

C/A

Company No. 12758894

THE COMPANIES ACT 2006

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PRIVATE COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

of

MREF IV CARE HOLDINGS LIMITED

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(as adopted by special resolution passed on 28 July 2020)



## Table of Contents

1.	PRELIMINARY	4
PART A	SHARE CAPITAL, RIGHTS AND TRANSFERS	4
2.	SHARE CAPITAL	4
3.	RIGHTS ATTACHING TO SHARES	5
4.	FURTHER ISSUES OF SHARES	8
5.	PROCEDURES FOR DETERMINING EXIT PROCEEDS, DEEMED EXIT PROCEEDS AND DISPUTE RESOLUTION	10
6.	VARIATION OF CLASS RIGHTS	11
7.	PERMITTED TRANSFERS	11
8.	MANDATORY TRANSFERS	13
9.	DEFAULT EVENTS	14
10.	VALUATION	16
11.	TAG ALONG	18
12.	DRAG ALONG	20
13.	REGISTRATION	21
14.	QUORUM FOR GENERAL MEETINGS	22
PART B	KEY PROVISIONS ABOUT DIRECTORS	23
15.	NUMBER OF DIRECTORS	23
16.	METHODS OF APPOINTING AND REMOVING DIRECTORS	23
17.	THE A DIRECTOR AND THE C DIRECTOR	23
18.	DIRECTORS' GENERAL AUTHORITY	23
19.	DIRECTORS MAY DELEGATE	24
20.	COMMITTEES	24
21.	SHAREHOLDERS' RESERVE POWER	24
22.	CALLING A DIRECTORS' MEETING	25
23.	PARTICIPATION IN DIRECTORS' MEETINGS	25
24.	QUORUM FOR DIRECTORS' MEETINGS	26
25.	CHAIRING OF DIRECTORS' MEETINGS	26
26.	CASTING VOTE	26
27.	AUTHORISATION OF CONFLICTS OF INTEREST	26
28.	DIRECTORS MAY HAVE INTERESTS AND VOTE AND COUNT FOR QUORUM	29
PART C	FURTHER PROVISIONS (SUBJECT ALWAYS TO PARTS A AND B OF THESE ARTICLES)	30
29.	FURTHER METHODS OF APPOINTING DIRECTORS	30
30.	TERMINATION OF DIRECTOR'S APPOINTMENT	30
31.	DIRECTORS TO TAKE DECISIONS COLLECTIVELY	30
32.	UNANIMOUS DECISIONS	31
33.	RECORDS OF DECISIONS TO BE KEPT	31
34.	DIRECTORS' DISCRETION TO MAKE FURTHER RULES	31
35.	DIRECTORS' REMUNERATION	31
36.	DIRECTORS' EXPENSES	32
37.	APPOINTMENT AND REMOVAL OF ALTERNATES	32
38.	RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS	32
39.	TERMINATION OF ALTERNATE DIRECTORSHIP	33
40.	SECRETARY	33
41.	COMPANY'S LIEN	34

42.	ENFORCEMENT OF THE COMPANY'S LIEN	34
43.	CALL NOTICES	35
44.	LIABILITY TO PAY CALLS	36
45.	PAYMENT IN ADVANCE OF CALLS	36
46.	WHEN CALL NOTICE NEED NOT BE ISSUED	36
47.	FAILURE TO COMPLY WITH CALL NOTICE: AUTOMATIC CONSEQUENCES	37
48.	NOTICE OF INTENDED FORFEITURE	37
49.	DIRECTORS' POWER TO FORFEIT SHARES	38
50.	EFFECT OF FORFEITURE	38
51.	PROCEDURE FOLLOWING FORFEITURE	38
52.	SURRENDER OF SHARES	39
53.	COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS	39
54.	SHARE CERTIFICATES	39
55.	REPLACEMENT SHARE CERTIFICATES	40
56.	INSTRUMENTS OF TRANSFER	40
57.	FRACTIONAL ENTITLEMENTS	40
	 FURTHER PROVISIONS ABOUT DIVIDENDS AND OTHER DISTRIBUTIONS	 41
58.	PROCEDURE FOR DECLARING DIVIDENDS	41
59.	CALCULATION OF DIVIDENDS	41
60.	PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS	42
61.	NO INTEREST ON DISTRIBUTIONS	43
62.	UNCLAIMED DISTRIBUTIONS	43
63.	NON-CASH DISTRIBUTIONS	43
64.	WAIVER OF DISTRIBUTIONS	44
	 CAPITALISATION OF PROFITS	 44
65.	AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS	44
	 DECISION-MAKING BY SHAREHOLDERS	 45
66.	NOTICE OF GENERAL MEETINGS	45
67.	ATTENDANCE AND SPEAKING AT GENERAL MEETINGS	46
68.	CHAIRING GENERAL MEETINGS	46
69.	ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS	46
70.	ADJOURNMENT	47
71.	VOTING: GENERAL	47
72.	ERRORS AND DISPUTES	48
73.	DEMANDING A POLL AND PROCEDURE ON A POLL	48
74.	CONTENT OF PROXY NOTICES	48
75.	DELIVERY OF PROXY NOTICES	49
76.	REVOCATION OF PROXY NOTICES	50
77.	VOTES OF PROXIES	50
	 ADMINISTRATIVE ARRANGEMENTS	 50
78.	COMPANY COMMUNICATIONS	50
79.	COMPANY SEALS	53
80.	PURCHASE OF OWN SHARES	53
81.	INDEMNITY AND FUNDS	53

82.	INSURANCE	54
PART D	DEFINED TERMS AND INTERPRETATION	54
83.	DEFINED TERMS	54
84.	INTERPRETATION	62

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ARTICLES OF ASSOCIATION

of

MREF IV CARE HOLDINGS LIMITED (Company)

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(as adopted by special resolution  
passed on 28 July 2020)

**1. PRELIMINARY**

- 1.1 The following shall be the Articles of Association of the Company, which for ease of reference are set out in the following parts:

Part A – Share capital, rights and transfers

Part B – Key provisions about directors

Part C – Further provisions (the provisions of which shall be supplementary and subject to those of Part A and Part B)

Part D – Defined terms and interpretation

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

**PART A  
SHARE CAPITAL, RIGHTS AND TRANSFERS**

**2. SHARE CAPITAL**

- 2.1 Whenever the Company has only one class of shares, unless otherwise authorised by these Articles, the directors shall not exercise any power of the Company pursuant to Section 550, CA2006 to allot shares or to grant rights to subscribe for, or convert any security into, any shares in the Company.
- 2.2 Subject to these Articles, but without prejudice to the rights attached to any existing share, the Company may:

- 2.2.1 issue shares with such rights or restrictions as may be determined by ordinary resolution;
  - 2.2.2 issue shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder on such terms as determined by ordinary resolution; and
  - 2.2.3 issue shares which are nil, partly or fully paid.
- 2.3 The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

### **3. RIGHTS ATTACHING TO SHARES**

#### **3.1 Income**

##### **3.1.1 Equity Shares**

Any profits of the Company resolved to be distributed in any financial year or period shall be distributed amongst the holders of the Equity Shares pro rata accordingly to the number of Equity Shares held (as if the Equity Shares constituted one and the same class).

##### **3.1.2 C Shares**

Notwithstanding any other provision of these Articles, the holders of C Shares shall not be entitled to receive payment of any dividend or distribution in respect of the C Shares of which they are the registered holder.

#### **3.2 Capital**

##### **3.2.1 On an Exit, the Exit Proceeds shall be distributed as follows:**

- (a) in respect of the amount of Exit Proceeds (together with any Equity Proceeds prior to an Exit) which are equal to or less than the First Hurdle, such amount of the Exit Proceeds shall be distributed to and amongst the holders of Equity Shares only pro rata to the number of Equity Shares held (as if the Equity Shares constituted one and the same class);
- (b) in respect of the amount of Exit Proceeds (together with any Equity Proceeds paid prior to an Exit) which are more than the First Hurdle but less than or equal to the Second Hurdle, such amount of the Exit Proceeds shall be distributed as follows:

<b>Class of Share</b>	<b>Exit Proceeds</b>
Equity Shares	85% of the Exit Proceeds in excess of the First Hurdle but less than or equal to the Second Hurdle, to the holders of the Equity Shares pro rata to the number of Equity Shares held (as if the Equity Shares constituted one and the same class)

C Shares	15% of the Exit Proceeds in excess of the First Hurdle but less than or equal to the Second Hurdle, to the holders of the C Shares pro rata to the number of C Shares held
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- (c) in respect of the amount of Exit Proceeds (together with any Equity Proceeds paid prior to an Exit) which are more than the Second Hurdle but less than or equal to the Third Hurdle, such amount of the Exit Proceeds shall be distributed as follows:

Class of Share	Exit Proceeds
Equity Shares	80% of the Exit Proceeds in excess of the Second Hurdle but less than or equal to the Third Hurdle, to the holders of the Equity Shares pro rata to the number of Equity Shares held (as if the Equity Shares constituted one and the same class)
C Shares	20% of the Exit Proceeds in excess of the Second Hurdle but less than or equal to the Third Hurdle, to the holders of the C Shares pro rata to the number of C Shares held

- (d) in respect of the amount of the Exit Proceeds (together with any Equity Proceeds paid prior to an Exit) which are more than the Third Hurdle, such amount of the Exit Proceeds shall be distributed as follows:

Class of Share	Exit Proceeds
Equity Shares	75% of the Exit Proceeds in excess of the Third Hurdle, to the holders of the Equity Shares pro rata to the number of Equity Shares held (as if the Equity Shares constituted one and the same class)
C Shares	25% of the Exit Proceeds in excess of the Third Hurdle, to the holders of the C Shares pro rata to the number of C Shares held

3.2.2 On a Deemed Exit, the Deemed Exit Proceeds shall be paid as follows:

- (a) if such Deemed Exit Proceeds (together with any Equity Proceeds paid prior to a Deemed Exit) are more than the First Hurdle but less than or equal to the Second Hurdle, 15% of the Deemed Exit Proceeds in excess of the First Hurdle shall be paid to the holders of

the C Shares pro rata to the number of C Shares held, such payment to be made in accordance with the provisions of the Joint Venture Agreement;

- (b) if such Deemed Exit Proceeds (together with any Equity Proceeds paid prior to a Deemed Exit) are more than the Second Hurdle but less than or equal to the Third Hurdle, an amount equal to the aggregate of (i) the amount paid to the holders of the C Shares in accordance with Article 3.2.2(a) above plus (ii) 20% of the Deemed Exit Proceeds in excess of the Second Hurdle but less than or equal to the Third Hurdle shall be paid to the holders of the C Shares pro rata to the number of C Shares held, such payment to be made in accordance with the provisions of the Joint Venture Agreement;
- (c) if such Deemed Exit Proceeds (together with any Equity Proceeds paid prior to a Deemed Exit) are more than the Third Hurdle, an amount equal to the aggregate of (i) the amount paid to the holders of the C Shares in accordance with Article 3.2.2(a) above plus (ii) the amount paid to the holders of the C Shares in accordance with Article 3.2.2(b) above plus (iii) 25% of the Deemed Exit Proceeds in excess of the Third Hurdle shall be paid to the holders of the C Shares pro rata to the number of C Shares held, such payment to be made in accordance with the provisions of the Joint Venture Agreement.

3.2.3 If on any Exit any part of the consideration or other proceeds is to be paid subject to a contingency or on a deferred basis or is to be held in an escrow or retention account, no account of the contingent or deferred consideration or retained proceeds shall be included in the calculation of the Exit Proceeds. Should any such contingent or deferred consideration or retained proceeds subsequently be paid, then upon each payment thereof, the Exit Proceeds and the apportionment between the Shares under Article 3.2.1 shall be recalculated so as to include all contingent or deferred consideration or retained proceeds paid and such further consideration applied and paid to the Shareholders accordingly.

3.2.4 Any return of capital or proceeds from an Exit in respect of a particular class of Shares will be made amongst their holders pro rata as nearly as possible to their respective holdings of Shares of that class.

### **3.3 Voting**

#### **3.3.1 Equity Shares**

The holders of the Equity Shares shall have the right to receive notice of and attend and vote and speak at any general meeting of the Company and shall be entitled to vote on any written resolution of the Company. Save, in each case, as provided otherwise in the CA2006, each such holder present in person or by proxy or by representative shall be entitled on a show of hands to one vote and on a poll or written resolution to one vote for each Equity Share held by him.

#### **3.3.2 C Shares**

Notwithstanding any other provision of these Articles, the holders of C Shares shall not have the right to receive notice of, attend or vote or speak



at any general meeting of the Company and shall not be entitled to vote on any written resolution of the Company.

### 3.4 Re-designation

Any Shares (other than A Shares or C Shares) transferred or issued to a holder of A Shares shall (unless otherwise directed by the Board and without further authority than is contained in this Article) forthwith on their transfer be deemed to have been re-designated as A Shares (on the basis of one A Share for every one share) having all the rights, privileges and restrictions attaching to the A Shares. Any Shares (other than B Shares) transferred or issued to a holder of B Shares shall (unless otherwise directed by the Board and without further authority than is contained in this Article) forthwith on their transfer be deemed to have been re-designated as B Shares (on the basis of one B Share for every one share) having all the rights, privileges and restrictions attaching to the B Shares. Any Shares (other than C Shares) transferred or issued to a holder of C Shares shall (unless otherwise directed by the Board and without further authority than is contained in this Article) forthwith on their transfer be deemed to have been re-designated as C Shares (on the basis of one C Share for every one share) having all the rights, privileges and restrictions attaching to the C Shares.

