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Registered no. SC334836

The Companies Act 2006

A private company limited by shares

Articles of Association

of

Isle of Harris Distillers Limited

(adopted by special resolution passed on 13 December 2021)

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The Companies Act 2006

Articles of Association of Isle of Harris Distillers Limited

(the Company)

(Registered Number SC334836)

1 Defined terms

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

Act has the meaning given in Article 2;

acting in concert shall bear the meaning attributed thereto in the Code;

Appointer has the meaning given in Article 29.4

Articles means these articles of association of the Company;

A Shares means A1 Shares, A2 Shares, A3 Shares and A4 Shares;

A1 Shares means A1 ordinary shares of £1 each issued in the capital of the Company;

A2 Shares means A2 ordinary shares of £1 each issued in the capital of the Company;

A3 Shares means A3 ordinary shares of £1 each issued in the capital of the Company;

A4 Shares means A4 ordinary shares of £0.01 each issued in the capital of the Company;

Anticipated Conversion Date has the meaning given in paragraph 2.1.2(i) of Schedule 1;

Appointing Lead Investor has the meaning given in Article 17.7.8;

Asset Sale means: (a) the purchase of all or substantially all of the business and assets of the Company; or (b) where all or substantially all of the business and assets of the Group are held by a subsidiary or subsidiaries, the acquisition of Control of that/those member(s) of the Group or the purchase from that/those member(s) of the Group of all or substantially all of the business and assets of the Group but excluding any such purchase or acquisition by another member of the Group;

Associate means:

- (a) the husband, wife, common law spouse, civil partner, mother, father, grandmother, grandfather, brother, sister, child, step child or other lineal ancestor or descendant by blood, adoption or marriage of the relevant person;
- (b) the trustees of any settlement (whether or not set up by the relevant person) under which the relevant person and/or any other Associate of the relevant person are the sole actual or potential beneficiaries;
- (c) any nominee or bare trustee for the relevant person or for any other Associate of the relevant person;

- (d) if the relevant person is a company, any subsidiary or holding company of the relevant person and any other subsidiary of any such holding company;
- (e) any person with whom the relevant person or any Associate of the relevant person is a Connected Person;
- (f) any person with whom the relevant person is acting in concert (such expression to have the same definition as that ascribed thereto in the Code as current at the relevant time); and
- (g) any person who is connected with the relevant person applying the definition set out in section 993 of the Income Tax Act 2007,

provided that no member shall be an Associate of another member solely as a result of them each being party to the Shareholders' Agreement;

Auditors mean the auditors of the Company from time to time;

Bad Leaver means a Leaver who ceases to be an employee and/or director of the Company and/or any other member of the Group in the following circumstances or for the following reasons:

- (a) his employment or office is terminated by the Company or any other member of the Group for any of the following reasons:
 - (i) he is found guilty of any serious criminal offence or any criminal offence involving dishonesty or which adversely affects the interests of the Group in the opinion of the Board;
 - (ii) he commits any material or persistent breach of his employment contract or letter of appointment (provided that if such breach is capable of being remedied it has not been remedied within a reasonable time of him being called upon to do so by the relevant member of the Group) or repeated or continued any breach of his obligations under his employment contract or letter of appointment after he has at any time received warning from the relevant member of the Group, or shall have been guilty of serious or persistent misconduct (whether or not referable to or in connection with the employment or office) or shall be deemed in the reasonable opinion of the Company to be guilty of gross negligence in the performance of his duties under his or her employment agreement or letter of appointment;
 - (iii) the relevant individual is guilty of any gross misconduct or behaviour which tends to bring himself or any member of the Group into disrepute or can reasonably be regarded as materially prejudicial to the interests of any member of the Group;
 - (iv) the relevant individual becomes insolvent or bankrupt or compounds with or grants a trust deed for the benefit of his creditors; or
 - (v) the relevant individual becomes prohibited by law from being a director of a company; or
- (b) he establishes or becomes an officer or employee of a business that competes with any material business of any member of the Group which is in breach of his

employment contract or letter of appointment without first obtaining the consent of the Board;

B Director means a Director appointed (or designated) pursuant to Article 27;

B Shares means B ordinary shares of £0.80 each issued in the capital of the Company;

B Share Event means the application of the provisions of Schedule 1 at the request of a holder or holders of a majority of B Shares pursuant to a B Share Event Notice which, in accordance with and pursuant to Schedule 1, results in Conversion or the determination that no Conversion is required provided there shall be no B Share Event if a B Share Event Notice is withdrawn or deemed withdrawn in accordance with and pursuant to Schedule 1;

B Share Event Date means the date that is 35 days after the date of expiry of the Rejection Period;

B Share Event Notice means (subject to paragraphs 1.3 and 3.4 of Schedule 1) a notice served on the Company by holder(s) of a majority of B Shares after 31 January 2020 confirming that they/he wish(es) to commence a B Share Event for the purposes of these Articles;

B Shareholder means each person who, immediately prior to the occurrence of Conversion, is a holder of B Shares;

Beneficial Shareholder has the meaning given in Article 21;

Board means the board of Directors;

Buyer has the meaning given in Article 26;

C Shares means C Shares of £0.01 each issued in the capital of the Company;

Capital Distribution Event means a winding up (whether voluntary or involuntary), dissolution, Liquidation or other return of capital by the Company that does not involve the purchase of own shares from the holders of the Voting Shares out of capital;

Cash Equivalent means: (a) in relation to any deferred consideration, the sum that represents a reasonable estimation of the current value of the right to receive that consideration; and (b) in relation to any non-cash consideration, the sum that represents a reasonable estimation of the current market value of that non-cash consideration;

Code means the City Code on Takeovers and Mergers;

Code of Conduct means the directors' code of conduct, as implemented by the Board from time to time;

Competitor means a person or persons who is or are a competitor of the Group or who is or are connected with the interests of such a competing business (being any business that produces, bottles, stores, distributes or markets whisky or other spirit for sale in Scotland or any other market to which the Company or any other member of the Group exports or intends to export);

Compulsory Transfer Notice has the meaning given in Article 23.2;

Conflicted Director has the meaning given in Article 29.2;

Connected Persons means, in relation to any person, any person or persons connected with such person within the definition of connected persons contained in sections 1122 and 1123 of the Corporation Tax Act 2010 (and Connected shall be construed accordingly provided a person shall not be Connected with another person solely by reason of them both being shareholders and/or party to any Shareholders' Agreement);

Control means:

