoint any person it nominates for the purpose as agent to transfer the Sale Shares on the Leaver's behalf and to do anything else that the Company (or the Continuing Shareholders, as the case may be) may reasonably require to complete the sale.

#### **48 VALUATION**

48.1 The Valuers shall be requested to determine the Fair Value within 20 Business Days of their appointment and to notify the Company and the Seller in writing of their determination.

48.2 The Fair Value for any Sale Share shall be the price per share determined in writing by the Valuers on the following bases and assumptions:

- (a) valuing each of the Sale Shares as a proportion of the total value of all the issued shares in the capital of the Company without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent or for the rights or restrictions applying to the Sale Shares;
- (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
- (c) the sale is to be on arms' length terms between a willing seller and a willing buyer;
- (d) the Sale Shares are sold free of all encumbrances;
- (e) the sale is taking place on the date the Valuers were requested to determine the Fair Value; and

- (f) to take account of any other factors that the Valuers reasonably believe should be taken into account.

- 48.3 The Shareholders are entitled to make submissions to the Valuers including oral submissions and will provide (or procure that the Company provides) the Valuers with such assistance and documents as the Valuers reasonably require for the purpose of reaching a decision, subject to the Valuers agreeing to give such confidentiality undertakings as the Shareholders may reasonably require.
- 48.4 To the extent not provided for by this Article 48, the Valuers may, in their reasonable discretion, determine such other procedures to assist with the valuation as they consider just or appropriate, including (to the extent they consider necessary) instructing professional advisers to assist them in reaching their valuation.
- 48.5 The Valuers shall act as expert and not as arbitrator and their written determination shall be final and binding on the Shareholders in the absence of manifest error or fraud.
- 48.6 The cost of obtaining the Valuers' valuation shall be borne by the Company and the Seller equally or in such other proportions as the Valuers direct, unless the Seller withdraws the relevant Transfer Notice in accordance with Article 44.5, in which case the Seller shall bear the cost.

#### **49 DRAG ALONG**

- 49.1 In these Articles, a Qualifying Offer shall mean an offer in writing on arm's length terms by or on behalf of any person (**Offeror**) to the Holders of the entire issued share capital in the Company to acquire all their Shares.
- 49.2 If the Holders of not less than 75% in nominal value of the Shares then in issue (**Accepting Shareholders**) wish to accept the Qualifying Offer, the Accepting Shareholders may require all other Holders of Shares in the Company (**Called Shareholders**) to sell and transfer all of their Shares (**Called Shares**) to the Offeror (or as the Offeror directs) in accordance with the provisions of this Article (**Drag Along Option**).
- 49.3 The Accepting Shareholders may exercise the Drag Along Option by giving written notice to that effect to the Called Shareholders (**Drag Along Notice**) at any time before the transfer of the Accepting Shareholders' shares to the Offeror. The Drag Along Notice shall specify.

- (a) that the Called Shareholders are required to transfer all of their Called Shares pursuant to this Article 49;
- (b) the person to whom the Called Shares are to be transferred;
- (c) the purchase price payable for the Called Shares which shall, for each Called Share, be an amount at least equal to the price per Share offered by the Offeror for the Accepting Shareholders' shares (less any amount that a Called Shareholder may receive from the Offeror in respect of his or her Dividend Access Shares, where applicable); and
- (d) the proposed date of the transfer.

49.4 Once issued, a Drag Along Notice shall be irrevocable and the Called Shareholders shall thereupon become bound to accept the Qualifying Offer and to transfer their Called Shares to the Offeror (or his nominee) with full title guarantee on the date specified by the Accepting Shareholders. However, a Drag Along Notice shall lapse if, for any reason, the Accepting Shareholders have not sold their Shares to the Offeror within 60 Business Days of serving the Drag Along Notice. The Accepting Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

49.5 No Drag Along Notice shall require the Called Shareholders to agree to any terms except those specifically set out in this Article 49.