## 4. FURTHER ISSUES OF SHARES

4.1 Subject to the financial thresholds in clause 2.1 and clause 7 of the Joint Venture Agreement not being exceeded and unless A Shareholder Consent and B Shareholder Consent to the contrary is given:

4.1.1 any Relevant Securities to be granted or allotted by the Company (or in the case of debt instruments either by the Company or another Group Company) ("**Further Issue**") shall first be offered to the holders of the Equity Shares by way of written offer in the same proportion (as nearly as possible) as the number of Equity Shares they hold before such Further Issue bears to the total number of the Equity Shares in issue and such offers shall be open for acceptance for not less than 10 Business Days from the latest date of despatch of the written offer to the members;

4.1.2 if the Further Issue comprises an offer to subscribe for Shares (or instruments convertible into Shares) and the offer also includes a debt component (whether such debt is issued by the Company or another Group Company), each such offer shall be conditional upon the holder also subscribing for the same proportion of any debt instrument to be issued in connection with the issue of the Relevant Securities (as nearly as possible) as the number of Relevant Securities actually granted or allotted to the member bears to the total number of Relevant Securities actually granted or allotted under the relevant Further Issue; and

4.1.3 when applying for his allocation, it shall be open to each such holder to specify the number of Relevant Securities in excess of his proportionate entitlement for which he is willing to subscribe.

4.2 If the total number of Relevant Securities applied for pursuant to an offer made under Article 4.1 is:

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

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

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

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

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

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

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

If this formula results in any fractions of Relevant Securities, the Board shall have the discretion to allocate such fractions as they so decide, with reference always to the intended proportions envisaged by Article 4.1.

- 4.3 The Board shall notify each member who applied for Relevant Securities of the number of Relevant Securities that have been allocated and the persons to whom they have been allocated. The notification shall include the place and time (being not later than 10 Business Days after the latest date by which applications had to be received) at which the allotment of the Relevant Securities shall be completed provided that where a debt instrument is also to be issued, each member must also subscribe and pay in full for his proportion of such debt instrument at the same time as he subscribes and pays for the Relevant Securities.
- 4.4 Any Relevant Securities and debt instrument not accepted or subscribed for by the members shall be at the disposal of the directors who may (within a period of 3 months from the end of the last offer period under Article 4.1) allot, grant options over or otherwise dispose of the same to such persons as they may determine at a price per share (being no less than the price at which the same were offered to the holders of Equity Shares) and otherwise on such terms as they think proper.
- 4.5 Pursuant to Section 567, CA2006, sub-section (1) of Section 561, CA2006 and sub-sections (1) to (5) inclusive of Section 562, CA2006 shall be excluded from applying to the Company.

## 5. PROCEDURES FOR DETERMINING EXIT PROCEEDS, DEEMED EXIT PROCEEDS AND DISPUTE RESOLUTION

### 5.1 Procedure on Exit

5.1.1 As soon as reasonably practicable after the Board becomes aware that an Exit is likely to occur (and in any event at least 15 Business Days prior to an Exit), the Board shall:

- (a) estimate the likely date of such Exit;
- (b) procure that the calculations set out in Article 3.2.1 in order to calculate the return to the holders of Equity Shares and C Shares ("**Relevant Calculations**") are carried out; and
- (c) notify the A Shareholder, B Shareholder and C Shareholder (the "**Relevant Shareholders**") of the results of such calculations ("**Calculation Notifications**").

5.1.2 The Board and the Relevant Shareholders shall use reasonable endeavours in good faith to reach agreement as to the accuracy of the Relevant Calculations within 5 Business Days after the Calculation Notifications have been given and within that period to record that agreement in a certificate signed by the Relevant Shareholders which shall be deemed to be binding on all holders of Shares.

5.1.3 If the Board and the Relevant Shareholders fail to reach agreement as to the accuracy of the Relevant Calculations and fail to record that agreement pursuant to Article 5.1.2, the Board shall procure the determination of the Relevant Calculations by the Valuer and shall procure that the Valuer will issue a certificate setting out their determination and the Valuer shall for such purposes be deemed to be acting as an expert and not an arbitrator and such certificate shall (save in the case of fraud or manifest error) be final and binding on all holders of Shares, each of whom shall be sent a copy as soon as practicable following its issue.

5.1.4 Notwithstanding the foregoing provisions of this Article 5, if the Exit shall not occur by the date as at which, or on the terms on which, the Relevant Calculations were made, the procedures set out in Articles 5.1.1 to 5.1.3 (inclusive) above shall be repeated (if the Exit is still likely to occur) by reference to the next date on which the Board estimates the Exit is likely to occur and/or by the reference to the actual terms concerned, as appropriate.

### 5.2 Procedure on Deemed Exit

5.2.1 As soon as reasonably practicable after the A Shareholder receives an exercise notice in respect of the Put Option the A Shareholder and the C Shareholder shall carry out the calculations set out in Article 3.2.2 in order to calculate the return to the holders of C Shares ("**Deemed Exit Calculations**").

5.2.2 The A Shareholder and the C Shareholder shall use reasonable endeavours in good faith to reach agreement as to the accuracy of the Deemed Exit Calculations within 5 Business Days after the Deemed Exit

Calculations have been carried out in accordance with Article 5.2.1 and within that period to record that agreement in a certificate signed by the A Shareholder and the C Shareholder which shall be deemed to be binding on them.

- 5.2.3 If A Shareholder and the C Shareholders fail to reach agreement as to the accuracy of the Deemed Exit Calculations and fail to record that agreement pursuant to Article 5.2.2, the Board shall procure the determination of the Deemed Exit Calculations by the Valuer in accordance with Article 10 and shall procure that the Valuer will issue a certificate setting out their determination and the Valuer shall for such purposes be deemed to be acting as an expert and not an arbitrator and such certificate shall (save in the case of fraud or manifest error) be final and binding on the A Shareholder and the C Shareholder, each of whom shall be sent a copy as soon as practicable following its issue.

### **5.3 Dispute**

- 5.3.1 Save as specifically provided for by Articles 5.1, 5.2 and 10, in the event of disagreement as to whether any dividend, Shares or Relevant Securities are due under the provisions of these Articles to the holders of any class of share capital in the Company, or as to the amount of such dividend, number of such Shares or Relevant Securities, any such disagreement shall be referred to the auditor of the Company or, if it should decline to act for this purpose, to an independent accountant (acting as expert and not as arbiter) nominated by the parties concerned (or in the event of disagreement as to nomination by the President for the time being of the Institute of Chartered Accountants in England and Wales on application by any such party) whose decision shall be final and binding (save in the case of fraud or manifest error) and the costs of such accountant shall be borne equally by the parties to the dispute or disagreement or as the accountant shall otherwise determine.
- 5.3.2 If the accountant so appointed is required to make such a determination, the Company shall procure that they are given all such assistance and access to all such information in its possession or control as the accountant may reasonably require in order to make such determination.

## **6. VARIATION OF CLASS RIGHTS**

Whenever the share capital of the Company is divided into different classes of Shares, the rights attached to any class may be varied, modified, abrogated or cancelled only with the consent in writing of the holders of 75% of the issued Shares of that class.

## **7. PERMITTED TRANSFERS**

### **7.1 Transfers to Privileged Relations, Family Trusts and nominees**

- 7.1.1 Any holder of Equity Shares may at any time transfer any Equity Shares held by him to a Privileged Relation (who may transfer such Shares without restriction to the original member or to another Privileged Relation of the original member but any other transfer by the Privileged Relation shall be subject to the same restrictions as though they were transfers by the original member himself) or the trustees of his Family Trust.

7.1.2 The trustees of a Family Trust may transfer Shares held by them in their capacity as trustees:

- (a) on a change of trustees, to the new trustees of that Family Trust;
- (b) to a person (other than a charity) who has an immediate beneficial interest under the Family Trust; or
- (c) to another Family Trust which has the same member as settlor.

7.1.3 Any Equity Shares may be transferred by a member to a person to hold such Shares as his bare nominee and the nominee may transfer such Shares without restriction to the original member or to another bare nominee of such original member but any other transfers by the nominee shall be subject to the same restrictions as though they were transfers by the original member himself.

## **7.2 Transfers by Corporate Members**

A corporate holder of Equity Shares may at any time transfer any Equity Shares held by it to another member of its Wholly-owned Group.

## **7.3 Transfers by B Shareholders to its Shareholders**

Where the B Shareholder is a corporate entity, the B Shareholder may at any time transfer any Shares held by that B Shareholder to any of its own shareholders or members (and who shall be entitled to transfer their Shares to their Privileged Relations or a Family Trust) provided that any such transferee shall be subject to the same restrictions as though they were transfers by the original member himself.

## **7.4 Transfers with Consent**

A transfer of any Shares in the capital of the Company may be made to any person with the prior written consent of all other shareholders.

## **7.5 Transfers by any Holder of A Shares**

Any holder of A Shares may at any time (without restriction as to price or otherwise) transfer any Shares in the capital of the Company held by it to (i) any other member of the A Shareholder's Group or (ii) to any person on an Exit.

## **7.6 Transfer pursuant to the Put Option or Joint Venture Agreement**

A transfer of any Shares in the capital of the Company may be made in accordance with the terms of the Put Option and/or the Joint Venture Agreement.

## **7.7 Transfers of Disenfranchised Shares**

Notwithstanding any other provision of these Articles, no transfer of any Shares that have been disenfranchised in accordance with Article 8.6 may be made unless the Board determines otherwise.

## **8. MANDATORY TRANSFERS**

### **8.1 Transfer if Trust Ceases to be a Family Trust**

If any trust whose trustees hold Shares in the capital of the Company ceases to be a Family Trust or there cease to be any beneficiaries of the Family Trust other than a charity or charities, then the trustees shall without delay notify the Company that such event has occurred and if the trustees have not, within 10 Business Days of receiving a request from the directors to do so, transferred the Shares back to the settlor of that Family Trust, they shall be deemed to have served a Transfer Notice on the A Shareholder irrevocably offering to transfer, at a price determined in accordance with Article 9.3.2 (which shall apply mutatis mutandis), all such Shares on the date on which the trust ceased to be a Family Trust or the date there ceased to be any beneficiaries other than a charity or charities (as appropriate) and such Shares may not otherwise be transferred.

### **8.2 Transfer if Shares Cease to be Held by a Privileged Relation**

If a Privileged Relation holding Shares transferred to him under Article 7.1 ceases to be a Privileged Relation of the original member who held them, the Privileged Relation then holding the Shares shall without delay notify the Company that this event has occurred and transfer the Shares to the original member and such Shares may not otherwise be transferred.

### **8.3 Transfer on Change of Ownership of Corporate Member**

If a corporate member to which Shares are transferred under Article 7.2 ceases to be a member of the same Wholly-owned Group as the original corporate member who was the transferor, the corporate member to which those Shares were transferred shall without delay notify the Company that this event has occurred and transfer the Shares to the original corporate member or another member of the Wholly-owned Group and such Shares may not otherwise be transferred.

### **8.4 Transfer on Death or Bankruptcy of Member**

A person entitled to a share or Shares in consequence of the death of a member or the bankruptcy of a member:

8.4.1 shall be deemed to have served a Transfer Notice on the A Shareholder irrevocably offering to transfer, at a price or determined in accordance with Article 9.3.2 (which shall apply mutatis mutandis), all such share(s) on the date of death or bankruptcy (as appropriate); and

8.4.2 shall be bound by any notice given to the member in respect of the Shares.

### **8.5 Deemed Transfer Notice**

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

8.5.1 the directors require a Transfer Notice to be given in respect of any Shares pursuant to Article 13.4.3; or

8.5.2 a person has become bound to give a Transfer Notice in respect of any Shares,

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

## **8.6 Effect on Share Rights**

8.6.1 Unless the Board determines otherwise, the provisions of Article 8.6.2 shall apply:

- (a) from the date of the Transfer Notice or deemed Transfer Notice to any Shares which become subject to a Transfer Notice or deemed Transfer Notice served under the provisions of this Article 8 or Article 9; or
- (b) from the date of issue of any Shares issued to the proposed transferor under a Transfer Notice or deemed Transfer Notice served under the provisions of this Article 8 or Article 9 where such Shares are issued after the date of such Transfer Notice or deemed Transfer Notice (whether by virtue of the exercise of any right or option granted or arising by virtue of the holding of the Shares or otherwise).

8.6.2 Any Shares to which this Article 8.6 applies:

- (a) shall cease to confer the right to be entitled to receive notice of or to attend or vote at any general meeting or on any written resolution of the Company or at any meeting or on any written resolution of the holders of any class of Shares in the capital of the Company and such Shares shall not be counted in determining the total number of votes which may be cast at any such meeting or required for the purposes of a written resolution of any members or class of members or any consent under these Articles or otherwise. Such rights shall be restored immediately upon a Sale, a Listing or, unless the Board directs otherwise, the Company registering a transfer of the relevant Shares pursuant to these Articles;
- (b) in the case of the C Shares, shall cease to confer the right to receive any Exit Proceeds or Deemed Exit Proceeds in accordance with these Articles (or otherwise) and all rights of the C Shareholder to appoint a C Director in accordance with these Articles shall immediately cease; and
- (c) shall cease to be capable of being transferred pursuant to Article 7.