- (a) the ownership or control (directly or indirectly) of more than fifty per cent (50 per cent) of the voting share capital of the relevant undertaking; or
- (b) the ability to direct the casting of more than fifty per cent (50 per cent) of the votes exercisable by the partners, members or shareholders of the relevant undertaking; or
- (c) the right to appoint or remove directors of the relevant undertaking holding a majority of the voting rights at meetings of the board on all, or substantially all, matters;

Conversion means the conversion of B Shares into Deferred Shares pursuant to the terms of these Articles and Schedule 1;

Conversion Committee means a committee comprised of members of the Board who do not themselves, and whose Appointer (where relevant) does not, hold any interest in B Shares or, in the event that no such Board members are appointed or willing to form the Conversion Committee, the full Board;

Conversion Date means a B Share Event Date or the date of the occurrence of an Exit Event (as the case may be);

Declined Shares has the meaning given in Article 12.6;

Defaulting Shareholder has the meaning given in Article 23;

Deferred Shares means deferred shares of £0.80 each in the capital of the Company having the rights, and being subject to the restrictions, set out in paragraph 5 of Schedule 1;

Determined Price has the meaning given in Article 24 (Fair Price);

Directors mean the directors of the Company from time to time;

Distribution Event has the meaning given in Article 6.1;

Drag Majority has the meaning given in Article 25.3;

electronic general meeting means a general meeting hosted on an electronic platform, whether that general meeting is physically hosted at a specific location simultaneously or not;

electronic platform means any form of electronic platform and includes, without limitation, website addresses, application technology and conference call systems;

eligible member shall bear the meaning attributed thereto in section 289(1) of the Act;

Emergency Share Issue means any issue of A Shares which the Board has determined to make following:

- (a) the occurrence and continuance of a Finance Document Material Default where such a Finance Document Material Default has not been waived by the relevant provider(s) of finance; or
- (b) being notified that, in the reasonable opinion of any three of the Investor Directors (including the SE Director (if one is appointed)) and/or the B Director, there is a likelihood of a Finance Document Material Default occurring that in all likelihood will not be waived by the relevant provider(s) of finance and the issue of securities is, in the reasonable opinion of the notifying Investor Directors (including the SE Director (if one is appointed)) and/or the B Director, necessary to avoid a Finance Document Material Default occurring;

Employee Member means any member who is: (a) a trust or trustee of a trust (acting in that capacity) for the benefit of employees of the Group; (b) any member who is or was an employee of any member of the Group; and (c) any Employee Member Transferee;

Employee Member Transferee means any person who acquired A3 Shares from an Employee Member as defined in paragraphs (a) and (b) of the definition of Employee Member pursuant to a Permitted Transfer;

Equity Shares means the A1 Shares, the A2 Shares, the A3 Shares, the A4 Shares, the B Shares and the C Shares taken together as one class;

Equity Value has the meaning given in paragraph 4 of Schedule 1;

Event of Default means any member of the Company (other than Scottish Enterprise or any other member of the Scottish Enterprise Group or any member of the HIE Group, as the case may be) being subject to any of the following or Scottish Enterprise or any other member of the Scottish Enterprise Group or any member of the HIE Group, as the case may be being subject to paragraph (i) of the following:

- (a) the passing of a resolution for the liquidation of the member, other than a solvent liquidation for the purpose of the reconstruction or amalgamation of the member, in which a new company assumes (and is capable of assuming) all the obligations of the member (provided that such reconstruction or amalgamation does not result in a transfer of the member's shares in the Company to any person other than a Permitted Transferee); or
- (b) the presentation at court by any competent person of a petition for the winding up of the member and which has not been withdrawn or dismissed within seven days of such presentation; or
- (c) the issue at court by any competent person of a notice of intention to appoint an administrator to the member, a notice of appointment of an administrator to the member or an application for an administration order in respect of the member; or
- (d) any step is taken by any person to appoint a receiver, administrative receiver or manager in respect of the whole or a substantial part of the assets or undertaking of the member; or

- (e) the member being unable to pay its debts as they fall due for the purposes of section 123 of the Insolvency Act 1986; or
- (f) the member entering into a composition or arrangement with its creditors; or
- (g) the member granting a charge over the shares in the Company and/or any chargor taking any steps to enforce any charge created over any shares held by the member in the Company; or
- (h) a process having been instituted that could lead to the member being dissolved and its assets being distributed among the member's creditors, shareholders or other contributors; or
- (i) the member committing:
 - (i) a material breach of the Shareholders' Agreement that is not capable of remedy or which, if capable of remedy, has not been remedied to the satisfaction of the Board within 14 days of being brought to the attention of the member in writing by the Company; or
 - (ii) a persistent breach of the Shareholders' Agreement; or
- (j) any member who is an individual being sequestrated, made bankrupt or having an obligation (whether by order of court or settlement agreement or otherwise) imposed to transfer the shares or assign any rights deriving from the shares to a third party;

provided in paragraphs (a) to (j) of this definition of Event of Default references to member shall, in respect of any member that is a nominee for a Beneficial Shareholder, also include the relevant Beneficial Shareholder on whose behalf it is a nominee such that any event occurring in respect of the Beneficial Shareholder shall also be an Event of Default of the registered member;

- (k) where the member is a corporation but is not holding the shares as a nominee, any change in the identity of the person who is the beneficial owner of Control of that member (or, if there is any intervening holdco company, any change in the identity of the person who is the beneficial owner of Control of the ultimate holdco company) save that no Event of Default shall occur under this paragraph (k) if:
 - (i) the change results in a person that is a Family Settlement or Privileged Relation of the person who originally held beneficial ownership of the Control of such company or ultimate holdco company becoming the beneficial owner of such Control; or
 - (ii) the member obtains the consent of the Board to the change and Principal Shareholder Consent;

where the member is a corporation and holding shares solely as a nominee for a Beneficial Shareholder, any change in the identity of the Beneficial Shareholder on whose behalf it holds shares save that no Event of Default shall occur under this paragraph (xii) if:

- (iii) the change results in a person that is a Family Settlement or Privileged Relation of the Beneficial Shareholder becoming the beneficial owner of the shares held by the member as nominee and such Family Settlement or

Privileged Relation has become party to any Shareholders' Agreement then in force in respect of the shares held by the nominee; or

- (iv) the member obtains the consent of the Board to the change and Principal Shareholder Consent;

Exit Event means an Asset Sale, a Share Sale, a Listing or a Liquidation;

Exit Proceeds means:

- (a) in the case of a Share Sale (including any Share Sale that is implemented to effect a Listing), the aggregate amount of the cash consideration payable in respect of the Shares being sold less all transaction costs to be deducted from the consideration and for this purpose cash consideration shall be deemed to include the cash value of any non cash consideration payable in connection with the Share Sale (as determined by the Valuer); and
- (b) in the case of a Capital Distribution Event, the amount of capital and assets of the Company available for distribution to its shareholders; and
- (c) in the case of both a Share Sale (including any Share Sale that is implemented to effect a Listing) and a Capital Distribution Event excluding any element of cash consideration which is deferred, contingent and/ or unquantified, which consideration shall be dealt with in accordance with Article 6.3.3;

Fair Price means, the price per share determined in accordance with Article 24 (fair price);

Family Settlement means, in relation to any member who is a natural person or, in the case of a corporate member, an individual referred to in Article 21.1.3(a) or a Beneficial Shareholder in respect of which it is acting as a nominee or in relation to a person that has been confirmed in the Shareholders' Agreement as an indirect member, any trust or trusts (whether arising under a settlement inter vivos or a testamentary disposition by whomsoever made or on intestacy) under which no immediate beneficial interest in the shares in question is, for the time being, vested in any person other than the member concerned or relevant individual referred to in Article 21.1.3(a) or the relevant Beneficial Shareholder or the indirect member (as the case may be) and/or his Privileged Relations;

Finance Documents means such documents as may be entered into by the Company in relation to the Company or any other member of the Group incurring borrowings or granting security for borrowings of any member of the Group from time to time (including, without prejudice to the generality, any overdraft facility, term loan, revolving credit facility, invoice discount facility, factoring facility, bonding agreement (relating to HMRC or otherwise) or loan notes) but which will not include any agreement or arrangement under which normal trade credit is incurred by the Company or any other member of the Group;

Finance Document Material Default means any action or omission which would result in repayment being accelerated automatically or at the lender's demand under a Finance Document;

Founder means Anderson Bakewell;

Good Leaver means a Leaver who is not a Bad Leaver or a Gross Misconduct Leaver;

Gross Misconduct Leaver means any Shareholder who is employed by and/or is a director of the Company and/or a consultant engaged by the Company or any other member of the Group from time to time and who:

- (a) in the case of an employee of any member of the Group, is dismissed summarily from that employment for gross misconduct; or
- (b) in the case of a consultant of any member of the Group, who commits gross misconduct in the discharge of his duties as a consultant; or
- (c) in the case of a director who is not an employee of any member of the Group, where he is guilty of gross misconduct in the discharge of his duties as a director of any member of the Group;

Group means the Company and each holding company and/or subsidiary of the Company and each subsidiary of any such holding company from time to time and Group Company and "member of the Group" shall be construed accordingly;

HIE means Highlands and Islands Enterprise established by the Enterprise and New Towns (Scotland) Act 1990 and having its Principal Office at Cowan House, Inverness Retail & Business Park, Inverness, Highland W2 7GF;

HIE Group means HIE, any subsidiary for the time being of HIE and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of HIE or any subsidiary of such company, corporation or body and any other body to which the statutory functions of HIE have been delegated or a HIE Successor and the expression "member of the HIE Group" shall be construed accordingly;

HIE Successor means any party succeeding to or acquiring in whole or in a significant part the interests of HIE;

HMRC means Her Majesty's Revenue & Customs;

holdco company has the meaning given in Article 21.1.2;

holding company and subsidiary means a holding company and subsidiary as defined in section 1159 of the Act and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of: (a) another person (or its nominee) by way of security or in connection with the taking of security; or (b) its nominee;

Initial Sellers has the meaning given in Article 26;

Investor Directors means the Investor Director(s) appointed pursuant to Article 28 (and Investor Director shall be construed accordingly);

Investors means the Shareholders other than the Founder (and Investor shall be construed accordingly);

Lead Investors means at any given time the persons who are the Significant Shareholders, provided that:

- (a) where there are more than three Significant Shareholders at any given time then, to determine who the Lead Investors are, the Significant Shareholders shall be ranked in order of the size of their holdings of A1 Shares by amount of capital paid up on such shares (including any premium) and the Lead Investors shall be the three Significant Shareholders with the largest single shareholdings (and no other Significant Shareholder shall be a Lead Investor); and
- (b) if, because two or more Significant Shareholders hold A1 Shares representing the identical amount of paid up capital (including any premium), it is not possible to identify only three Significant Shareholders with individual holdings of A1 Shares in excess of all other Significant Shareholders then the three Lead Investors shall be determined (on the basis of the ranking referred to in (a)) as follows:
 - (i) each of the Significant Shareholders with the first ranking (i.e. holders of the largest individual holding(s) of A1 Shares by amount of capital paid up on such shares (including any premium)) shall be a Lead Investor unless there are more than three such Significant Shareholders in which event all such Significant Shareholders with the first ranking shall have to agree which of their number shall be the three Lead Investors and notify that agreement to the Company and in the absence of agreement none of them (nor any other Significant Shareholder) shall be a Lead Investor;
 - (ii) where there are less than three Significant Shareholders with the first ranking, each of the Significant Shareholders with the second ranking (i.e. holders of the second largest individual holding(s) of A1 Shares by amount of capital paid up on such shares (including any premium)) shall be a Lead Investor unless that would result in there being more than three Lead Investors in which event all such Significant Shareholders with the second ranking shall have to agree which of their number shall take the remaining position(s) as Lead Investors and notify that agreement to the Company and in the absence of agreement none of them (nor any Significant Shareholder in any lower ranking) shall be a Lead Investor; and
 - (iii) where there is only one Significant Shareholder with the first ranking and only one Significant Shareholder with the second ranking the Significant Shareholders with the third ranking (i.e. holders of the third largest individual holding(s) of A1 Shares by amount of capital paid up on such shares (including any premium)) shall have to agree which one of their number shall be the remaining Lead Investor and notify that agreement to the Company and in the absence of agreement none of them (nor any Significant Shareholder in any lower ranking) shall be a Lead Investor;

Leaver means any holder of shares who is employed by and/or is a director of the Company or another member of the Group from time to time and who:

- (a) serves or is served with notice of termination of his employment and/or directorships with all members of the Group by whom he is employed or of which he is a director or appointed to provide services; or
- (b) dies; or
- (c) ceases to be an employee and/or director of the Company or any such other member of the Group (whether or not his contract of employment is validly terminated and/or

whether or not such termination is wrongful or unfair or otherwise and does not continue (or is not immediately re-employed) as an employee and/or director of the Company or any such other member of the Group); or

- (d) ceases to be an employee and/or director of a member of the Group because such member of the Group ceases to be a member of the Group and does not continue (or is not immediately re-employed) as an employee and/or director of the Company or any such other member of the Group; or
- (e) who is a Gross Misconduct Leaver.