49.6 Completion of the sale of the Called Shares shall take place on the Completion Date. Completion Date means the date proposed for completion of the sale of the Accepting Shareholders' shares unless:

- (a) the Accepting Shareholders and the Called Shareholders agree otherwise, in which case the Completion Date shall be the date agreed in writing by them; or
- (b) that date is less than 15 Business Days after the date on which the Drag Along Notice is served, in which case the Completion Date shall be 15 Business Days after service of the Drag Along Notice.

49.7 Neither the proposed sale of the Accepting Shareholders' shares to the Offeror nor the sale of the Called Shares by the Called Shareholders shall be subject to the rights of pre-emption set out in Article 44.

- 49.8 On or before the Completion Date, the Called Shareholders shall execute and deliver a stock transfer form(s) for the Called Shares, together with the relevant share certificate(s) (or a suitable indemnity for any lost share certificate(s)) to the Offeror or (at the Company's request) to the Company. On the Completion Date, the Company shall pay the Called Shareholders, on behalf of the Offeror, the amounts due pursuant to Article 49.3 to the extent that the Offeror has put the Company in the requisite funds. The Company's receipt for the price shall be a good discharge to the Offeror. The Company shall hold the amounts due to the Called Shareholders in trust for the Called Shareholders without any obligation to pay interest.
- 49.9 To the extent that the Offeror has not, on the Completion Date, paid the purchase price due in respect of the Called Shares or put the Company in funds to pay the purchase price due in respect of the Called Shares, the Called Shareholders shall be entitled to the return of the stock transfer form(s) and share certificate(s) (or suitable indemnity) for the relevant Called Shares and the Called Shareholders shall have no further rights or obligations under this Article 49 in respect of their Called Shares.
- 49.10 If any Called Shareholder does not, on or before the Completion Date, execute and deliver (in accordance with Article 49.8) a transfer(s) in respect of all of the Called Shares held by him and deliver the certificate(s) in respect of the same (or a suitable indemnity in lieu thereof), that Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Accepting Shareholders to be his agent to execute all necessary transfers and indemnities on his behalf, against receipt by the Company (on trust for such Holder) of the purchase price payable for the Called Shares, and to deliver such transfers and certificates or indemnities to the Offeror (or as he may direct) as the Holder thereof. After the Offeror (or its nominee) has been registered as the Holder of the Called Shares, the validity of such proceedings shall not be questioned by any such person. Failure to produce a share certificate shall not impede the registration of shares under this Article 49.10.
- 49.11 Upon any person, following the issue of a notice pursuant to Article 49.3, becoming a member of the Company pursuant to the exercise of a pre-existing option to acquire shares in the Company (**New Member**), a notice shall be deemed to have been served upon the New Member on the same terms as the previous notice who shall thereupon be bound to sell and transfer all such shares acquired by him to the Offeror or as the Offeror may direct and the provisions of this Article shall apply mutatis mutandis to the New Member save that completion of the sale of such shares shall take place forthwith upon the notice being deemed served on the New Member.

## 50 TAG ALONG

- 50.1 If at any time one or more Shareholders (**Proposed Sellers**) propose to sell, in one or a series of related transactions, 50% or more in nominal value of the Shares in issue for the time being (**Majority Holding**) on arm's length terms to any person or persons acting in concert (not being an Offeror for the purposes of Article 49.1), the Proposed Sellers may only sell the Majority Holding if they comply with the provisions of this Article.
- 50.2 The Proposed Sellers shall give written notice (**Proposed Sale Notice**) to the other Shareholders of such intended sale at least 15 Business Days prior to the date thereof. The Proposed Sale Notice shall set out, to the extent not described in any accompanying documents:
- (a) the identity of the proposed buyer (**Proposed Buyer**);
  - (b) the purchase price and other terms and conditions of payment,
  - (c) the proposed date of sale (**Proposed Sale Date**), and
  - (d) the number of shares proposed to be purchased by the Proposed Buyer (**Proposed Sale Shares**).
- 50.3 Any other Holder of Shares shall be entitled, by written notice given to the Proposed Sellers (**Tag Along Notice**) within five Business Days of receipt of the Proposed Sale Notice, to be permitted to sell all of his Shares (**Tag Along Shares**) to the Proposed Buyer on the same terms and conditions as those set out in the Proposed Sale Notice (save that the purchase price payable to a holder of B Shares in respect of any Tag Along Shares shall be reduced by any corresponding amount (if any) that may be paid or payable to such holder of B Shares in respect of their Dividend Access Shares).
- 50.4 If any Shareholder serves a Tag Along Notice, the completion of the purchase of the Majority Holding shall be conditional on completion of the purchase of all the Tag Along Shares.
- 50.5 If any other Holder of Shares is not given the rights accorded him by the provisions of this Article, the Proposed Sellers shall be required not to complete their sale and the Company shall be bound to refuse to register any transfer intended to carry such a sale into effect.
- 50.6 Neither the proposed sale of the Majority Holding to the Proposed Buyer nor the sale of the