## **9. DEFAULT EVENTS**

### **B Shareholder Default and C Shareholder Default**

9.1 If any of the events set out in Article 9.2 ("**Default Events**") occurs in respect of:

- 9.1.1 the B Shareholder, the B Shareholder shall be deemed to have served a Transfer Notice on the A Shareholder irrevocably offering to transfer all of the Shares held by the B Shareholder and/or its Permitted Transferees to the A Shareholder, at the applicable Default Price; or

- 9.1.2 the C Shareholder, the C Shareholder shall be deemed to have served a Transfer Notice on the A Shareholder irrevocably offering to transfer all of the Shares held by the C Shareholder and/or its Permitted Transferees to the A Shareholder, at the applicable Default Price.
- 9.2 For the purposes of Article 9.1, the following events are Default Events:
- 9.2.1 in the case of the B Shareholder or the C Shareholder (and the relevant Shareholder being the **"Defaulting Shareholder"** for the purposes of this Article 9):
- (a) the Defaulting Shareholder commits a material breach of the Joint Venture Agreement and/or these Articles and fails to remedy such breach within 10 Business Days of being specifically required in writing so to do by the A Shareholder sending a written notice to the Defaulting Shareholder identifying the breach and setting out the remedial action that is required;
  - (b) a change in Controlling Interest of a Defaulting Shareholder occurs without first obtaining the consent to such change of Controlling Interest from the A Shareholder, and for this purpose a change of Controlling Interest of (aa) the B Shareholder shall only have taken place if (i) Robert Greenshields or his Privileged Relations and/or (ii) any corporate entity controlled by Robert Greenshields or his Privileged Relations hold, in aggregate, less than 75 per cent. of the issued share capital of the B Shareholder from time to time and (bb) the C Shareholder shall only have taken place for the purposes of this clause if it results in the control of the C Shareholder by a Prohibited Person;
  - (c) the presentation of a petition for the liquidation (voluntary or otherwise) of the Defaulting Shareholder other than a genuine solvent reconstruction or amalgamation in which the new company resulting from such reconstruction or amalgamation assumes (and is capable of assuming) all the obligations of the Defaulting Shareholder (other than a petition or application which is discharged within 15 Business Days of its presentation);
  - (d) an order is made by a court of competent jurisdiction or a resolution is passed for the administration of the Defaulting Shareholder or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by a party or its directors or by a qualifying floating charge holder (as defined by paragraph 14 of Schedule B1 to the Insolvency Act 1986);
  - (e) the appointment of a receiver, administrative receiver or manager in respect of the whole or a substantial part of the assets or undertaking of the Defaulting Shareholder;
  - (f) the Defaulting Shareholder becomes unable to pay its debts as they fall due for the purposes of section 123 of the Insolvency Act 1986 or threatens to cease to carry on its business generally and to stop paying its debts;



- (g) the Defaulting Shareholder enters into a composition or arrangement with its creditors; and/or
  - (h) in relation to the Defaulting Shareholder, any proceedings analogous to the matters referred to in sub-articles (c) to (g) under the laws of any foreign jurisdiction;
- 9.2.2 in the case of the B Shareholder only, the B Shareholder fails to provide its Respective Proportion of any loan to the Company pursuant to clause 7.3 of the Joint Venture Agreement by the date specified in the Shareholder Funding Request and the A Shareholder has notified the B Shareholder in writing pursuant to clause 7.6 the Joint Venture Agreement of its decision not to advance the Deficit Funding Amount to the Company; and
- 9.2.3 in the case of the C Shareholder only, the Asset Management Agreement is terminated by the Company in accordance with clauses 20.1, 20.2.1 to 20.2.5 (inclusive), 20.2.7 or 20.2.9.
- 9.3 In the case of the B Shares, the Default Price shall be:
  - 9.3.1 in respect of a Default Event pursuant to sub-articles (a) to (b) (inclusive) of Article 9.2.1, the price agreed for the B Shares between the A Shareholder and the B Shareholder or, failing such agreement being reached within 10 Business Days of the Transfer Notice, an amount equal to 80% of the Market Value of the B Shares as determined by the Valuer in accordance with Article 10;
  - 9.3.2 in respect of a Default Event pursuant to sub-articles (c) to (h) (inclusive) of Article 9.2.1, the price agreed for the B Shares between the A Shareholder and the B Shareholder, failing such agreement being reached within 10 Business Days of the Transfer Notice, the Market Value of the B Shares as determined by the Valuer in accordance with Article 10; and
  - 9.3.3 in respect of a Default Event pursuant to Article 9.2.2, the price agreed for the B Shares between the A Shareholder and the B Shareholder or, failing such agreement being reached within 10 Business Days of the Transfer Notice, an amount equal to 80% of the Market Value of the B Shares as determined by the Valuer in accordance with Article 10.
- 9.4 In the case of the C Shares, the Default Price in respect of a Default Event pursuant to Article 9.2.1 or Article 9.2.3, shall be nil value.
- 9.5 The sale of the B Shares and the C Shares pursuant to this Article 9 shall be completed at the registered office of the Company on the fifth Business Day after the Default Price has been agreed or determined in accordance with this Article 9 and at such completion the A Shareholder shall pay the applicable Default Price payable in respect of the B Shares, to the B Shareholder or its lawyers (who have been irrevocably authorised by the B Shareholder to receive it).

## **10. VALUATION**

- 10.1 If a Valuer is required to be appointed:

- 10.1.1 to determine the Market Value for the purposes of Article 9 the Valuer will be nominated by agreement between the Board and the transferor(s) of the Shares;
  - 10.1.2 to determine the Relevant Calculations for the purposes of Article 5.1.3, the Valuer will be nominated by agreement between the Board and the Relevant Shareholders;
  - 10.1.3 to determine the Deemed Exit Calculations for the purposes of Article 5.2.3, the Valuer will be nominated by agreement between the Board, the A Shareholder and the C Shareholder;
- or, failing agreement of the identity of the Valuer within 20 Business Days of either (i) the Transfer Notice being served (or deemed to have been served) under Article 9 (in the case of a Valuer appointment pursuant to Article 10.1.1) or (ii) a failure of the Relevant Shareholders to agree the accuracy of the Relevant Calculations in accordance with Article 5.1.2 (in the case of a Valuer appointment pursuant to Article 10.1.2) or (iii) a failure of the A Shareholder and the C Shareholder to agree the accuracy of the Deemed Exit Calculations in accordance with Article 5.2.1 (in the case of a Valuer appointment pursuant to Article 10.1.3), the Valuer shall be nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales on application of either of the relevant Shareholders to which the relevant valuation relates.
- 10.2 Any Valuer so selected is deemed to be appointed jointly by (i) the Company and the relevant transferor (in the case of an appointment pursuant to Article 10.1.1) or (ii) the Company and the Relevant Shareholders (in the case of an appointment pursuant to Article 10.1.2) or (iii) the Company, the A Shareholder and the C Shareholder (in the case of an appointment pursuant to Article 10.1.3). The terms of the Valuer's engagement shall be discussed by the Company and the relevant Shareholder(s) in good faith. The Board shall then make the final decision in respect of agreeing the terms of the Valuer's engagement and such terms as the Board agrees shall be binding on the Company and the relevant Shareholder(s) (as applicable) in accordance with the terms of the Valuer's engagement. Any director authorised by the Board shall be entitled to sign such terms on behalf of the Company and the relevant Shareholder(s) (as applicable). If the Valuer is the auditor of the Company, its appointment is effective upon it agreeing to act for this purpose. In any other case, the Valuer's appointment is effective upon its terms of engagement being agreed by the Valuer, the Board and the relevant Shareholder(s) (as applicable).
  - 10.3 Any Valuer appointed under these Articles shall be considered to be acting as an expert and not as an arbiter and its decision shall be final and binding on the parties (in the absence of fraud or manifest error).
  - 10.4 The Board will give the Valuer access to all accounting records or other relevant documents of the Company and the other Group Companies subject to it agreeing such confidentiality provisions as the Board may reasonably impose.
  - 10.5 Save as provided in Article 5, the Valuer shall be requested to reach its determination within 20 Business Days of its appointment and to notify the Board of its determination. The Board shall deliver a copy of the determination to the relevant transferor(s) (or their agent) as soon as reasonably practicable after receipt. Save where the valuation relates to a Transfer Notice which is required or deemed to be given under Articles 8 or Article 9, the transferor may revoke the Transfer Notice by

written notice to the Company within 5 Business Days of the service on him (or his agent) of the Valuer's determination.

10.6 The fees, expenses and any other charges of the Valuer (or their appointment) shall:

10.6.1 in respect of a valuation carried out for the purposes of Article 10.1.1 shall be borne equally by the Company and the relevant transferor of the Shares;

10.6.2 in respect of a valuation carried out for the purposes of Article 10.1.2 shall be borne by the Company; and

10.6.3 in respect of a valuation carried out for the purposes of Article 10.1.3 shall be borne equally by the Company and the C Shareholder.

## 11. TAG ALONG

11.1 Except in the cases of Permitted Transfers pursuant to Article 7 or transfers made pursuant to Article 12, the provisions of this Article 11 shall apply if, in one or a series of related transactions, the A Shareholder(s) ("**Tag Seller**") proposes to transfer all of the A Shares in issue ("**Proposed Transfer**") to any person ("**Tag Buyer**") and/or any person Acting in Concert with the Tag Buyer.

11.2 Before making a Proposed Transfer, a Tag Seller shall procure that the Tag Buyer makes an offer ("**Tag Offer**") to the other Shareholders to (i) purchase all of the Shares held by such other Shareholders and (ii) repay all shareholder loans made to the Company (if any) of the other Shareholders and, in the case of the B Shareholder only, on the same terms and conditions as to the amount and form of any consideration, the conditionality and timing of the payment of any part of the consideration and any adjustment to the consideration that may take place as a consequence of any completion accounts or other similar mechanism as are to apply to the sale by the Tag Sellers to the Tag Buyer pursuant to the Proposed Transfer and, in the case of the C Shareholder, the consideration offered shall take into account the entitlements (if any) of the C Shareholder on an Exit as set out in Article 3.2.

11.3 The Tag Offer shall be given by written notice ("**Tag Offer Notice**"), at least 5 Business Days before the proposed sale date ("**Tag Sale Date**") and the period between the date on which the Tag Offer Notice is served and the Tag Sale Date being the "**Tag Offer Period**"). To the extent not described in any accompanying documents, the Tag Offer Notice shall set out:

11.3.1 the identity of the Tag Buyer;

11.3.2 the purchase price and other material terms and conditions which are to apply to the sale and purchase of the Shares and repayment of the shareholder loans (if any);

11.3.3 the Tag Offer Period;

11.3.4 the Tag Sale Date; and

11.3.5 the number of Shares proposed to be purchased by the Tag Buyer from the Tag Sellers ("**Tag Offer Shares**").

11.4 If the Tag Buyer fails to make the Tag Offer to the B Shareholder in accordance with Articles 11.2 and 11.3, the Tag Seller shall not be entitled to complete the Proposed

Transfer and the Company shall not register any transfer of Shares effected in accordance with the Proposed Transfer.

- 11.5 If the Tag Offer is accepted by a Shareholder ("**Tag Accepting Shareholder**") within the Tag Offer Period, the completion of the Proposed Transfer shall be conditional on completion of the purchase of all the Shares held by Tag Accepting Shareholders on the terms set out in the preceding provisions of this Article 11 and in order to give effect to any such sale and purchase:

11.5.1 any Tag Accepting Shareholder shall deliver to the Company on or before the Tag Sale Date:

- (a) stock transfer forms duly executed by them in favour of the Tag Buyer in respect of the Shares held by them together with share certificates in respect of such Shares (or an indemnity in a form to be provided and approved by the Board in respect of any missing or lost certificates);
- (b) if required by the Tag Buyer, a duly executed sale and purchase agreement in a form to be approved by the Tag Buyer (acting reasonably) which will reflect the terms on which the Shares are to be sold and purchased;
- (c) duly executed versions of any other documents (including any necessary waivers, approvals or consents) as the Tag Buyer and/or the A Shareholder may reasonably require to enable the Tag Buyer to be registered as the holder of the Shares held by the Tag Accepting Shareholder concerned;
- (d) unless otherwise agreed by the Board and the Tag Accepting Shareholder, the Tag Buyer shall pay to the Company on the Tag Sale Date an amount equal to any consideration payable to any Tag Accepting Shareholder and which is intended to be paid on completion of the sale and purchase and the Company shall, upon the Tag Sale Date (and subject only to completion of the sale and purchase of Shares by the Tag Sellers to the Tag Buyer pursuant to the Proposed Transfer) pay such amounts on to the relevant Tag Accepting Shareholders on behalf of the Tag Buyer. The Company's receipt of such consideration shall be a good discharge to the Tag Buyer and pending payment on to the relevant Tag Accepting Shareholders, the Company shall hold such consideration on trust for the benefit of the relevant Tag Accepting Shareholders without any obligation to pay interest;
- (e) if the Tag Buyer has not, on the Tag Sale Date, put the Company in funds to pay the consideration due to the relevant Tag Accepting Shareholders pursuant to Article 11.5.1(d) then without prejudice to the first sentence of this Article 11.5, the relevant Tag Accepting Shareholders shall be entitled to the return of any stock transfer forms, indemnities and/or other documents executed by them pursuant to Article 11.5.1(a) and any relevant share certificates and the Tag Accepting Shareholders shall have no further obligations under this Article 11 in respect of their Shares.

## 12. DRAG ALONG

- 12.1 If the A Shareholder(s) ("**Majority Sellers**") wish to transfer all their interest in all of the A Shares in issue for the time being ("**Majority Sellers' Shares**") to a bona fide purchaser or purchasers Acting in Concert ("**Third Party Purchaser**") who has made an Approved Offer, whether or not the Third Party Purchaser also wishes to acquire other Shares the Majority Sellers shall have the option ("**Exit Option**") to require:

12.1.1 all the other members; and

12.1.2 any holders of any options or other rights to acquire or convert an interest into Shares (which is fully and unconditionally exercisable) to exercise them,

(together "**Called Shareholders**") to sell and transfer all their Shares and any Shares allotted pursuant to any exercise or conversion ("**Called Shares**") to the Third Party Purchaser or as the Third Party Purchaser shall direct in accordance with the provisions of Articles 12.2 to 12.8 below.

- 12.2 The Majority Sellers may exercise the Exit Option by giving a written notice to that effect ("**Exit Notice**") at any time before the transfer of the Majority Sellers' Shares to the Third Party Purchaser. An Exit Notice shall specify that the Called Shareholders are required to transfer all their Called Shares pursuant to this Article, the person to whom they are to be transferred, the consideration for which the Called Shares are to be transferred (calculated in accordance with this Article and Article 3.2), the terms on which the shareholder loans (if any) are going to be repaid and the proposed date of transfer which shall be at least 5 Business Days after the date on which the Exit Notice is served.

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

- 12.4 The Called Shares shall be acquired on the same terms and conditions (including time of payment and form of consideration) for which the Majority Sellers save as otherwise agreed in the Joint Venture Agreement or provided for in these Articles.

- 12.5 Completion of the sale of the Called Shares shall take place on the same date as the date proposed for completion of the sale of the Majority Sellers' Shares unless:

12.5.1 all of the Called Shareholders and the Majority Sellers agree otherwise; or

12.5.2 that date is less than 5 Business Days after the Exit Notice, where it shall be deferred until the fifth Business Day after the Exit Notice.

- 12.6 The restrictions on any transfers of Shares contained in these Articles shall not arise on any transfer of Shares to a Third Party Purchaser (or as they may direct) pursuant to a sale in respect of which an Exit Notice has been duly served in accordance with Article 12.2.