Any reference in these Articles to a Leaver shall include any person who becomes entitled to a Leaver's shares by transmission to a person following the death or bankruptcy of a Leaver and when referred to in Articles 23.3, 23.5 and 24.1.2 shall be construed in accordance with the terms of Article 23.2;

Leaver Shareholder Company means any holder of C Shares, A3 Shares or A4 Shares that is a company that is under the Control of a Leaver and/or a Leaver's Privileged Relations and/or Family Settlements;

Listing means the admission of the equity securities of the Company or any holding company of the Company to trading on the London Stock Exchange, the Alternative Investment Market or any Recognised Investment Exchange (as such term is defined in Section 285 of the Financial Services and Markets Act 2000) or any investment exchange which meets the criteria specified in Part I or specified in Part II or Part III at Schedule 3 of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 becoming effective;

Liquidation means the making of a winding up order by the court or the passing of a resolution by the members of the Company that the Company be wound up;

London Stock Exchange means the London Stock Exchange plc or any successor body;

Maximum has the meaning given in Article 22.3;

member means a person (whether an individual or a corporation) who holds shares;

Model Articles has the meaning given in Article 2;

Non Lead Investor Shares means the A1 Shares held by holders of A1 Shares other than the Lead Investors;

Non SE Voting Shares means the Voting Shares other than any A2 Shares;

Observer means any person appointed pursuant to Article 27.2 or 28.1;

Offer Period has the meaning given in Article 22.3;

Offer Price has the meaning given in Article 26.2;

Office means the registered office of the Company;

Operational Shareholder Consent means: (a) the consent of the holders of not less than 50 per cent in aggregate of the Voting Shares in issue in the capital of the Company at the relevant time; or (b) the consent of the B Director and two Investor Directors of whom one

must be the SE Director if a SE Director is appointed, unless the holders of not less than 25 per cent of the Voting Shares have given notice to the Company that Operational Shareholder Consent shall mean consent in terms of (a) only in respect of all matters or in respect of a specified matter to which Operational Shareholder Consent is being requested;

Permitted Transfer means a transfer of shares pursuant to Article 21 (permitted transfers);

Permitted Transferee means a person to whom shares are validly transferred pursuant to Article 21 (permitted transfers);

Post Investment Distributions means an amount in pounds sterling (rounded to the nearest whole £1) equal to the aggregate amount of dividends paid to all holders of Shares since the date of adoption of these Articles;

Principal Shareholder Consent means the consent of the holders of not less than 60 per cent in aggregate of the Voting Shares in issue in the capital of the Company at the relevant time;

Privileged Relation means, in respect of any member who is a natural person or, in the case of a corporate member, an individual referred to in Article 21.1.3(a) or a Beneficial Shareholder in respect of which it is acting as a nominee, the parent or spouse or civil partner for the time being (or in the case of a deceased member as at the date of death) or brother or sister or niece or nephew of the member or individual referred to in Article 21.1.3(a) or the relevant Beneficial Shareholder (as the case may be) or any lineal descendent of the member or such individual (as the case may be) and for these purposes the step-child or adopted child of any person shall be deemed to be that person's lineal descendent provided no such person may be a Privileged Relation whilst a minor;

Proposed Purchaser has the meaning given in Article 25.2;

PT Deemed Transfer Notice has the meaning given in Article 21.1.10;

Purchaser has the meaning given in Article 22.3;

Qualifying Offer has the meaning given in Article 25.1.2;

Ratchet A3 Shares means any issued A3 Shares other than those A3 Shares which, at the time of their issue, the Board determined should not be entitled to the rights and subject to the restrictions set out in Article 9.2 and those A3 Shares issued pursuant to Article 9.2;

Register of Members means the register of members kept by the Company pursuant to section 113 of the Act;

Rejection Notice has the meaning given in paragraph 1.2 of Schedule 1;

Rejection Period has the meaning given in paragraph 1.2 of Schedule 1;

Remaining Shareholders has the meaning given in Article 25.2;

Sale Shares has the meaning given in Article 22.2;

Scottish Enterprise means Scottish Enterprise, established by the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at Atrium Court, 50 Waterloo Street, Glasgow G2 6HQ;

Scottish Enterprise Group means Scottish Enterprise, any subsidiary for the time being of Scottish Enterprise and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of Scottish Enterprise or any subsidiary of such company, corporation or body and any other body to which the statutory functions of Scottish Enterprise have been delegated or a Scottish Enterprise Successor and the expression "member of the Scottish Enterprise Group" shall be construed accordingly;

Scottish Enterprise Successor means any party succeeding to or acquiring in whole or in a significant part the interests of Scottish Enterprise;

SE Shares has the meaning given in Article 12.12;

Second New Share Offer has the meaning given in Article 12.6;

Share Sale means the acquisition by any person, or persons who in relation to each other are Associates, of 60 per cent or more of the Voting Shares issued in the Company;

Shareholders means shareholders in the Company;

Shareholders' Agreement means any shareholders' agreement entered into by the Company and others on or around the date of adoption of these Articles;

shares means shares in the share capital of the Company;

SE Director has the meaning given in Article 28;

Significant Shareholder means: (i) an A1 Shareholder prior to the date of adoption of these Articles who holds A1 Shares that represent no less than £600,000 of the Company's paid up capital (including any premium); (ii) any person who is a Shareholder prior to the date of adoption of these Articles, who after the date of adoption of these Articles comes to hold A1 Shares that represent no less than £1,000,000 of the Company's paid up capital (including any premium); and (iii) any person who becomes an A1 Shareholder after the date of adoption of these Articles who holds A1 Shares that represent no less than £1,000,000 of the Company's paid up capital (including any premium) (and Significant Shareholders shall be construed accordingly) provided that the Founder shall not be a Significant Shareholder and, in so far as the Founder makes a transfer of A1 Shares to any Permitted Transferee of the Founder (other than a Permitted Transferee under Article 21.1.7), those A1 Shares so transferred will not count towards determining whether that Permitted Transferee is a Significant Shareholder;

Situation has the meaning given in Article 29.2;

Specified Price has the meaning given in Article 22.2 (except in Article 25 where it has the meaning given in Article 25.1.1);

Tag Along Price has the meaning given in Article 26.2;

Tag Share Offer Notice has the meaning given in Article 26.3;

Tag Share Tag Along Notice has the meaning given in Article 26.4;

Transfer Notice has the meaning given in Article 22;

Trigger Event has the meaning given in Article 7.5.1;

Valuation Criteria Notice has the meaning given in paragraph 1.11.1 of Schedule 1;

Valuer means the Auditors (or, in the event of their being unwilling or unable to act, at the option of the Company or at any time that the Conversion Committee has locus at the option of the Conversion Committee, an independent firm of chartered accountants nominated by the President of the Institute of Chartered Accountants in Scotland (or his equivalent from time to time)) in each case acting as an expert and not as an arbitrator; and

Voting Shares means the A1 Shares, the A2 Shares, the A3 Shares, the A4 Shares and the B Shares.