Tag Along Shares by the other Shareholders shall be subject to the rights of pre-emption set out in Article 44.

## **51 TRANSMISSION OF SHARES**

51.1 If title to a share passes to a Transmittée, the Company may only recognise the Transmittée as having any title to that share.

51.2 A Transmittée who produces such evidence of entitlement to Shares as the Directors may properly require:

- (a) may, subject to the Articles, choose either to become the Holder of those Shares or to have them transferred to another person; and
- (b) subject to the Articles, and pending any transfer of the Shares to another person, has the same rights as the Holder had.

51.3 Transmittées do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of Shares to which they are entitled, by reason of the Holder's death or Bankruptcy or otherwise, unless they become the Holders of those Shares.

## **52 EXERCISE OF TRANSMITTEE' RIGHTS**

52.1 Transmittées who wish to become the Holders of Shares to which they have become entitled must notify the Company in writing of that wish.

52.2 If the Transmittée wishes to have a share transferred to another person, the Transmittée must execute an instrument of transfer in respect of it.

52.3 Any transfer made or executed under this Article is to be treated as if it were made or executed by the person from whom the Transmittée has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

## **53 TRANSMITTEES BOUND BY PRIOR NOTICE**

If a notice is given to a Shareholder in respect of share and a Transmittée is entitled to those Shares, the Transmittée is bound by the notice if it was given to the Shareholder before the Transmittée's one has been entered in the register of members.

## **Dividends and Other Distributions**

### **54 PROCEDURE FOR DECLARING DIVIDENDS**

- 54.1 The Company may by Ordinary Resolution declare dividends, and the Directors may decide to pay interim dividends.
- 54.2 A dividend must not be declared unless the Directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the Directors.
- 54.3 No dividend may be declared or paid unless it is in accordance with Shareholders' respective rights.
- 54.4 Unless the Shareholders' resolution to declare or Directors' decision to pay a dividend, or the terms on which Shares are issued, specify otherwise, it must be paid by reference to each Shareholder's holding of Shares on the date of the resolution or decision to declare or pay it.
- 54.5 If the Company's share capital is divided into different classes, no interim dividend may be paid on Shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrears.
- 54.6 The Directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- 54.7 If the Directors act in good faith, they do not incur any liability to the Holders of Shares conferring preferred right for any loss they may suffer by the lawful payment of an interim dividend on Shares with deferred or non-preferred rights.
- 54.8 No dividend shall be payable in respect of the Deferred Shares.

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

- 55.1 Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means.
- (a) transfer to a bank or building society account specified by the Distribution Recipient either in writing or as the Directors may otherwise decide,

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

55.2 In these Articles, the "**Distribution Recipient**" means, in respect of a share in respect of which a dividend or other sum is payable:

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

## **56 NO INTEREST ON DISTRIBUTIONS**

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

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

## **57 UNCLAIMED DISTRIBUTIONS**

57.1 All dividends or other sums which are:



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

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

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

57.3 If:

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

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

## **58 NON-CASH DISTRIBUTIONS**

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

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

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

## **59 WAIVER OF DISTRIBUTIONS**

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

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

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

## **Capitalisation of Profits**

## **60 AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS**

60.1 Subject to the Articles, the Directors may, if they are so authorised by an Ordinary Resolution:

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

60.2 Capitalised sums must be applied:

- (a) on behalf of the persons entitled; and
- (b) in the same proportions as a dividend would have been distributed to them.