- 12.7 If any Called Shareholder fails to complete the sale of his Called Shares in accordance with this Article 12, he shall be deemed to have irrevocably appointed any person nominated for the purpose by the Majority Sellers to be his agent and attorney to

execute all necessary transfer(s), power(s) of attorney relating to the rights attached to his Called Shares and indemnities for missing share certificate(s) on his behalf and, against receipt by the Company of the purchase monies or any other consideration payable for the Called Shares (held on trust for the relevant Called Shareholder), to deliver such transfer(s), power(s) and indemnities to the Third Party Purchaser (or as he may direct). The directors shall (subject only to stamping of the transfers, if required) immediately register the Third Party Purchaser (or as he may direct) as the holder of the relevant Called Shares. After the Third Party Purchaser (or his nominee) has been registered as the holder of the relevant Called Shares, the validity of such proceedings shall not be questioned by any person. It shall be no impediment to registration of Shares under this Article 12.7 that no share certificate has been produced.

- 12.8 Upon any person, following the issue of an Exit Notice which has not lapsed, exercising a pre-existing option to acquire Shares, whether or not such person is registered as a member of the Company, an Exit Notice shall be deemed to have been served upon such person on the same terms as the previous Exit Notice who shall thereupon be bound to sell and transfer all such Shares acquired by him to the Third Party Purchaser or as the Third Party Purchaser may direct and the provisions of this Article 12 shall apply mutatis mutandis to such person save that completion of the sale of such Shares shall take place immediately upon the Exit Notice being deemed served on such person where completion of the transfer of the Called Shares has already taken place.

### **13. REGISTRATION**

- 13.1 The directors shall refuse to register:

- 13.1.1 a purported transfer of any share not made under or permitted by Articles 7 to 12;
- 13.1.2 a purported transfer of any share on a Sale where the proceeds of such Sale are not distributed in accordance with Article 3.2;
- 13.1.3 an allottee or transferee of Shares or a person entitled to Shares by transmission (unless he is already a party to the Joint Venture Agreement or the transfer is pursuant to an Approved Offer) until he has executed a Deed of Adherence under which he undertakes to adhere to and be bound by the provisions of the Joint Venture Agreement as if he were an original party to it and an original of the Deed of Adherence has been delivered to the Company; and/or
- 13.1.4 a transfer to an employee of the Group or prospective employee of the Group until such he has made an election pursuant to Section 431(1), Income Tax (Earnings and Pensions) Act 2003, in the form prescribed by HMRC, to elect that the market value of the Shares or securities covered by the election is to be calculated as if the Shares or securities were not restricted and that Sections 425 to 430, Income Tax (Earnings and Pensions) Act 2003 do not apply to such Shares or securities.

- 13.2 The directors may in their absolute discretion refuse to register a transfer of any share, whether or not it is a fully paid share and whether or not the Company has a lien on such share (save that (in the absence of fraud) the directors shall have no such discretion in respect of and shall register a transfer of Shares made under or permitted by Articles 7 to 12).

- 13.3 For the purposes of ensuring that a transfer of Shares is duly authorised or that no circumstances have arisen whereby a Transfer Notice is required to be given, the directors may and shall at the written request of the holder of the majority of the Equity Shares and at the Company's expense request any member or past member or the personal representative or trustee in bankruptcy, administrative receiver or liquidator or administrator of any member or any person named as transferee in any instrument of transfer lodged for registration to furnish to the Company such information and evidence as the directors may reasonably think fit regarding any matter which they may deem relevant to such purpose.
- 13.4 Failing such information or evidence being furnished to the reasonable satisfaction of the directors within 10 Business Days after such request or if such information or evidence discloses that the transfer was made in breach of these Articles (including that a Transfer Notice ought to have been given in respect of any Shares):
- 13.4.1 the directors shall be entitled to refuse to register the transfer in question;
  - 13.4.2 the relevant Shares shall cease to confer upon the holder of them (or any proxy) any rights to receive dividends or other distributions otherwise attaching to the Shares or to receive any further Shares issued in respect of those Shares; and
  - 13.4.3 the directors may by notice in writing require that a Transfer Notice be given forthwith in respect of all the Shares concerned and the provisions of Article 9 shall apply.
- 13.5 Any transfer of a share by way of sale which is required to be made under these Articles will be deemed to include a warranty that the transferor sells with full title guarantee.
- 13.6 No share shall be issued or transferred to any un-discharged bankrupt or a person who lacks mental capacity.

#### **14. QUORUM FOR GENERAL MEETINGS**

- 14.1 No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting unless the persons attending it constitute a quorum when the meeting proceeds to business.
- 14.2 Whenever the Company has only one member, the member present (being an individual) in person or by proxy, or (being a corporation) by a duly authorised representative or by proxy, shall be a quorum. Subject to the provisions of Section 318(2), CA2006, whenever the Company has two or more members, two persons entitled to vote upon the business to be transacted each being a member (being an individual) present in person or by proxy, or (being a corporation) present by a duly authorised representative or by proxy (at least one of whom must be a holder of A Shares or a proxy or a duly authorised representative of such a holder), shall be a quorum.

**PART B**  
**KEY PROVISIONS ABOUT DIRECTORS**

**15. NUMBER OF DIRECTORS**

Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be less than 3.

**16. METHODS OF APPOINTING AND REMOVING DIRECTORS**

Subject to these Articles, 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:

16.1 by ordinary resolution; or

16.2 by a decision of the Board.

**17. THE A DIRECTOR AND THE C DIRECTOR**

17.1 The holder of the majority of A Shares from time to time shall be entitled to appoint and maintain the appointment of 2 directors of the Company and each such director shall be designated an "A Director". The holder of the majority of C Shares from time to time is entitled to appoint and maintain the appointment of 1 director of the Company and such director shall be designated the "C Director". Any such appointment of an A Director or a C Director must be made by notice in writing from the applicable Shareholder to the Company at its registered office, and the parties shall take all steps to ensure that each such appointment shall take effect immediately upon such notice being given to the Company.

17.2 Each A Director and C Director shall hold office at the pleasure of the shareholder appointing them and shall cease to hold office when notice removing them is received at the registered office of the Company from the appointing Shareholder and any Shareholder removing any of its nominated director(s) shall be responsible for, and shall indemnify the Company against, any claim by those directors for unfair or wrongful dismissal or other costs and/or liabilities arising out of his removal from office.

17.3 For as long as the B Shareholder holds B Shares, the B Shareholder shall be entitled to appoint an observer to the Board (and any committees thereof). Any observer so appointed shall not be entitled to vote or be counted in the quorum at any such board meetings. The B Shareholder Observer shall be appointed at the pleasure of the B Shareholder appointing them and shall cease their appointment as B Shareholder Observer when notice removing them is received at the registered office of the Company from the appointing B Shareholder and any B Shareholder removing the observer shall be responsible for, and shall indemnify the Company against, any claim by that observer for unfair or wrongful dismissal or other costs and/or liabilities arising out of his removal. If a B Shareholder ceases to be the registered holder of all B Shares for whatever reason, all rights of the B Shareholder to appoint an observer to the Board (and any committees thereof) shall immediately cease.

**18. DIRECTORS' GENERAL AUTHORITY**

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



## **19. DIRECTORS MAY DELEGATE**

19.1 Subject to these Articles, the Board may delegate any of the powers which are conferred on the directors under these Articles:

19.1.1 to such person or committee;

19.1.2 by such means (including by power of attorney);

19.1.3 to such an extent;

19.1.4 in relation to such matters or territories; and

19.1.5 on such terms and conditions,

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

19.2 If the Board so specifies, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.

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

## **20. COMMITTEES**

20.1 Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of these Articles which govern the taking of decisions by directors.

20.2 The Board may make rules of procedure for all or any committees, which prevail over rules derived from these Articles if they are not consistent with them.

20.3 Committees to whom the directors delegate any of their powers may consist of one or more co-opted persons other than directors on whom voting rights may be conferred as members of the committee but so that:

20.3.1 the number of co-opted members of the committee shall be less than one-half of the total number of members of the committee;

20.3.2 no resolution of the committee shall be effective unless a majority of the members of the committee voting on the resolution are directors; and

20.3.3 any such committee shall include at least one A Director and one C Director.

## **21. SHAREHOLDERS' RESERVE POWER**

21.1 Subject to the provisions of the Joint Venture Agreement (and in particular clause 4 and Schedule 1 thereof), the members may, by special resolution, direct the directors to take, or refrain from taking, specified action.

21.2 No such special resolution invalidates anything which the directors have done before the passing of the resolution.

## **22. CALLING A DIRECTORS' MEETING**

- 22.1 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. Any such notice shall also be given to the B Shareholder Observer.
- 22.2 Notice of any directors' meeting must indicate:
- 22.2.1 its proposed date and time;
  - 22.2.2 where it is to take place; and
  - 22.2.3 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.
- 22.3 Notice of any directors' meeting must be accompanied by:
- 22.3.1 an agenda specifying in reasonable detail the matters to be raised at the meeting; and
  - 22.3.2 copies of any papers to be discussed at the meeting.
- 22.4 Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of directors unless all the directors present at the meeting agree in writing.
- 22.5 Save as otherwise provided in these Articles, notice of a directors' meeting must be given to each director, but need not be in writing.
- 22.6 At least 7 Business Days' notice of each directors' meeting shall be given in accordance with these Articles. A shorter period of notice of a meeting of directors may be given if at least one A Director and the C Director (in each case if they have been appointed) agrees in writing.

## **23. PARTICIPATION IN DIRECTORS' MEETINGS**

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

## **24. QUORUM FOR DIRECTORS' MEETINGS**

- 24.1 The quorum at any meeting of directors (including adjourned meetings) of the Company is three directors, including two A Directors (if so appointed) and one C Director (if so appointed), and no business shall be conducted at any meeting of directors unless a quorum is present at the beginning of the meeting and at the time when there is to be voting on any business. If the number of directors of the Company is less than three, the quorum shall be the number of directors so appointed.
- 24.2 If a quorum is not present within 30 minutes of the time specified for a directors' meeting in the notice of the meeting then it shall be adjourned for 5 Business Days at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes of the time specified for the directors' meeting in the adjourned notice of the meeting, then the quorum for such meeting of directors of the Company shall be one A Director (if one has been so appointed).

## **25. CHAIRING OF DIRECTORS' MEETINGS**

- 25.1 The A Shareholder shall be entitled to appoint the Chairman of the Board. The A Shareholder shall be entitled to terminate the Chairman's appointment at any time.
- 25.2 The person so appointed for the time being is known as the Chairman.
- 25.3 If the Chairman is unwilling to chair a directors' meeting or is not participating in a directors' meeting within ten minutes of the time at which it was to start or, if at any time during the meeting, the Chairman ceases to be a participating director, the participating directors must appoint one of themselves to chair it (or chair such part of it in relation to which the Chairman ceases to be a participating director, as the case may be).

## **26. CASTING VOTE**

The Chairman or other director appointed to chair the meeting pursuant to these Articles shall not have a casting vote in respect of any proposal where the numbers of votes for and against are equal.

## **27. AUTHORISATION OF CONFLICTS OF INTEREST**

- 27.1 Subject to and in accordance with the CA2006:
- 27.1.1 the directors may authorise any matter or situation in which a director, including any shadow director, ("**Conflicted Director**") has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (including, without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the Company could take advantage of it) and for this purpose a conflict of interest includes a conflict of interest and duty and a conflict of duties ("**Conflict Situation**");
- 27.1.2 any authorisation given in accordance with this Article 27 may be made on such terms and subject to such conditions and/or limitations as the directors may, in their absolute discretion, determine (including, without limitation, excluding the Conflicted Director and any other interested director from certain directors' meetings, withholding from him or them certain Board or other papers and/or denying him or them access to certain confidential Company information) and such terms, conditions and/or limitations may

be imposed at the time of or after the authorisation and may be subsequently varied or terminated; and

- 27.1.3 in considering any request for authorisation in respect of a Conflict Situation, the directors shall be entitled to exclude the Conflicted Director from any meeting or other discussion (whether oral or written) concerning the authorisation of such Conflict Situation and they shall also be entitled to withhold from such Conflicted Director any Board or other papers concerning the authorisation of such Conflict Situation.
- 27.2 If any Conflict Situation is authorised or otherwise permitted under these Articles, the Conflicted Director (for as long as he reasonably believes such Conflict Situation subsists):
- 27.2.1 shall not be required to disclose to the Company (including the directors or any committee) any confidential information relating to such Conflict Situation which he obtains or has obtained otherwise than in his capacity as a director of the Company, if to make such disclosure would give rise to a breach of duty or breach of obligation of confidence owed by him to another person;
- 27.2.2 shall be entitled to attend or absent himself from all or any meetings of the directors (or any committee) at which anything relating to such Conflict Situation will or may be discussed; and
- 27.2.3 shall be entitled to make such arrangements as he thinks fit to receive or not to receive documents or information (including, without limitation, directors' papers (or those of any committee of the directors)) relating to any such Conflict Situation and/or for such documents or information to be received and read by a professional adviser on his behalf,
- and in so doing, such Conflicted Director shall not be in breach of any general duty he owes to the Company pursuant to Sections 171 to 177 (inclusive), CA2006 and the provisions of this Article 27 shall be without prejudice to any equitable principle or rule of law which may excuse the Conflicted Director from disclosing information or attending meetings or receiving documents or information, in circumstances where such disclosure, attendance or receipt would otherwise be required under these Articles.
- 27.3 For the purposes of Section 175 of the CA2006 any A Director shall be authorised to hold office as a director or other officer of, be employed or engaged by, hold Shares or other securities in, or otherwise be interested in, whether directly or indirectly:
- 27.3.1 any member of the A Shareholder's Group; and
- 27.3.2 any Group Company.
- 27.4 For the purposes of Section 175 of the CA2006 any C Director shall be authorised to hold office as a director or other officer of, be employed or engaged by, hold Shares or other securities in, or otherwise be interested in, whether directly or indirectly:
- 27.4.1 any subsidiary or holding company of the C Shareholder; and
- 27.4.2 any Group Company.