- 1.1 Words denoting the singular shall include the plural and vice versa; words denoting any gender shall include all genders.
- 1.2 Words and expressions defined in the Act shall, unless the context otherwise requires, bear the same meanings herein.
- 1.3 Schedule 1 shall be deemed to be part of, and shall be construed as one with, the Articles.

2 Constitution

- 2.1 The Company is a private company within the meaning of section 4(1) of the Companies Act 2006 (the Act) established subject to the provisions of the Act including any statutory modification or re-enactment thereof for the time being in force and the articles contained in The Model Form Articles for private companies limited by shares as set out in The Companies (Model Articles) Regulations 2008 (Statutory Instrument 2008 No. 3229) (the Model Articles) with the exception of articles 2, 14, 17 to 20 (inclusive), 22(2), 24(2)(c), 26, 38, 41, 44(1), 44(2), 52 and 53, and of any other articles which are inconsistent with the additions and modifications hereinafter set forth.
- 2.2 The liability of the members is limited to the amount, if any, unpaid on the shares held by them.
- 2.3 In accordance with the Act the objects of the Company shall be unrestricted.

3 Share capital

The share capital of the Company that has been issued as at the date and time of adoption of these Articles is £8,151,125 divided into 5,966,939 A1 Shares, 1,500,000 A2 Shares, 75,000 A4 Shares, 853,826 B Shares and 37,500 C Shares.

4 Rights attaching to the Equity Shares

The rights and restrictions in relation to the Equity Shares are as follows:

5 Income

- 5.1 Any profits which the Directors may lawfully determine to distribute in respect of any financial year shall be distributed amongst the holders of the Voting Shares without any priority being given to any class of Voting Shares with the intent and effect that every Voting Share will receive a distribution when profits are distributed but save as hereinafter provided on such distribution being made the B Shares shall be entitled to receive on each B Share an amount equal to 80 per cent. of the amount payable by way of distribution on each A Share. Following

the occurrence of a B Share Event or an Exit Event, on any distribution the B Shares shall receive an identical amount per B Share as A Shares receive per share.

5.2 The C Shares shall have no right to any income distribution or dividend.

6 Capital

6.1 Upon a Capital Distribution Event, a Share Sale or a Listing (a Distribution Event), the Exit Proceeds (when available) shall be distributed among the Shareholders, as at the date on which the Distribution Event takes place, as follows:

6.1.1 If the Distribution Event is occurring at a time when neither a B Share Event nor an Exit Event has occurred, the Exit Proceeds shall:

(a) be distributed amongst the holders of the Voting Shares on a pari passu basis and pro rata in relation to the nominal value of the Voting Shares held by each Shareholder (save that for the purpose of this Article only each A4 Share in issue shall be treated as having a nominal value of £1 notwithstanding its actual nominal value is £0.01);

(b) not be distributed to the holders of C Shares;

6.1.2 If the Distribution Event is occurring at a time when a B Share Event has occurred (but an Exit Event has not), the Exit Proceeds shall:

(a) be distributed amongst the holders of the Voting Shares on a pari passu basis and pro rata in relation to the number of Voting Shares in issue;

(b) not be distributed to the holders of C Shares;

6.1.3 If the Distribution Event is occurring at a time when an Exit Event has occurred for an Equity Value of less than £20,000,000 (and whether or not a B Share Event has previously occurred), the Exit Proceeds shall:

(a) be distributed amongst the holders of the Voting Shares participating in the Exit Event on a pari passu basis and pro rata in relation to the number of Voting Shares participating in the Exit Event;

(b) not be distributed to the holders of C Shares;

6.1.4 If the Distribution Event is occurring at a time when an Exit Event has occurred (and whether or not a B Share Event has previously occurred), for an Equity Value of more than £20,000,000, the Exit Proceeds shall be distributed amongst the holders of the Equity Shares participating in the Exit Event on a pari passu basis and pro rata in relation to the number of Equity Shares participating in the Exit Event.

6.2 Unless determined otherwise by the Board with Principal Shareholder Consent, upon the occurrence of an Asset Sale all of the holders of Equity Shares shall procure that the Company is wound up and shall take all such steps as are required to wind up the Company and return the capital and assets of the Company to the Shareholders in accordance with Article 6.1.

6.3 The provisions of Article 6.1 shall be subject to the following overriding provisions:

- 6.3.1 upon a Share Sale, those shares not acquired by the relevant purchaser(s) (i.e. those not participating in the Exit Event) shall not be entitled to any allocation of Exit Proceeds pursuant to Article 6.1;
- 6.3.2 the Shareholders and the Board shall use all reasonable endeavours to reach agreement (without delay) as to the accuracy of calculations to be undertaken to give effect to the provisions of Article 6.1. In the event that they fail to do so within a reasonable time, the Company shall procure that the Valuer acting as experts and not as arbitrators shall determine the results of such calculations and the Valuer shall issue a certificate accordingly. Any such certificate shall, in the absence of manifest error, be final and binding on all of the Shareholders, each of whom shall be sent a copy by the Valuer;
- 6.3.3 this Article 6.3.3 shall only apply in the circumstances envisaged in paragraph (c) of the definition of Exit Proceeds. On each occasion on which any deferred, contingent and/or unquantified cash consideration in such definition of Exit Proceeds shall in fact be received by or on behalf of the Shareholders, the provisions of Article 6.1 previously applied shall be reapplied as at the date of the Distribution Event to determine the allocation of the received consideration on the same proportionate basis as the consideration already received was allocated. In no event shall the receipt of such additional amounts result in any recalculation of the number of B Shares (if any) that converted to Deferred Shares in accordance with Article 9.1 and Schedule 1 or a reassessment of the appropriateness of the Cash Equivalent determined at the time of the Exit Event in respect of that deferred payment. The Company and the Shareholders agree that the provisions of this Article 6.3.3 shall remain in full force and effect (as covenants on the part of each of them) following completion of any Distribution Event occurring after the date of adoption of these Articles and notwithstanding any proposed amendment or replacement of these Articles following completion of such Distribution Event.