60.3 Any capitalised sum may be applied in paying up new Shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct

60.4 A capitalised sum which was appropriated from profits available for distribution may be applied

in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.

60.5 Subject to the Articles, the Directors may:

- (a) apply capitalised sums in accordance with Articles 60.3 and 60.4, partly in one way and partly in another;
- (b) make such arrangements as they think fit to deal with Shares or debentures becoming distributable in fractions under this Article (including the issuing of fractional certificates or the making of cash payments); and
- (c) authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of Shares and debentures to them under this Article.

## **61 PURCHASE OF OWN SHARES**

61.1 Subject to the CA 2006 but without prejudice to any other provision of these Articles, the Company may purchase its own shares in accordance with Chapter 4 of Part 18 of the CA 2006 (without limitation) out of capital up to any amount in a financial year not exceeding the lower of:

- (a) £15,000; and
- (b) the nominal value of 5% of the Company's fully paid up share capital at the beginning of each financial year of the Company.

## **PART 4: DECISION-MAKING BY SHAREHOLDERS**

### ***Organisation of General Meetings***

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

62.1 The Deferred Shares shall not entitle the holders of them to receive notice of, to attend, to speak or to vote at any general meeting of the Company nor to receive or vote on, or otherwise constitute an eligible member for the purposes of, proposed written resolutions of the Company

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

A company which is a member may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company. Any director or the secretary of a company which is a member shall be deemed to be a duly authorised representative of that member for all purposes. A company which is a member is deemed for the purposes of these Articles to be present in person at any meeting of the Company if its representative is present at that meeting. Any such representative is entitled to exercise the same powers on behalf of the company which he represents as that company could exercise if it were an individual member and the signature by any such person of any form of proxy, written resolution, consent, notice or any other documents is deemed to be the signature of the relevant member.

## **63 QUORUM FOR GENERAL MEETINGS**

- 63.1 No business shall be transacted at any meeting unless a quorum is present. Subject to section

318(2) of CA 2006, two qualifying persons (as defined in section 318(3) of CA 2006) entitled to vote upon the business to be transacted shall be a quorum; provided that if the Company has only a single member, the quorum shall be one such qualifying person.

- 63.2 No business other than the appointment of the Chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum

#### **64 CHAIRING GENERAL MEETINGS**

- 64.1 If the Directors have appointed a Chairman, the Chairman shall chair general meetings if present and willing to do so.

- 64.2 If the Directors have not appointed a Chairman, or if the Chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:

- (a) the Directors present; or
- (b) if no Directors are present, the meeting, must appoint a Director or Shareholder to chair the meeting, and the appointment of the Chairman of the meeting must be the first business of the meeting.

- 64.3 The person chairing a meeting in accordance with this Article is referred to as the "**Chairman of the meeting**".

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

- 65.1 Directors may attend and speak at general meetings, whether or not they are Shareholders.

- 65.2 The Chairman of the meeting may permit other persons who are not:

- (a) Shareholders of the Company; or
- (b) otherwise entitled to exercise the rights of Shareholders in relation to general meetings,

to attend and speak at a general meeting.

## **66 ADJOURNMENT**

- 66.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chairman of the meeting must adjourn it.
- 66.2 The Chairman of the meeting may adjourn a general meeting at which a quorum is present if:
- (a) the meeting consents to an adjournment; or
  - (b) it appears to the Chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or to ensure that the business of the meeting is conducted in an orderly manner.
- 66.3 The Chairman of the meeting must adjourn a general meeting if directed to do so by the meeting
- 66.4 When adjourning a general meeting, the Chairman of the meeting must:
- (a) either specify the time and place to which it is adjourned or state that it is to continue *at a time and place to be fixed by the Directors; and*
  - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 66.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it (excluding the day of the adjourned meeting and the day on which the notice is given):
- (a) to the same persons to whom notice if the Company's general meetings is required to be given; and
  - (b) containing the same information which such notice is required to contain.
- 66.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

## **Voting at General Meetings**

### **67 VOTING: GENERAL**

A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.