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

27.5.1 shall be entitled to be a party to, or otherwise directly or indirectly interested in any contract, arrangement, transaction or proposal with the Company or in which the Company is otherwise interested and may hold any other office or place of profit under the Company (except that of auditor or of auditor of a Subsidiary) in addition to the office of director and may act by himself or through his firm in a professional capacity for the Company and in any such case on such terms as to remuneration and otherwise as the directors may arrange either in addition to or in lieu of any remuneration provided for by any other Article;

27.5.2 shall be authorised to be a member, director or other officer of, or employed by, or hold any other office or position with, or be directly or indirectly interested in, any contract, arrangement, transaction or proposal with or a party to or otherwise directly or indirectly interested in, any Group Company;

27.5.3 shall not, by reason of his office, be liable to account to the Company for any dividend, profit, remuneration, superannuation payment or other benefit which he derives from:

(a) any matter, office, employment or position which relates to a Conflict Situation authorised in accordance with Article 27.1; or

(b) any office, employment, contract, arrangement, transaction or proposal or other interest permitted pursuant to Articles 27.5.1 and 27.5.2 of this Article 27.5,

and no contract, arrangement, transaction or proposal shall be avoided on the grounds of any director having any such interest or receiving any such dividend, profit, remuneration, superannuation, payment or other benefit authorised in accordance with Article 27.1 or permitted pursuant to Articles 27.5.1 or 27.5.2 of this Article 27.5 and the receipt of any such dividend, profit, remuneration, superannuation, payment or other benefit so authorised or permitted shall not constitute a breach of the duty not to accept benefits from third parties as set out in Section 176, CA2006.

## 27.6 Pre-approval for Directors

27.6.1 Subject to compliance by him with his duties as a director under Part X of the CA2006 (other than the duty in Section 175(1) CA2006 to the extent that it is the subject of this Article 27.6.1), a director may, at any time be a director or other officer of, employed by, hold Shares or other securities in, or otherwise be interested, whether directly or indirectly, in:

(a) an entity which, directly or indirectly, holds Shares in the Company ("**Relevant Investor**") and as such the director may, on behalf of the Relevant Investor, give or withhold any consent or give any direction required of any Relevant Investor or Relevant Investors pursuant to the terms of any subscription, investment or shareholders' agreement

relating to the Company, or of any similar agreement or document ancillary to such an agreement; or

- (b) any other Company in which a director or Relevant Investor also holds Shares or other securities or is otherwise interested, whether directly or indirectly ("**Shareholder Director Interest**").

27.6.2 Notwithstanding his office or the existence of an actual or potential conflict between any Shareholder Director Interest (as described in Article 27.6.1(b) above) and the interests of the Company which would fall within the ambit of Section 175(1) of the CA2006 the Director shall:

- (a) be entitled to attend any meeting or part of a meeting of the directors or a committee of the directors at which any matter which may be relevant to the Shareholder Director Interest may be discussed, and to vote on a resolution of the directors or a committee thereof relating to such matter, and any board papers relating to such matter shall be provided to the relevant director at the same time as other directors;
- (b) not be obliged to account to the Company for any remuneration or other benefits received by him in consequence of any interest;
- (c) be entitled to consult freely about the Group and its affairs with, and to disclose, for investment appraisal purposes, confidential information to, any direct or indirect investor in the Group or any other person on whose behalf, directly or indirectly, it is investing in the Group, and to the Group's auditors, lenders and proposed lenders (or with and to any of its or their professional advisers); and
- (d) not be obliged to disclose to the Company or use for the benefit of the Company any other confidential information received by him by virtue of his interest and otherwise than by virtue of his position as a director, if to do so would breach any duty of confidentiality to a third party.

27.7 For the avoidance of doubt, a director may be or become subject to one or more Conflict Situations as a result of any matter referred to in Article 27.5.3 without requiring authorisation under the provisions of Article 27.1 provided he has declared, as soon as reasonably practicable, the nature and extent of his interest in each such Conflict Situation (save in respect of a Conflict Situation of a Director permitted under Article 27.5.3 where such Director shall not be required to make any such declaration). The provisions of Section 177(2), Section 177(3), Section 177(5), Section 177(6), Section 184 and Section 185, CA2006 shall be applied (with any necessary modifications) in respect of any declaration required pursuant to this Article.

## **28. DIRECTORS MAY HAVE INTERESTS AND VOTE AND COUNT FOR QUORUM**

28.1 Subject to Section 175(6), CA2006 and save as otherwise provided in these Articles, a director may vote at any meeting of the directors or any meeting of any committee of which he is a member on any resolution and a director may participate in the transaction of the business of the directors and count in the quorum at any such meeting of the directors or meeting of any committee of which he is a member notwithstanding that it concerns or relates in any way to a matter in which he has directly or indirectly any kind of interest or duty. This Article does not affect any

obligation of a director to disclose any such interest, whether pursuant to Section 177, CA2006, Section 182, CA2006 or otherwise.

- 28.2 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 him is to be final and conclusive (except in a case where the nature or extent of any interest of the director has not been fairly disclosed). If a question arises at a meeting of directors or of a committee of directors as to the right of the Chairman 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 other directors and determined by a majority of those directors (excluding the Chairman).

**PART C**  
**FURTHER PROVISIONS (SUBJECT ALWAYS TO PARTS A AND B OF THESE**  
**ARTICLES)**

**29. FURTHER METHODS OF APPOINTING DIRECTORS**

- 29.1 In any case where, as a result of death or bankruptcy, the Company has no shareholders and no directors, the transmittee of the last shareholder to have died or to have had a bankruptcy order made against him, as the case may be, shall have the right, by notice in writing to the Company, to appoint any one person to be a director, provided such person is a natural person in accordance with Section 155, CA2006 and provided such person is willing to be so appointed and is otherwise permitted by law to be a director of the Company.
- 29.2 For the purposes of Article 29.1, where two or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

**30. TERMINATION OF DIRECTOR'S APPOINTMENT**

A person ceases to be a director as soon as:

- 30.1 that person ceases to be a director by virtue of any provision of the CA2006 or is prohibited from being a director by law;
- 30.2 a bankruptcy order is made against that person;
- 30.3 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 30.4 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; or
- 30.5 notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms.

**31. DIRECTORS TO TAKE DECISIONS COLLECTIVELY**

- 31.1 The general rule about decision-making by directors is that, save as otherwise provided for in these Articles and/or the Joint Venture Agreement, any decision of the

directors must be either a majority decision at a meeting or a decision taken in accordance with Article 32.

- 31.2 At any meeting of the directors each director (or his alternate director) present at the meeting shall be entitled to one vote.

## **32. UNANIMOUS DECISIONS**

- 32.1 A decision of the directors is taken in accordance with this Article when all eligible directors indicate to each other by any means, excluding the means of text messaging, that they share a common view on a matter.
- 32.2 Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it or to which each eligible director has otherwise indicated agreement in writing.
- 32.3 A decision may not be taken in accordance with this Article if the eligible directors would not have formed a quorum at a directors' meeting held to discuss the matter in question.

## **33. RECORDS OF DECISIONS TO BE KEPT**

The directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors. Notwithstanding the provisions of Article 31, where the Company only has one director, the provisions of this Article 33 shall apply to any decision taken by such director, howsoever taken by him.

## **34. DIRECTORS' DISCRETION TO MAKE FURTHER RULES**

Subject to these Articles, and provided that both A Director and C Director consent is obtained, 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.

## **35. DIRECTORS' REMUNERATION**

- 35.1 Directors may undertake any services for the Company that the directors decide.
- 35.2 Directors are entitled to such remuneration as the directors determine:
- 35.2.1 for their services to the Company as directors; and
  - 35.2.2 for any other service which they undertake for the Company.
- 35.3 Subject to these Articles, a director's remuneration may:
- 35.3.1 take any form; and
  - 35.3.2 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.
- 35.4 Unless the directors decide otherwise, directors' remuneration accrues from day to day.



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

## **36. DIRECTORS' EXPENSES**

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

- 36.1 meetings of directors or committees of directors;
- 36.2 general meetings; or
- 36.3 separate meetings of the holders of any class of Shares or of debentures of the Company, or otherwise in connection with the business of the Company, the exercise of their powers and the discharge of their duties and responsibilities in relation to the Company.

## **37. APPOINTMENT AND REMOVAL OF ALTERNATES**

- 37.1 Any director (other than an alternate director) ("**appointor**") may appoint as an alternate any other director, or any other person who is a director or officer of, or employed by, the shareholder (or, in the case of the A Shareholder, a member of the A Shareholder's Group) that appointed the appointor and approved by resolution of the directors, who is willing to act to:

37.1.1 exercise that director's powers; and

37.1.2 carry out that director's responsibilities,

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

- 37.2 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.
- 37.3 The notice must identify the proposed alternate and, in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.
- 37.4 The appointment of an alternate director who is not otherwise a director shall be valid notwithstanding that he is approved by a resolution of the directors after his appointment as alternate director. Where an alternate director who is not otherwise a director attends a meeting of the directors and no objection is raised at the meeting to his presence then he shall be deemed to have been approved by a resolution of the directors.

## **38. RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS**

- 38.1 Except as these Articles specify otherwise, an alternate director has the same rights in relation to any directors' meeting, directors' written resolution or any other directors' decision-making as the alternate's appointor, including, but not limited to, the right to

receive notice of all meetings of directors and all meetings of committees of directors of which his appointor is a member.

38.2 Except as these Articles specify otherwise, alternate directors:

38.2.1 are deemed for all purposes to be directors;

38.2.2 are liable for their own acts and omissions;

38.2.3 are subject to the same restrictions as their appointors; and

38.2.4 are not deemed to be agents of or for their appointors.

38.3 A person who is an alternate director but not otherwise a director:

38.3.1 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

38.3.2 may participate in a unanimous decision of the directors (but only if that person's appointor is an eligible director in respect of such decisions and only that person's appointor does not participate),

38.3.3 provided that (notwithstanding any other provision of these Articles) such person shall not be counted as more than one director for the purposes of Articles 38.3.1 and 38.3.2 above.

38.4 A director who is also an alternate for one or more directors is entitled, in the absence of the relevant appointor, to a separate vote on behalf of each appointor in addition to his own vote on any decision of the directors (provided the relevant appointor is an eligible director in relation to that decision) but shall not count as more than one director for the purposes of determining whether a quorum is present.

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

## **39. TERMINATION OF ALTERNATE DIRECTORSHIP**

An alternate director's appointment as an alternate terminates:

39.1 when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;

39.2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;

39.3 on the death of the alternate's appointor; or

39.4 when the alternate's appointor ceases to be a director for any reason.

## **40. SECRETARY**

The directors may appoint any person who is willing to act as the secretary of the Company on such terms (including but not limited to, term of office and remuneration)

and subject to such conditions as they may think fit and from time to time remove such person and, if the directors determine, appoint a replacement secretary of the Company, in each case by a decision of the directors.

#### **41. COMPANY'S LIEN**

41.1 The Company has a lien ("**Company's Lien**") over every share which is registered in the name of any person (whether he is the sole registered holder or one of two or more joint holders) and which is nil or partly paid for any part of (i) that share's nominal value; and (ii) any premium at which it was issued, which has not been paid to the Company, and which is payable immediately or at some time in the future, whether or not a call notice has been sent in respect of it.

41.2 The Company's lien over a share:

41.2.1 takes priority over any third party's interest in that share; and

41.2.2 extends to any dividend (or other assets attributable to it) or other money payable by the Company in respect of that share and (if the lien is enforced and the share is sold by the Company) the proceeds of sale of that share.

41.3 The directors may, at any time, decide that a share which is or would otherwise be subject to a lien pursuant to these Articles shall not be subject to it, either wholly or in part.

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

42.1 Subject to the provisions of this Article 42, if a lien enforcement notice has been given in respect of a share and the person to whom the notice was given has failed to comply with it, the Company may sell that share in such manner as the directors decide.

42.2 A lien enforcement notice:

42.2.1 may only be given in respect of a share which is subject to the Company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;

42.2.2 must specify the share concerned;

42.2.3 must require payment of the sum payable within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);

42.2.4 must be addressed either to the holder of the share or to any transmittee of that holder or any other person otherwise entitled to the share; and

42.2.5 must state the Company's intention to sell the share if the notice is not complied with.

42.3 Where any share is sold pursuant to this Article:

42.3.1 the directors may authorise any person to execute an instrument of transfer of the Shares to the purchaser or a person nominated by the purchaser; and

- 42.3.2 the transferee of the share(s) shall be registered as the holder of the share(s) to which the transfer relates notwithstanding that he may not be able to produce the share certificate(s) and such transferee is not bound to see to the application of the consideration and the transferee's title to the share is not affected by any irregularity in or invalidity of the process leading or relating to the sale.
- 42.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied:
- 42.4.1 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;
- 42.4.2 second, to the person entitled to the share(s) immediately before the sale took place, but only after the certificate for the share(s) sold has been surrendered to the Company for cancellation or an indemnity in a form acceptable to the directors has been given to the Company for any lost certificate(s) and subject to a lien (equivalent to the Company's lien over the share(s) immediately before the sale took place) for all moneys payable by such person or his estate (whether immediately payable or not) in respect of all share(s) registered in the name of such person (whether he is the sole registered holder or one of two or more joint holders) and in respect of any other moneys payable (whether immediately payable or not) by him or his estate to the Company, after the date of the lien enforcement notice.
- 42.5 A statutory declaration by a director or the Company secretary (if any) that the declarant is a director or the Company secretary and that a share has been sold to satisfy the Company's lien on a specified date:
- 42.5.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share(s); and
- 42.5.2 subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the share(s).
- 43. CALL NOTICES**
- 43.1 Subject to these Articles and the terms on which Shares are allotted, the directors may send a notice ("**call notice**") to a shareholder (or his estate) requiring such shareholder (or his estate) to pay the Company a specified sum of money ("**call**") which is payable to the Company in respect of Shares which that shareholder (or his estate) holds at the date when the directors decide to send the call notice.
- 43.2 A call notice:
- 43.2.1 may not require a shareholder (or his estate) to pay a call which exceeds the total sum unpaid on the Shares in question (whether as to nominal value or any amount payable to the Company by way of premium);
- 43.2.2 must state when and how any call to which it relates is to be paid; and
- 43.2.3 may permit or require the call to be paid by instalments.
- 43.3 A shareholder (or his estate) must comply with the requirements of a call notice but shall not be obliged to pay any call before 14 clear days (that is, excluding the date

on which the notice is given and the date on which that 14 day period expires) have passed since the notice was sent.