7 Voting

- 7.1 On a show of hands or on a poll taken at a meeting every holder of Voting Shares who (being an individual) is present or (being a corporation) is present by a duly authorised representative (not being himself a member entitled to vote) shall have:
- 7.1.1 in the case of all classes of A Shares, one vote for every share of which he is the holder;
- 7.1.2 in the case of the B Shares, 0.8 votes per B Share (rounded down to the nearest whole number of votes for each holder of B Shares) prior to either a B Share Event or an Exit Event occurring and one vote per B Share after the first to occur of a B Share Event or an Exit Event.
- The same voting rights as apply on a show of hands shall apply on a vote on a written resolution.
- 7.2 Subject to Articles 7.3 and 7.4, C Shares issued in the capital of the Company shall be entitled to receive notice of, and to attend and speak at, but not (in the capacity as a holder of C Shares) vote on a show of hands or on a poll or on any written resolution.
- 7.3 If the business of any general meeting includes a resolution for the winding-up of the Company, or for the appointment of an administrator or the approval of a voluntary arrangement, or a reduction in the capital of the Company and/or a resolution adversely altering, varying or abrogating any of the special rights and/or privileges attaching to the C Shares or there is any written resolution in respect of the same, then the holders of C Shares

shall be entitled to receive notice of and to attend and vote at any such general meetings of the Company or in respect of any such written resolution but only on any such resolution.

- 7.4 On any matter on which the holders of the C Shares are entitled to vote (whether a class meeting or otherwise) then on a show of hands every holder of C Shares who (being an individual) is present or (being a corporation) is present by a duly authorised representative, not being himself a member entitled to vote, shall have one vote and on a poll or on a written resolution every holder of C Shares shall have one vote for every C Share of which he is the holder.

7.5 Voting Rights of Scottish Enterprise

- 7.5.1 Subject to Article 7.5.3, in the event that as a result of the buyback, redemption, conversion, cancellation, forfeiture of any shares or the disenfranchisement of voting rights of any part of the share capital of the Company (or any other event having similar effect), the rights attributable to Scottish Enterprise (and/or the Scottish Enterprise Group) pursuant to these Articles would otherwise operate in such a manner as to give Scottish Enterprise (and/or the Scottish Enterprise Group) control of the exercise of 30% or more of the votes at a general meeting of the Company (a Trigger Event), the voting rights of Scottish Enterprise (and/or any member of the Scottish Enterprise Group) applicable to their shareholding on any resolution proposed at a general meeting shall be deemed to be restricted to 29.9% of the votes cast on any poll and the votes cast by any other holder of voting shares shall be deemed to be proportionately increased such that the aggregate voting rights of all other holders of voting shares for the purpose of any vote shall equal 70.01%.

- 7.5.2 The Company shall give notice to Scottish Enterprise immediately upon becoming aware of the occurrence or anticipated occurrence of any event which could reasonably be expected to constitute a Trigger Event.

- 7.5.3 The operation of Article 7.5.1 above may be cancelled or suspended at any time or times either prior to the occurrence of any Trigger Event or subsequent to such provisions taking effect by Scottish Enterprise (and/or the Scottish Enterprise Group) in its sole discretion providing written notice to the Company of its intention to cancel or suspend the operation of Article 7.5.1. Immediately upon receipt of such notice, the provisions of Article 7.5.1 shall be suspended or cancelled accordingly. Votes taken by the Company during the period of operation of any suspension or cancellation under Article 7.5.1 shall not be affected by any such subsequent suspension or cancellation.

- 7.5.4 Notice given by Scottish Enterprise (and/or the Scottish Enterprise Group) in terms of Article 7.5.3 shall be given by the Company to all Shareholders whose rights to vote are affected by the operation of such Article.

8 Redemption

None of the Equity Shares are redeemable.

9 B and A3 share ratchets

- 9.1 In the event that an Exit Event or B Share Event occurs, or in the case of an Exit Event, is likely to occur, the provisions of Schedule 1 shall apply and in accordance with that Schedule 1 the occurrence of that Exit Event or B Share Event (as the case may be) may result in B Shares converting to Deferred Shares on a one for one basis.

- 9.2 In the event that an Exit Event occurs for an Equity Value of £60,000,000 or more (Equity Value for these purposes being that determined by the process in Schedule 1 that applies in the case of an Exit Event) then the Company shall (immediately prior to completion of that Exit Event) allot and issue to the holders of any Ratchet A3 Shares one additional A3 Share for every ten Ratchet A3 Shares already held by that Shareholder prior to the Exit Event occurring provided:
- 9.2.1 that each holder of Ratchet A3 Shares shall be liable to pay to the Company an amount for each such additional share being issued to him equal to the aggregate of:
- (a) its nominal value; and
 - (b) any income or other tax together with national insurance contributions payable by the employee (and for which any member of the Group is obliged to collect and account) or by any member of the Group as a result of the allotment and issue of such additional A3 Share,
- which aggregate amount the Company may deduct from any distribution of Exit Proceeds otherwise due under Article 6.1 in respect of such A3 Shares;
- 9.2.2 no holder of Ratchet A3 Shares who is at that time a Leaver shall receive such additional A3 Shares;
- 9.2.3 that once holders of Ratchet A3 Shares are issued additional A3 Shares in accordance with this Article 9.2 the Ratchet A3 Shares that they hold shall cease to be Ratchet A3 Shares and shall be A3 Shares with no rights to have issued any further A3 Shares hereunder. The A3 Shares issued in accordance with this Article 9.2 shall not be Ratchet A3 Shares.
- 9.3 The Board shall determine when issuing A3 Shares whether or not the A3 shares shall be entitled to the rights and subject to the restrictions set out in Article 9.2.

10 Variation of class rights

- 10.1 Whenever the share capital of the Company is divided into different classes of shares, the special rights attached to any such class may only be varied or abrogated with the consent in writing of the holders of more than 75 per cent of the issued shares of that class or with the sanction of a special resolution passed at a separate meeting of the holders of that class. To every such separate general meeting all the provisions of these Articles relating to general meetings of the Company (and to proceedings at general meetings) shall, mutatis mutandis, apply.
- 10.2 Without prejudice to the generality of Article 10.1 above, none of the following events shall constitute a variation or abrogation of the rights attaching to any class of shares:
- 10.2.1 the allotment of any shares which will rank *pari passu* in all respects with any existing class of shares; or
- 10.2.2 an offer to the holders of any class of shares of the right to receive new shares of that class, credited as fully paid, instead of the whole or any part of a cash dividend specified by the Board.

These rights are not entrenched provisions within the meaning of section 22 of the Act.