### **68 ERRORS AND DISPUTES**

68.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.

68.2 Any such obligation must be referred to the Chairman of the meeting, whose decision is final

### **69 POLL VOTES**

69.1 A poll on a resolution may be demanded.

- (a) in advance of the general meeting where it is to put to the vote; or
- (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.

69.2 A poll may be demanded by:

- (a) the Chairman of the meeting;
- (b) the Directors;
- (c) two or more person having the right to vote on the resolution; or
- (d) a person or person representing not less than one tenth of the total voting rights of all the Shareholders having the right to vote on the resolution.

69.3 A demand for a poll may be withdrawn if:

- (a) the poll has not yet been taken; and

- (b) the Chairman of the meeting consents to the withdrawal.

69.4 Polls must be taken immediately and in such manner as the Chairman of the meeting directs.

## **70 CONTENT OF PROXY NOTES**

70.1 Proxies may only validly be appointed by a notice in writing (a "**Proxy Notice**") which:

- (a) states the name and address of the Shareholder appointing the proxy; and the number of Shares to be voted. If no such number is given the total number of Shares held by that Shareholder should be voted.
- (b) identifies the person appointed to be that Shareholder's proxy and the general meeting in relation to which that person is appointed;
- (c) is signed by or on behalf of the Shareholder appointing the proxy, or is authenticated in such manner as the Directors may determine; and
- (d) is delivered to the Company in accordance with the Articles and any instructions contained in the notice of the general meeting to which they relate.

70.2 The Company may require Proxy Notices to be delivered in a particular form, and may specify different forms for different purposes.

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

70.4 Unless a Proxy Notice indicates otherwise, it must be treated as:

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

## **71 DELIVERY OF PROXY NOTICES**

71.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a



general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid Proxy Notice has been delivered to the Company by or on behalf of that person.

71.2 An appointment under a Proxy Notice may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the Proxy Notice was given

71.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

71.4 If a Proxy Notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it on the appointor's behalf.

## **72 AMENDMENTS TO RESOLUTIONS**

72.1 An Ordinary Resolution to be proposed at a general meeting may be amended by Ordinary Resolution if:

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

72.2 A Special Resolution to be proposed at a general meeting may be amended by Ordinary Resolution, if:

- (a) the Chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
- (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

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

## **PART 5: ADMINISTRATIVE ARRANGEMENTS**

### **73 MEANS OF COMMUNICATION TO BE USED**

- 73.1 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the CA 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.
- 73.2 Subject to the Articles, any notice or document to be sent or supplied to a Director in connection with the taking of a decision by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being.
- 73.3 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 48 hours.
- 73.4 Any notice, document or other information served on, or delivered to, an intended recipient under Article 44, Article 49 or Article 50 (as the case may be) may not be served or delivered in electronic form (other than by fax), or by means of a website.

### **74 COMPANY SEAL**

The Company need not have a common seal.

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

Except as provided by law or authorised by the Directors or an Ordinary Resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a Shareholder.

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

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

## **Directors' Indemnity and Insurance**

### **77 INDEMNITY**

77.1 Subject to 77.2, a relevant Director of the Company or an associated company may be indemnified out of the Company's assets against:

- (a) any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated company;
- (b) any liability incurred by that Director in connection with the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the CA 2006);
- (c) any other liability incurred by that Director as an officer of the Company or an associated company.

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

77.3 In this Article:

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- (b) a "**relevant Director**" means any Director or former Director of the Company or an associated company.

### **78 INSURANCE**

78.1 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant Director in respect of any relevant loss.

78.2 In this Article:

- (a) a "**relevant Director**" means any Director or former Director of the Company or an associated company;
- (b) a "**relevant loss**" means any loss or liability which has been or may be incurred by

a relevant Director in connection with that Director's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company; and

- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same corporate body.