- 43.4 Before the Company has received any call due under a call notice, the directors may revoke it wholly or in part or specify a later date and/or time for payment than is specified in the notice, by a further notice in writing to the shareholder (or his estate) in respect of whose Shares the call is made.

#### **44. LIABILITY TO PAY CALLS**

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

#### **45. PAYMENT IN ADVANCE OF CALLS**

- 45.1 The directors may, if they think fit, receive from any shareholder willing to advance it all or any part of the moneys uncalled and unpaid on the Shares held by him. Such payment in advance of calls shall extinguish only to that extent the liability on the Shares on which it is made.
- 45.2 The Company may pay interest on the money paid in advance or so much of it as exceeds the amount for the time being called up on the Shares in respect of which such advance has been made at such rate not exceeding 15% per annum as the directors may decide until and to the extent that it would, but for the advance, become payable.
- 45.3 The directors may at any time repay the amount so advanced on giving to such shareholder not less than 14 days' notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) of its intention in that regard, unless before the expiration of such notice the amount so advanced shall have been called up on the Shares in respect of which it was advanced.
- 45.4 No sum paid in advance of calls shall entitle the holder of a share in respect of them to any portion of a dividend subsequently declared in respect of any period prior to the date upon which such sum would, but for such payment, become payable.

#### **46. WHEN CALL NOTICE NEED NOT BE ISSUED**

- 46.1 A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the Company in respect of that share (whether in respect of nominal value or premium):
- 46.1.1 on allotment;
  - 46.1.2 on the occurrence of a particular event; or
  - 46.1.3 on a date fixed by or in accordance with the terms of issue.
- 46.2 If, however, the due date for payment of such a sum has passed and it has not been paid, the holder of the share(s) concerned (or his estate) is treated in all respects as

having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

#### **47. FAILURE TO COMPLY WITH CALL NOTICE: AUTOMATIC CONSEQUENCES**

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

47.2 Subject to 47.3, for the purposes of this Article:

47.2.1 the **call payment date** is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "call payment date" is that later date;

47.2.2 the **relevant rate** is:

- (a) the rate fixed by the terms on which the share in respect of which the call is due was allotted; or, if none,
- (b) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors,
- (c) provided that if no rate is fixed in either of the manners specified above it shall be, 5 per cent per annum.

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

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

#### **48. NOTICE OF INTENDED FORFEITURE**

A notice of intended forfeiture:

48.1 may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;

48.2 must be sent to the holder of that share (or to all the joint holders of that share) or to a transmittee of that holder;

48.3 must require payment of the call and any accrued interest together with all costs and expenses that may have been incurred by the Company by reason of such non-payment by a date which is not less than 14 clear days after the date of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);

48.4 must state how the payment is to be made; and

48.5 must state that if the notice is not complied with, the Shares in respect of which the call is payable will be liable to be forfeited.

#### **49. DIRECTORS' POWER TO FORFEIT SHARES**

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

#### **50. EFFECT OF FORFEITURE**

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

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

50.2.1 is deemed to have been forfeited when the directors decide that it is forfeited;

50.2.2 is deemed to be the property of the Company; and

50.2.3 may be sold, re-allotted or otherwise disposed of as the directors think fit.

50.3 If a person's Shares have been forfeited:

50.3.1 the Company must send that person notice that forfeiture has occurred and record it in the register of members;

50.3.2 that person ceases to be a shareholder in respect of those Shares;

50.3.3 that person must surrender the certificate for the Shares forfeited to the Company for cancellation;

50.3.4 that person remains liable to the Company for all sums payable by that person under these Articles at the date of forfeiture in respect of those Shares, including any interest, costs and expenses (whether accrued before or after the date of forfeiture); and

50.3.5 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.

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

#### **51. PROCEDURE FOLLOWING FORFEITURE**

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

51.2 A statutory declaration by a director or the Company secretary that the declarant is a director or the Company secretary and that a share has been forfeited on a specified date is conclusive evidence of the facts stated in it as against all persons claiming to

be entitled to the share and subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the share.

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

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

51.4.1 was, or would have become, payable; and

51.4.2 had not, when that share was forfeited, been paid by that person in respect of that share,

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

## **52. SURRENDER OF SHARES**

52.1 A shareholder may surrender any share:

52.1.1 in respect of which the directors may issue a notice of intended forfeiture;

52.1.2 which the directors may forfeit; or

52.1.3 which has been forfeited.

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

## **53. COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS**

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

## **54. SHARE CERTIFICATES**

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

54.2 Every certificate must specify:

54.2.1 in respect of how many Shares, of what class, it is issued;

54.2.2 the nominal value of those Shares;

54.2.3 the amount paid up on the Shares; and



- 54.2.4 any distinguishing numbers assigned to them.
- 54.3 No certificate may be issued in respect of Shares of more than one class.
- 54.4 If more than one person holds a share, only one certificate may be issued in respect of it.
- 54.5 Certificates must:
  - 54.5.1 have affixed to them the Company's common seal; or
  - 54.5.2 be otherwise executed in accordance with the CA2006.

## **55. REPLACEMENT SHARE CERTIFICATES**

- 55.1 If a certificate issued in respect of a shareholder's Shares is:
  - 55.1.1 damaged or defaced; or
  - 55.1.2 said to be lost, stolen or destroyed,that shareholder is entitled to be issued with a replacement certificate in respect of the same Shares.
- 55.2 A shareholder exercising the right to be issued with such a replacement certificate:
  - 55.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;
  - 55.2.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and
  - 55.2.3 must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

## **56. INSTRUMENTS OF TRANSFER**

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

## **57. FRACTIONAL ENTITLEMENTS**

- 57.1 Whenever, as a result of a consolidation or division of Shares, any shareholders are entitled to fractions of Shares, the directors may:

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

## **FURTHER PROVISIONS ABOUT DIVIDENDS AND OTHER DISTRIBUTIONS**

### **58. PROCEDURE FOR DECLARING DIVIDENDS**

- 58.1 The Company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.
- 58.2 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.
- 58.3 No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- 58.4 If the Company's share capital is divided into different classes, no interim dividend may be paid on Shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrears.
- 58.5 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.
- 58.6 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.
- 58.7 If the directors act in good faith, they do not incur any liability to the holders of Shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on Shares with deferred or non-preferred rights.
- 58.8 This Article 58 is subject to any contrary provisions in these Articles.

### **59. CALCULATION OF DIVIDENDS**

- 59.1 Except as otherwise provided by these Articles and by the rights attached to Shares, all dividends must be:

- 59.1.1 declared and paid according to the amounts paid up on the Shares on which the dividend is paid; and
- 59.1.2 apportioned and paid pro rata according to the amounts paid up on the Shares during any portion or portions of the period in respect of which the dividend is paid.
- 59.2 If any share is issued on terms providing that it shall rank for dividend as from a particular date or be entitled to dividends declared after a particular date it shall rank for or be entitled to dividends accordingly.
- 59.3 For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of a call or otherwise paid up in advance of its due payment date.

## **60. PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS**

- 60.1 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:
  - 60.1.1 transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;
  - 60.1.2 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;
  - 60.1.3 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
  - 60.1.4 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.
- 60.2 If:
  - 60.2.1 a share is subject to the Company's lien; and
  - 60.2.2 the directors are entitled to issue a lien enforcement notice in respect of it,they may, instead of issuing a lien enforcement notice, deduct from any dividend or other sum payable in respect of the share any sum of money which is payable to the Company in respect of that share to the extent that they are entitled to requirement payment under a lien enforcement notice. Money so deducted must be used to pay any of the sums payable in respect of that share.
- 60.3 The Company must notify the distribution recipient in writing of:
  - 60.3.1 the fact and amount of any such deduction;
  - 60.3.2 any non-payment of a dividend or other sum payable in respect of a share resulting from any such deduction; and
  - 60.3.3 how the money deducted has been applied.

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

60.4.1 the holder of the share; or

60.4.2 if the share has two or more joint holders, whichever of them is named first in the register of members; or

60.4.3 if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

## **61. NO INTEREST ON DISTRIBUTIONS**

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

61.1 the terms on which the share was issued; or

61.2 the provisions of another agreement between the holder of that share and the Company.

## **62. UNCLAIMED DISTRIBUTIONS**

62.1 All dividends or other sums which are:

62.1.1 payable in respect of Shares; and

62.1.2 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.

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

62.3 If:

62.3.1 twelve years have passed from the date on which a dividend or other sum became due for payment; and

62.3.2 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.

## **63. NON-CASH DISTRIBUTIONS**

63.1 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).

63.2 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:

- 63.2.1 fixing the value of any assets;
- 63.2.2 paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
- 63.2.3 vesting any assets in trustees.

#### **64. WAIVER OF DISTRIBUTIONS**

- 64.1 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:

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

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

#### **CAPITALISATION OF PROFITS**

##### **65. AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS**

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

- 65.1.1 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
- 65.1.2 appropriate any sum which they so decide to capitalise ("**capitalised sum**") to the persons who would have been entitled to it if it were distributed by way of dividend ("**persons entitled**") and in the same proportions.

- 65.2 Capitalised sums must be applied:

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

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

- 65.3.1 in or towards paying up any amounts unpaid on existing Shares held by the person(s) entitled; or
- 65.3.2 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.

- 65.4 Subject to these Articles, the directors may:

- 65.4.1 apply capitalised sums in accordance with Article 65.3 partly in one way and partly in another;
- 65.4.2 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
- 65.4.3 authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of Shares and debentures to them under this Article.

## **DECISION-MAKING BY SHAREHOLDERS**

### **66. NOTICE OF GENERAL MEETINGS**

- 66.1 A general meeting of the Company (other than an adjourned meeting) shall be called by notice of at least 14 clear days (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) but a general meeting may be called by shorter notice if it is so agreed by a majority in number of the shareholders having a right to attend and vote being a majority together holding not less than ninety per cent. in nominal value of the Shares giving that right.
- 66.2 Every notice convening a general meeting shall specify:
  - 66.2.1 the place, the date and the time of the meeting;
  - 66.2.2 the general nature of the business to be dealt with at the meeting;
  - 66.2.3 if the meeting is convened to consider a special resolution, the text of the resolution and intention to propose the resolution as a special resolution; and
  - 66.2.4 with reasonable prominence, that a member is entitled to appoint another person (who does not have to be a member) as his proxy to exercise all or any rights of his to attend, speak and vote at the meeting and that a member may appoint more than one proxy in relation to the meeting (provided that each proxy is appointed to exercise the rights attached to a different share or Shares held by him) and shall also specify any more extensive rights (if any) conferred by these Articles to appoint more than one proxy.
- 66.3 The notice shall be given to the members (other than any who under the provisions of these Articles or of any restrictions imposed on any Shares are not entitled to receive notice from the Company), to the directors and to the auditors and if more than one for the time being, to each of them.
- 66.4 Subject to the provisions of these Articles, notice of a general meeting of the Company may be given:
  - 66.4.1 in hard copy form;
  - 66.4.2 in electronic form; or
  - 66.4.3 by means of a website,
  - 66.4.4 or partly by one such means and partly by another and the provisions of Article 78 shall apply accordingly.

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

## **67. ATTENDANCE AND SPEAKING AT GENERAL MEETINGS**

- 67.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- 67.2 A person is able to exercise the right to vote at a general meeting when:
- 67.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
  - 67.2.2 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.
- 67.3 The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- 67.4 In determining attendance at a general meeting, it is immaterial whether any two or more shareholders attending it are in the same place as each other.
- 67.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

## **68. CHAIRING GENERAL MEETINGS**

- 68.1 If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.
- 68.2 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:
- 68.2.1 the directors present; or
  - 68.2.2 (if no directors are present), the meeting,
- must appoint a director or shareholder (which may include any proxy appointed by a shareholder) to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.
- 68.3 The person chairing a meeting in accordance with this Article is referred to as "the chairman of the meeting".

## **69. ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS**

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

- 69.2 The chairman of the meeting may permit other persons who are not:
- 69.2.1 shareholders of the Company; or
  - 69.2.2 otherwise entitled to exercise the rights of shareholders in relation to general meetings,
- to attend and speak at a general meeting.

## **70. ADJOURNMENT**

- 70.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, the chairman of the meeting must adjourn it.
- 70.2 The chairman of the meeting may adjourn a general meeting at which a quorum is present if:
- 70.2.1 the meeting consents to an adjournment; or
  - 70.2.2 it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 70.3 The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- 70.4 When adjourning a general meeting, the chairman of the meeting must:
- 70.4.1 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
  - 70.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 70.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
- 70.5.1 to the same persons to whom notice of the Company's general meetings is required to be given; and
  - 70.5.2 containing the same information which such notice is required to contain.
- 70.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place. If a quorum is not present at any such adjourned meeting within half an hour from the time appointed for that meeting (or if, during the meeting, a quorum ceases to be present), the meeting shall be dissolved.

## **71. VOTING: GENERAL**

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



- 71.2 No shareholder shall, unless the directors otherwise decide, be entitled to vote (either in person or by proxy) at a general meeting, at any adjournment of it or on any poll called at or in relation to it in respect of any share held by him or to exercise any right as a shareholder unless all calls or other sums presently payable by him in respect of that share in the Company have been paid to the Company.

## **72. ERRORS AND DISPUTES**

- 72.1 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.
- 72.2 Any such objection must be referred to the chairman of the meeting, whose decision is final and conclusive.