11 Share buy backs

The Company will not purchase or cancel any of its shares, either out of income or capital, without Principal Shareholder Consent in addition to any other approval requirements of the Act. In the event of any such purchase or cancellation the method of identifying which shares will be so purchased or cancelled will be set out in the request for approval and will not have to comply with the provisions of Articles 5.1 to 6.3 (inclusive).

12 Issue of shares

- 12.1 Subject to the terms of these Articles, provisions of the Act and of every other statute for the time being in force concerning companies and affecting the Company and to any direction to the contrary that may be given by ordinary resolution of the Company, the Directors may offer, allot, issue, grant options or rights over or otherwise dispose of any shares to such persons, at such times and for such consideration and upon such terms and conditions and with such preferred, deferred or other special rights or restrictions whether in regard to dividend, voting, return of capital or otherwise as the Directors may determine, but so that no shares shall be issued at a discount.
- 12.2 For the purposes of section 551 of the Act, the Directors are authorised generally and unconditionally to allot without the authority of the Company in general meeting up to a maximum of £271,426.00 in nominal amount of A3 Shares of the Company at any time or times from the date of adoption of these Articles until the date occurring five years after such date. The aforesaid authority may be renewed by the Company in general meeting for a further period not exceeding five years. The Company may make any offer or agreement before the expiry of this authority which would or might require relevant securities to be allotted after this authority has expired and the Directors may allot relevant securities in pursuance of any such offer or agreement notwithstanding the expiry of this authority. In this Article, references to the allotment of shares shall include the grant of rights to subscribe for, or to convert any security into, shares.
- 12.3 In accordance with section 570 of the Act, sub-section (1) of section 561 of the Act shall be excluded from applying to the allotment of equity securities (as defined in section 560 of the Act).
- 12.4 Subject always to Articles 12.11 and 12.12, and save as provided in Article 9.2 or with Principal Shareholder Consent, the Company shall not allot, issue or offer shares, options or warrants in respect of any shares in the capital of the Company without first offering to each of the members the opportunity to subscribe at an equivalent price for the Relevant Proportion of shares, options or warrants which the Company proposes be allotted, issued or offered. For the purposes of this Article the Relevant Proportion means the proportion of such number of shares, options or warrants in the Company which the Company proposes to allot, issue or offer as is equal to the proportion of the total issued Voting Shares of the Company held by that member.
- 12.5 Each offer to the members referred to in Article 12.4 shall be made by notice specifying the total number and class of shares offered, the price per share and limiting a time (not being less than 14 days nor greater than 21 days) within which the offer, if not accepted, will be deemed to be declined. Unless Principal Shareholder Consent is obtained, the Company shall allot Voting Shares to each member:
- 12.5.1 save as set out in Articles 12.5.2 and 12.5.3, of the same class of Voting Share as that already held by that member; or

- 12.5.2 in relation to any holder of B Shares (or a holder of A Shares and B Shares), the Relevant Proportion of shares to be allotted shall all be allotted in A Shares; or
- 12.5.3 in relation to any holder of A4 Shares (or a holder of A4 Shares and other shares), the Relevant Proportion of Shares to be allotted as a consequence of holding A4 Shares shall be issued as A1 Shares.

If a member holds more than one class of Voting Share, the allotment to that member of his Relevant Proportion (subject to Articles 12.5.2 and 12.5.3 will be split pro rata among those classes of share based on the proportion of each class of Voting Share already held by that member (and if that member holds B Shares and more than one class of A Shares then the allocation of the Relevant Proportion will be pro rata among those classes of A Share held based on the proportion of each class of A Share held and if a holder of B Shares holds no A Shares then his Relevant Proportion will be issued in A1 Shares).

- 12.6 If after the expiry of the period for acceptance specified by the notice given in accordance with Article 12.5 acceptances have not been received in respect of all of the shares offered to the members, or if earlier on the receipt of a confirmation from all the persons to whom the offer is made that they decline to accept some of the shares offered to any of them, the Directors shall offer any declined shares (Declined Shares) in the manner set out in Article 12.5 (save that the minimum period for acceptance shall be 7 days) and at the same price (Second New Share Offer) to the other members who have agreed to subscribe for all the shares initially offered to them inviting such members to apply for such number of the Declined Shares as they may specify in their application.
- 12.7 After the expiry of the period for acceptance specified by the notice given in accordance with Article 12.6 the Directors shall within 7 days allocate the Declined Shares as follows:
- 12.7.1 if the total number of Declined Shares applied for is equal to or less than the available number of Declined Shares, each offeree will be allocated the number applied for in accordance with his application; or
- 12.7.2 if the total number of Declined Shares applied for is greater than the available number of Declined Shares, applications will be satisfied pro rata by reference to the proportion that the number of Voting Shares held by each such applicant for Declined Shares bears to the total number of Voting Shares held by all such applicants.
- 12.8 Allocations of Declined Shares made by the Company pursuant to Article 12.7 will constitute the acceptance by the persons to whom they are allocated of the offer to purchase those Declined Shares on the terms offered to them, provided that no person will be obliged to take more than the maximum number of Declined Shares which he has indicated to the Company that he is willing to purchase.
- 12.9 If any of the shares are not taken up at the end of the procedure set out in Articles 12.4 to 12.8 (inclusive) the Directors may, within three months after the date of such offer, dispose of any shares to such person as they think fit but only at the same price and on the same terms which they were offered to the members in accordance with this Article 4. In these circumstances the shares not taken up need not be offered again to the members.
- 12.10 In the event of any difficulty arising by reason of an offer of shares involving fractions the Directors may settle the same as they think fit.

12.11 B Shares and C Shares may only be issued with the prior written consent of all the holders of shares immediately prior to the issue of those B Shares and/or C Shares (as applicable).

12.12 For so long as Scottish Enterprise or any other member of the Scottish Enterprise Group is a holder of A2 Shares, A2 Shares may only be issued to persons other than:

12.12.1 members of the Scottish Enterprise Group; and/or

12.12.2 persons then holding A2 Shares which were held at any time by any member of the Scottish Enterprise Group (whether or not the holder at that time is the transferee of a member of the Scottish Enterprise Group or a subsequent transferee) (SE Shares); and/or

12.12.3 persons who hold A2 Shares that, had the SE Shares not been transferred by Scottish Enterprise or any other member of the Scottish Enterprise Group (as the case may be), would have been A2 Shares that Scottish Enterprise or any other member of the Scottish Enterprise Group would have acquired or been entitled to acquire under Article 12.4 or otherwise under these Articles,

with the prior written consent of Scottish Enterprise or any such other member of the Scottish Enterprise Group as then holds A2 Shares. If following an Emergency Share Issue a holder of A2 Shares that did not subscribe for A Shares in the Emergency Share Issue does, pursuant to any agreement among the Shareholders giving those Shareholders that did not subscribe for A Shares the right to acquire A Shares from the subscribing Shareholders, acquire any A Shares so issued, unless those Shares are A2 Shares, they shall on being registered in the name of the holder of A2 Shares automatically be re-designated as A2 Shares.