## **73. DEMANDING A POLL AND PROCEDURE ON A POLL**

- 73.1 A poll on a resolution may be demanded:
- 73.1.1 in advance of the general meeting where it is to be put to the vote; or
  - 73.1.2 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.
- 73.2 A poll may be demanded by:
- 73.2.1 the chairman of the meeting;
  - 73.2.2 the directors;
  - 73.2.3 two or more persons having the right to vote on the resolution;
  - 73.2.4 a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution; or
  - 73.2.5 by a person or persons holding Shares in the Company conferring a right to vote on the resolution, being Shares on which an aggregate sum has been paid up to not less than one tenth of the total sum paid up on all the Shares conferring that right.
- 73.3 A demand for a poll may be withdrawn if:
- 73.3.1 the poll has not yet been taken; and
  - 73.3.2 the chairman of the meeting consents to the withdrawal,
- and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- 73.4 Polls must be taken immediately and in such manner as the chairman of the meeting directs.

## **74. CONTENT OF PROXY NOTICES**

- 74.1 Proxies may only validly be appointed by a notice in writing (**proxy notice**) which:

- 74.1.1 states the name and address of the shareholder appointing the proxy;
  - 74.1.2 identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed;
  - 74.1.3 is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
  - 74.1.4 is delivered to the Company in accordance with these Articles and any instructions contained in the notice of the general meeting to which they relate.
- 74.2 The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 74.3 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.
- 74.4 Unless a proxy notice indicates otherwise, it must be treated as:
- 74.4.1 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
  - 74.4.2 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.

## **75. DELIVERY OF PROXY NOTICES**

- 75.1 The appointment of a proxy and the power of attorney or other authority (if any) under which it is signed (or a copy of such authority certified notarially or in some other way approved by the directors) shall be sent or supplied in hard copy form, or (subject to any conditions and limitations which the directors may specify) in electronic form:
- 75.1.1 to the registered office of the Company; or
  - 75.1.2 to such other address (including electronic address) as is specified in the notice convening the meeting or in any instrument of proxy or any invitation to appoint a proxy sent or supplied by the Company in relation to the meeting; or
  - 75.1.3 as the directors shall otherwise direct,
- to be received before the time for the holding of the meeting or adjourned meeting to which it relates or, in the case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the poll.
- 75.2 Instrument of proxy not so sent or supplied or received shall be invalid unless the directors at any time prior to the meeting or the chairman of the meeting at the meeting, in their or his absolute discretion, accept as valid an instrument of proxy where there has not been compliance with the provisions of this Article and such proxy shall thereupon be valid notwithstanding such default.
- 75.3 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.

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

## **76. REVOCATION OF PROXY NOTICES**

The validity of:

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

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

- 76.1 sent or supplied to the Company or any other person as the Company may require in the notice of the meeting, any instrument of proxy sent out by the Company in relation to the meeting or in any invitation to appoint a proxy issued by the Company in relation to the meeting, in any manner permitted for the sending or supplying of appointments of proxy pursuant to these Articles; and
- 76.2 received at the registered office of the Company (or such other address (including electronic address) as has been designated for the sending or supplying of appointments of proxy), before the time for the holding of the meeting or adjourned meeting to which it relates or, in the case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the poll.

## **77. VOTES OF PROXIES**

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

## **ADMINISTRATIVE ARRANGEMENTS**

### **78. COMPANY COMMUNICATIONS**

- 78.1 Subject to the provisions of the CA2006 (and save as otherwise provided in these Articles), any document or information required or authorised to be sent or supplied

by the Company to any member or any other person (including a director) pursuant to these Articles, the CA2006 or any other rules or regulations to which the Company may be subject, may be sent or supplied in hard copy form, in electronic form, by means of a website or in any other way in which documents or information may be sent or supplied by the Company pursuant to the CA2006.

- 78.2 Subject to these Articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked in writing to be sent or supplied with such notices or documents for the time being.
- 78.3 The provisions of the CA2006 which apply to sending or supplying a document or information required or authorised to be sent or supplied by the CA2006 by making it available on a website shall, *mutatis mutandis*, apply to the sending or supplying of any document or information required or authorised to be sent by these Articles or any other rules or regulations to which the Company may be subject, by making it available on a website.
- 78.4 The Company may send or supply any document or information to a member or any other person (including a director) pursuant to these Articles, the CA2006 or any other rules or regulations to which the Company may be subject, either personally, or by post in a prepaid envelope addressed to the member (or such other person) at his registered address or at his address for service, or by leaving it at that address or any other address for the time being notified to the Company by the member (or such other person) for the purpose, or by sending or supplying it using electronic means to an electronic address for the time being notified to the Company by the member (or such other person) for the purpose, or by any other means authorised in writing by the member (or such other person) concerned.
- 78.5 A shareholder whose registered address is not within the United Kingdom and who gives the Company an address within the United Kingdom to which documents or information may be sent or supplied to him or gives an electronic address to which documents or information may be sent or supplied using electronic means, shall be entitled to have documents or information sent or supplied to him at that address, but otherwise no such shareholder shall be entitled to receive any document or information from the Company.
- 78.6 In the case of joint holders of a share, if the Company sends or supplies any document or information to one of the joint holders, it shall be deemed to have properly sent or supplied such document or information to all the joint holders.
- 78.7 If, on at least 2 consecutive occasions, the Company has attempted to send any document or information by electronic means to an address specified (or deemed specified) for the purpose and a delivery failure (or other similar) notification has been received by the Company, the Company thereafter shall, send documents or information in hard copy form or electronic form (but not by electronic means) to such member at his registered address or address for service within the United Kingdom (whether by hand, by post or by leaving it or them at such address), in which case the provisions of Article 78.8 shall apply.
- 78.8 If on 3 consecutive occasions documents or information have been sent or supplied to any shareholder at his registered address or address for the service of such documents or information in the United Kingdom but have been returned undelivered, such shareholder shall not thereafter be entitled to receive any documents or information from the Company until he shall have communicated with the Company

and supplied in writing a new registered address or address within the United Kingdom for the service of documents or information or an electronic address to which documents or information may be sent or supplied using electronic means.

- 78.9 Any shareholder present, in person or by proxy at any meeting of the Company or of the holders of any class of Shares of the Company, shall be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was called.
- 78.10 Save as provided otherwise in these Articles, any document or information, addressed to a shareholder (or other person to whom such document or information is required or authorised to be sent pursuant to these Articles, the CA2006 or otherwise) at his registered address or address for service (in the case of a shareholder, in the United Kingdom) or electronic address, as the case may be shall:
- 78.10.1 if hand delivered or left at a registered address or other address for service (in the case of a shareholder in the United Kingdom), be deemed to have been served or delivered on the day on which it was so delivered or left;
  - 78.10.2 if sent or supplied by post (whether in hard copy form or in electronic form), be deemed to have been received at the expiration of 24 hours after the envelope was posted;
  - 78.10.3 if sent or supplied by electronic means (other than by means of website), be deemed to have been received (if sent or supplied between the hours of 9 a.m. and 5 p.m. on a Business Day) at the time it was sent, or (if sent or supplied at any other time) at 9 a.m. on the next following Business Day; and
  - 78.10.4 if sent or supplied by means of a website, be deemed to have been received when the material was first made available on the website or, if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website.
- 78.11 In calculating a period of hours for the purpose of Article 78.10 no account shall be taken of any part of a day that is not a Business Day.
- 78.12 A director may agree with the Company that documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than those set out in Article 78.10
- 78.13 Subject to Article 78.9, in proving such service or delivery it shall be sufficient to prove that the envelope containing the document or information was properly addressed and put into the post in a prepaid envelope or, in the case of a document or information sent or supplied by electronic means, that it was sent or supplied in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators entitled "Electronic Communications with Shareholders 2007" (as such guidance is amended or updated from time to time).
- 78.14 The Company shall not be held responsible for any failure in transmission beyond its reasonable control and the provisions of Article 78.9 to Article 78.13 (inclusive) shall apply regardless of any document or information being returned undelivered and regardless of any delivery failure notification or "out of office" or other similar response and any such "out of office" or other similar response shall not be considered to be a delivery failure.

78.15 This Article 78 is subject to the provisions of the Joint Venture Agreement.

## **79. COMPANY SEALS**

79.1 Any common seal may only be used by the authority of the directors or a committee of the directors.

79.2 The directors may decide by what means and in what form any common seal is to be used.

79.3 Unless otherwise decided by the directors, if the Company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

79.4 For the purposes of this Article, an authorised person is:

79.4.1 any director of the Company;

79.4.2 the Company secretary (if any); or

79.4.3 any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

## **80. PURCHASE OF OWN SHARES**

Subject to the CA2006 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 CA2006, including (without limitation) out of capital up to any amount in a financial year not exceeding the lower of

80.1 £15,000; and

80.2 the nominal value of 5% of the Company's fully paid share capital at the beginning of each financial year of the Company.

## **81. INDEMNITY AND FUNDS**

81.1 Subject to Article 81.2 (but otherwise to the fullest extent permitted by law) and without prejudice to any indemnity to which he may otherwise be entitled:

81.1.1 a relevant director, secretary or other officer (other than any person engaged as auditor) of the Company or an associated Company may be indemnified out of the Company's assets against all or any part of any costs, charges, losses, expenses and liabilities incurred by that director secretary or other officer:

(a) in the actual or purported exercise of his powers in relation to the affairs of the Company or associated Company; and

(b) in connection with the activities of the Company or an associated Company in its capacity as a trustee of an occupational pension scheme; and

(c) a relevant director, secretary or other officer (other than any person engaged as auditor) of the Company or any holding Company may be provided with funds to meet any expenditure incurred or to be

incurred by him as provided in Section 205 and/or Section 206, CA2006 (or enable him to avoid incurring any such expenditure).

- 81.2 This Article does not authorise any indemnity or provision of funds which would be prohibited or rendered void by any provision of the CA2006 or by any other provision of law.

## **82. INSURANCE**

- 82.1 Subject to the provisions of the CA2006, the directors may in their absolute discretion decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant director secretary or other officer (other than any person engaged as auditor) of the Company or associated Company in respect of all or any part of any relevant loss.

## **PART D DEFINED TERMS AND INTERPRETATION**

### **83. DEFINED TERMS**

- 83.1 In these Articles, unless the context otherwise requires, the following words and expressions shall have the following meanings:

**"12% Target Return"** means (i) in the case of an Exit, the notional net aggregate value of all Equity Investments, Equity Proceeds, Exit Proceeds and Unpaid Costs, as at the date of completion of an Exit, calculated in accordance with these Articles, which would achieve an Equity IRR at the date of completion of the Exit of 12% and (ii) in the case of a Deemed Exit, the aggregate value of all Equity Investments, Equity Proceeds, Deemed Exit Proceeds and Unpaid Costs, as at the date of exercise of the Put Option, calculated in accordance with these Articles, which would achieve an Equity IRR at the date of exercise of the Put Option of 12%.

**"17% Target Return"** means (i) in the case of an Exit, the notional net aggregate value of all Equity Investments, Equity Proceeds, Exit Proceeds and Unpaid Costs, as at the date of completion of an Exit, calculated in accordance with these Articles, which would achieve an Equity IRR at the date of completion of the Exit of 17% and (ii) in the case of a Deemed Exit, the aggregate value of all Equity Investments, Equity Proceeds, Deemed Exit Proceeds and Unpaid Costs, as at the date of exercise of the Put Option, calculated in accordance with these Articles, which would achieve an Equity IRR at the date of exercise of the Put Option of 17%.

**"22% Target Return"** means (i) in the case of an Exit, the notional net aggregate value of all Equity Investments, Equity Proceeds, Exit Proceeds and Unpaid Costs, as at the date of completion of an Exit, calculated in accordance with these Articles, which would achieve an Equity IRR at the date of completion of the Exit of 22% and (ii) in the case of a Deemed Exit, the aggregate value of all Equity Investments, Equity Proceeds, Deemed Exit Proceeds and Unpaid Costs, as at the date of exercise of the Put Option, calculated in accordance with these Articles, which would achieve an Equity IRR at the date of exercise of the Put Option of 22%.

**"A Director"** has the meaning given in Article 17.1.

**"A Shares"** means the A ordinary shares of £1 each in the capital of the Company.

**"A Shareholder"** means a holder for the time being of A Shares.

**"A Shareholder Consent"** means the prior written consent of the holder of the majority of the A Shares.

**"A Shareholder's Group"** means any holder of A Shares, Moorfield Real Estate Fund IV (Fund), any subsidiary or holding company from time to time of any holder of A Shares or the Fund, and any subsidiary from time to time of any other fund or separate account managed by Moorfield Investment Management Limited (and each being "a member of the A Shareholder's Group").

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

**"alternate or alternate director"** has the meaning set out in Article 37.

**"appointor"** has the meaning set out in Article 37.

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

- (a) is stipulated to be open for acceptance for at least 15 Business Days;
- (b) offers consideration for each share taking into account the respective rights of the holders on an Exit as set out in Article 3.2;
- (c) makes provision for the repayment of all shareholder loans (if any);
- (d) is on terms that the sale and purchase of Shares in respect of which the offer is accepted will be completed at the same time.

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

**"B Shareholder"** means a holder for the time being of B Shares.

**"B Shares"** means the B ordinary shares of £1 each in the capital of the Company.

**"B Shareholder Consent"** means the prior written consent of the holder of the majority of the B Shares.

**"B Shareholder Observer"** means the observer appointed by the B Shareholder to attend (but not vote at) meetings of the Board.

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

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

**"Business Day"** means a day (other than a Saturday or Sunday) on which clearing banks are open for business in the City of London or Edinburgh.

**"C Director"** has the meaning given in Article 17.1.



**"C Shareholder"** means a holder for the time being of C Shares.

**"C Shares"** means the C shares of £1 each in the capital of the Company.

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

**"call"** has the meaning set out in Article 43.1.

**"call notice"** has the meaning set out in Article 43.1.

**"call payment date"** has the meaning set out in Article 47.

**"Called Shareholders"** has the meaning set out in Article 12.1.

**"Called Shares"** has the meaning set out in Article 12.1.

**"capitalised sum"** has the meaning set out in Article 65.

**"Chairman"** means the chairman of the Board appointed pursuant to Article 25.

**"chairman of the meeting"** has the meaning set out in Article 68.

**"Company's Lien"** has the meaning set out in Article 41.1.

**"Conflicted Director"** has the meaning set out in Article 27.1.

**"Conflict Situation"** has the meaning set out in Article 27.1.

**"Connected Person"** has the meaning set out in Section 1122 of the Corporation Tax Act 2010.

**"Controlling Interest"** means an interest (within the meaning of Schedule 1 of the CA 2006) in shares conferring in aggregate 50% or more of the total voting rights conferred by all the shares in the equity share capital of the Company for the time being in issue.

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

**"Deemed Exit"** means the circumstances where the Put Option is exercised, following which a Sale is deemed to have occurred for the purposes of calculating the percentage of Deemed Exit Proceeds payable (if any) pursuant to Article 3.2.2.

**"Deemed Exit Proceeds"** means, in respect of a Deemed Exit, the Deemed Market Value.

**"Deemed Market Value"** means the market value of the entire issued share capital of the Company, calculated on the following assumptions and bases:

- (a) if the Company is then carrying on business as a going concern, assuming that it will continue to do so in the same manner as carried on at the date of exercise of the Put Option; and
- (b) after taking into account all investments (namely the shares) the Company holds in the other Group Companies and the assets, liabilities and indebtedness of the Group.

**"Default Event"** has the meaning given in Article 9.2.

**"Default Price"** means the price payable for the B Shares or C Shares as agreed or determined in accordance with Articles 9.3 and 9.4 (as applicable).

**"Defaulting Shareholder"** has the meaning given in Article 9.2.

**"Deficit Funding Amount"** has the meaning given in the Joint Venture Agreement.

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

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

- (a) the whole or a substantial part of the business and assets of the Group; or
- (b) 100% of the issued share capital of any Subsidiary or Subsidiaries to the extent that it or they comprise the whole or a substantial part of the business and assets of the Group.

**"distribution recipient"** has the meaning set out in Article 60.

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

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

**"Equity Investments"** means any payment made by the Equity Shareholders to the Company or any member of its Group or any third party in connection with the any property of the Group, or paid on any such company's behalf by any Equity Shareholder, including (without limitation) any costs incurred or likely to be incurred by the Equity Shareholders (or any limited partnership where the A Shareholder or any other member of the A Shareholder's Group is the general partner) in connection with an Exit or Deemed Exit (as applicable) including a provision for any taxation incurred or likely to be incurred.

**"Equity IRR"** means, for the Equity Shareholders on any date, the cumulative internal rate of return of the Equity Shareholders on that date, where the internal rate of return shall be the annually compounded discount rate that results in the following amount having a net present value equal to zero:

- (a) all Equity Proceeds and/or Exit Proceeds or Deemed Exit Proceeds (as applicable) for the Equity Shareholders (taking into account the actual timing of those Equity Proceeds and/or Exit Proceeds or Deemed Exit Proceeds) as of that date, minus
- (b) all Equity Investments for the Equity Shareholders (taking into account the actual date of payment of those Equity Investments as of that date,

and, subject to the above, in determining the Equity IRR, the rate of return shall be per annum rates and all rates of return shall be calculated on an annually

compounded basis, and on the basis of a 365 day year calculated using the following XIRR formula on Microsoft Excel

= XIRR ([Array of the amount of cash in/out], [Array of specific dates/days of the relative cash flow event]).

**"Equity Multiple"** means the aggregate of all Equity Proceeds (**"EP"**) and all Exit Proceeds or Deemed Exit Proceeds (as applicable) (**"ExP"**) divided by the aggregate of all Equity Investments (**"EI"**) and all Unpaid Costs (**"UC"**) (as illustrated in the following formula:  $(EP + ExP) \div (EI + UC)$ ), which for the avoidance of doubt is calculated across the overall acquisitions made by the Group.

**"Equity Proceeds"** means any payment made by the Company or any member of its Group to the Equity Shareholders, whether by way of dividend, interest or other distributions, return of capital or redemption or repayment of indebtedness (excluding, for the avoidance of doubt, any Exit Proceeds due on an Exit or any Deemed Exit Proceeds payable on a Deemed Exit).

**"Equity Shares"** means the A Shares and the B Shares.

**"Equity Shareholders"** means the holders of A Shares and B Shares.

**"Exit"** means a Disposal, Sale, Listing, Liquidation or Return of Capital.

**"Exit Notice"** has the meaning set out in Article 12.2.

**"Exit Option"** has the meaning set out in Article 12.1.

**"Exit Proceeds"** means:

- (a) in respect of a Listing, the market value of the Shares (or, as the case may be Shares in the capital of the Company's holding company) determined by reference to the price per share at which such Shares are to be offered for sale, issue, placed or otherwise marketed pursuant to the arrangements relating to the Listing, all as determined by the merchant bank (or, if none, the broker) appointed by the Board to advise in connection with the Listing; or
- (b) in respect of a Sale, the aggregate price paid or payable for the Shares together with the cash value of any other consideration (in cash or otherwise) received or receivable by the holders of the Shares which, having regard to the substance of the Sale as a whole, can reasonably be regarded as an addition to the price paid or consideration given in respect of the Shares (but excluding any amount to be provided by a purchaser to procure the repayment by any Group Company of any bank debt or other borrowings (including any shareholder loans)); or
- (c) in respect of a Disposal, the aggregate price paid or payable for the assets being sold together with the cash value of any other consideration (in cash or otherwise) received or receivable by the Company or any Group Company which, having regard to the substance of the Disposal as a whole, can reasonably be regarded as an addition to the price paid or consideration given in respect of those assets (but excluding, for the avoidance of doubt, any amount to be provided by a purchaser to procure the repayment by any Group Company of any bank debt or other

borrowings (including any shareholder loans) and/or any provision for any taxation and/or any other costs or liabilities, in each case, incurred or likely to be incurred by the Company and/or Group Company in connection with an Exit); or

- (d) in respect of any other Exit, proceeds available for distribution to the members (whenever received);

**"Family Trust"** means a trust, the terms of which have been approved by the Board, under which:

- (a) no immediate beneficial interest in the Shares held by it or income from such Shares is for the time being or may in the future be vested in any person other than the settlor or a Privileged Relation of such settlor or any one or more of his children (including step or adopted children); and
- (b) no power or control over the voting powers conferred by the Shares held by it is for the time being exercisable by or subject to the consent of any person other than the trustee or trustees or the settlor or a Privileged Relation of such settlor or any one or more of his children (including step or adopted children).

**"First Hurdle"** means the amount of Exit Proceeds or Deemed Exit Proceeds (as applicable) (and taking into account any Equity Proceeds paid prior to an Exit) that would be required on an Exit or Deemed Exit (where applicable) to achieve a 12% Target Return and an Equity Multiple of not less than 1.5.

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

**"Further Issue"** has the meaning set out in Article 4.

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

**"HMRC"** means Her Majesty's Revenue & Customs.

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

**"Joint Venture Agreement"** means the joint venture agreement entered into between the Company and its shareholders on or around the date of adoption of these Articles.

**"lien enforcement notice"** has the meaning set out in Article 42.

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

**"Liquidation"** means the liquidation, dissolution or winding-up of the Company pursuant to the making of a winding-up order by the court or the passing of a resolution by the members that the Company be wound up or dissolved (save for a solvent winding-up for the purpose of reconstruction or amalgamation previously approved by a resolution of the members).

**"Majority Sellers"** has the meaning set out in Article 12.1.

**"Majority Sellers' Shares"** has the meaning set out in Article 12.1.

**"Market Value"** means the market value of the Shares concerned, calculated on the following assumptions and bases:

- (a) firstly determining the market value of the entire issued share capital of the Company and, based on that market value, then determining the price per Ordinary Share; and
- (b) assuming that the sale of the share capital of the Company is on an arms' length basis between a willing vendor and a willing purchaser; and
- (c) if the Company is then carrying on business as a going concern, assuming that it will continue to do so in the same manner as immediately prior to the date of the Transfer Notice; and
- (d) ignoring in the determination of the price per Ordinary Share: (i) whether or not the Shares represent a minority or majority interest (ii) whether the Shares do or do not carry control of the Company or (iii) the restrictions attached to the Shares in respect of voting and transfer.

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

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

**"Participate"**, in relation to a directors' meeting, has the meaning set out in Article 23.

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

**"Permitted Transferee"** means a transferee of Shares permitted under Article 7.

**"Persons entitled"** has the meaning set out in Article 65.1.

**"Privileged Relation"** means in relation to a member, the spouse, civil partner or widow, widower or surviving civil partner, children (including step and adopted children and grandchildren) of the member.

**"Prohibited Person"** means any person who in the reasonable opinion of the Company is:

- (a) a competitor of the Company; and/or
- (b) not of at least equivalent financial standing as the C Shareholder; and/or
- (c) a company which the Company reasonably believes would bring into disrepute or be detrimental to, or inconsistent with, the good name, goodwill, reputation and/or image of the Company;

**"Proposed Transfer"** has the meaning set out in Article 11.1.

**"proxy notice"** has the meaning set out in Article 74.

**"Put Option"** means the put option contained the Joint Venture Agreement.

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

**"Relevant Investor"** has the meaning set out in Article 27.6.1(a).

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

**"relevant rate"** has the meaning set out in Article 47.2.

**"Relevant Securities"** means all Shares, rights to subscribe for Shares or to receive them for no consideration and all securities convertible into Shares, but excluding the Shares proposed to be issued under clause 3 of the Joint Venture Agreement and any debt or debt like instruments (but excluding any debt to be issued under clause 7 of the Joint Venture Agreement).

**"Respective Proportion"** has the meaning given in the Joint Venture Agreement.

**"Return of Capital"** means a return of capital of the Company other than a redemption of Shares or the purchase by the Company of its own Shares.

**"Sale"** means the sale or other disposal (whether by one transaction or a series of related transactions) of 100% of the issued share capital of the Company.

**"Second Hurdle"** means the amount of Exit Proceeds or Deemed Exit Proceeds (as applicable) (and taking into account any Equity Proceeds paid prior to an Exit) that would be required on an Exit or Deemed Exit (where applicable) to achieve a 17% Target Return and an Equity Multiple of not less than 1.5.

**"Shareholder Director Interest"** has the meaning set out in Article 27.6.1(b).

**"Shareholder Funding Request"** has the meaning given in the Joint Venture Agreement.

**"Shares"** means shares in the capital of the Company.

**"Stock Exchange"** means:

- (a) The London Stock Exchange plc (including the Alternative Investment Market operated by The London Stock Exchange plc);
- (b) any other recognised investment exchange (as defined by Section 285, Financial Services and Markets Act 2000) and their respective share dealing markets; or
- (c) any other market wherever situated on any official or otherwise prescribed list maintained by a competent or otherwise prescribed listing authority.

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

**"Tag Accepting Shareholder"** has the meaning set out in Article 11.5.

**"Tag Buyer"** has the meaning set out in Article 11.2.

**"Tag Offer"** has the meaning set out in Article 11.2.

**"Tag Offer Notice"** has the meaning set out in Article 11.3.

**"Tag Offer Period"** has the meaning set out in Article 11.3.

**"Tag Offer Shares"** has the meaning set out in Article 11.3.5.

**"Tag Sale Date"** has the meaning set out in Article 11.3.

**"Tag Sellers"** has the meaning set out in Article 11.1.

**"Third Hurdle"** means the amount of Exit Proceeds or Deemed Exit Proceeds (as applicable) (and taking into account any Equity Proceeds paid prior to an Exit) that would be required on an Exit or Deemed Exit (where applicable) to achieve a 22% Target Return and an Equity Multiple of not less than 2.

**"Third Party Purchaser"** has the meaning set out in Article 12.1.

**"Transfer Notice"** a notice in writing served (or deemed to be served) by a transferor of Shares on the A Shareholder in respect of all the Shares held by such transferor.

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

**"Unpaid Costs"** means, in connection with an Exit or Deemed Exit (as applicable), any costs owing at the date of completion of an Exit (or, in the case of a Deemed Exit as at the date of exercise of the Put Option) by the Company and/or any Group Company and (to the extent not otherwise included) (i) any indebtedness owing by the Company and/or any Group Company, (ii) a provision for any tax and (iii) any costs or liabilities payable by the Company and/or Group Company in each case in connection with an Exit (or Deemed Exit), save that no such amount shall be included within Unpaid Costs to the extent that it is included in calculating the Equity Investment and/or Exit Proceeds or Deemed Exit Proceeds.

**"Valuer"** means an independent accountant appointed in accordance with Article 10.

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

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

## **84. INTERPRETATION**

In these Articles:

- 84.1 words in the singular include the plural and vice versa and words in one gender include any other gender;

84.2 a reference to:

84.2.1 **"transfer of shares"** or any similar expression shall be deemed to include, in respect of a share in the capital of the Company:

- (a) any sale or other disposition of the legal or equitable interest in a share (including any voting right attached to a share);
- (b) the creation of any mortgage, charge, pledge or other encumbrance over any legal or equitable interest in a share;
- (c) any direction by a person entitled to an allotment or issue of Shares that a share be allotted or issued to some other person; and
- (d) any grant of an option to acquire, or agreement to enter into a grant of an option to acquire, any legal or equitable interest in a share;

84.2.2 **"person"** includes any individual, firm, corporation, body corporate, association, partnership, fund, trust, unincorporated association, employee representative body, government or state or agency or department thereof, executors, administrators or successors in title (whether or not having a separate legal personality);

84.3 the table of contents and headings are for convenience only and do not affect the interpretation of these Articles;

84.4 general words shall not be given a restrictive meaning:

84.4.1 if they are introduced by the word "other" or "including" or similar words by reason of the fact that they are preceded by words indicating a particular class of act, matter or thing; or

84.4.2 by reason of the fact that they are followed by particular examples intended to be embraced by those general words; and

84.4.3 for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), CA2006, Shares registered in the name of a person (or its nominee) by way of security or in connection with the taking of security shall be treated as held by the person providing the security and Shares held by a person as nominee for another shall be treated as held by the other;

84.5 unless the context otherwise requires (or unless otherwise defined or stated in these Articles), words or expressions contained in these Articles shall have the same meaning as in the CA2006; and

84.6 references to any statute or statutory provision include a reference to that statute or provision as amended, extended, re-enacted, consolidated or replaced from time to time and include any order, regulation, instrument or other subordinate legislation made under the relevant statute or statutory provision.