13 Legal ownership of shares

The Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except only as otherwise provided by these Articles or by law) any other rights in respect of any share except an absolute right to the entirety thereof held by the registered holder. The Company shall however be entitled to register trustees as such in respect of any shares.

14 Lien

The Company shall have a first and paramount lien on every share for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share and the Company shall also have a first and paramount lien on all shares standing registered in the name of a single person or in the name of any person jointly with another or others for all monies presently payable by him or any of them or his estate or their estates to the Company. The Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article.

15 Transfer of shares

15.1 The Directors shall register any transfer of shares made in accordance with the provisions of Articles 21 to 26 (permitted transfers, pre-emptive transfers, compulsory transfers, fair price, drag along and tag along).

Save as aforesaid the Directors will decline to register any transfer of any shares, whether or not such shares are fully paid.

15.2 Subject to such of the restrictions set out in these Articles as may be applicable, any member may transfer all or any of his shares by instrument of transfer in writing in any usual or common form or in any other form which the Directors may approve. The instrument of transfer shall be executed by or on behalf of the transferor and (except in the case of fully paid shares) by or on behalf of the transferee and the transferor shall remain the holder of the shares and as such a member of the Company until the name of the transferee is entered in the Register of Members in respect thereof.

15.3 The Directors may, as a condition to the registration of any transfer of shares, require:

15.3.1 in the case of a transfer to a Permitted Transferee, the transferor or the transferee to provide the Company with such information and evidence as it may reasonably require to confirm the relevant relationship between the transferor and the transferee that is relied upon to bring the transfer within the relevant Permitted Transfer provision in Article 21;

15.3.2 in the case of any transfer (whether to a Permitted Transferee or otherwise), the transferee to execute and deliver to the Company a deed under which the transferee agrees to be bound by the terms of the Shareholders' Agreement (or any similar document in force between the Shareholders and the Company) in such form as the Directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor under any such agreement or other document).

If any such condition is imposed in accordance with this Article 15.3, the transfer may not be registered unless that deed has been executed and delivered to the Office by the transferee.

16 General meetings and Shareholder resolutions

16.1 The Board shall determine whether a general meeting is to be held as a physical general meeting and/or an electronic general meeting. Nothing in these Articles precludes the holding and conducting of a general meeting in such a way that members who are not present together at the same place or places may attend and participate in the meeting by means of an electronic platform. Nothing in these Articles shall prevent a general meeting being held both physically and electronically.

16.2 A notice of every general meeting shall be given to every member whether or not he shall have supplied to the Company an address within the United Kingdom for the giving of notices. The Board shall specify in the notice calling the general meeting whether the meeting will be physical and/or electronic. Such notice shall also specify the time, date and place and/or electronic platform(s) of the general meeting as well as how it is proposed that persons attending or participating in the meeting electronically should communicate with each other during the meeting. Unless otherwise specified in the notice of the general meeting or determined by the chairman of the meeting, a general meeting is deemed to take place at the place where the chairman of the meeting is at the time of the meeting.

16.3 No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as otherwise provided in these Articles, two holders of Voting Shares present in person or by proxy or, if a corporation, by a duly authorised representative shall be a quorum. For the avoidance of doubt, holders of Voting Shares who are not in the same location as each other may form part of the quorum.

16.4 If a quorum is not present within half an hour of the time appointed for a general meeting the meeting, if convened on the requisition of members, shall be dissolved; in any other case it shall stand adjourned to such day and at such time and place and/or electronic platform as

the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

16.5 A resolution in writing:

16.5.1 in respect of the passing of an ordinary resolution, signed by a simple majority of the total voting rights of eligible members of the Company; or

16.5.2 in respect of the passing of a special resolution, signed by a 75 per cent majority of the total voting rights of eligible members of the Company,

in each case shall be as valid and effectual as if it had been passed at a general meeting of the Company duly convened and held. Any special resolution to be passed as a written resolution must state on the face of the resolution that it is to be passed as a special resolution. Any written resolution may consist of several documents in the like form each signed by one or more of the members or their duly appointed attorneys or representatives and the signature in the case of a corporation which is a member shall be sufficient if made by a director or the secretary thereof or by its duly appointed attorney(s) or representative(s).

16.6 A poll may be demanded at any general meeting by the chairman or by any Director or by any member present in person or by proxy (including via electronic platform) or, if a corporation, by any representative duly authorised and entitled to vote. Each member present in person or by proxy (including via electronic platform) or, in the case of a corporation, by corporate representative shall have such voting rights as the class(es) of share held by them entitle them to pursuant to these Articles. All resolutions put to the members at electronic general meetings shall be voted on by a poll. Poll votes may be cast by such electronic means as the board in its sole discretion deems appropriate for the purposes of the meeting.

16.7 No resolution not previously approved by the Directors shall be moved by any member other than a Director at a general meeting unless the member intending to move the same shall have left a copy thereof with his name and address at the Office at least three clear days prior to such meeting.

16.8 The Board may resolve to enable persons entitled to attend an electronic general meeting to do so by simultaneous attendance by electronic means with no member necessarily in physical attendance at the electronic general meeting. The members or their proxies present shall be counted in the quorum for, and entitled to vote at, the general meeting in question, and that meeting shall be duly constituted and its proceedings valid if the chairman of the general meeting is satisfied that adequate facilities are available throughout the electronic general meeting to ensure that members attending the electronic general meeting who are not present together at the same place may attend and participate in the business of the general meeting.

16.9 If it appears to the chairman of the general meeting that the electronic platform(s), facilities or security at the electronic general meeting have become inadequate for the purposes referred to in Article 16.8, then the chairman may, without the consent of the meeting, interrupt or adjourn the general meeting. All business conducted at that general meeting up to the time of that adjournment shall be valid.

16.10 In relation to an electronic general meeting, the right of a member to participate in the business of any general meeting shall include, without limitation, the right to speak, vote on a poll, be represented by a proxy and have access (including electronic access) to view all documents which are required by the Companies Act 2006 or these articles to be made

available at the meeting. A person is able to exercise the right to speak at a general meeting when the chairman of the meeting is satisfied that arrangements are in place so as to enable that person to communicate to all those attending the meeting, during the meeting, any questions or opinions which that person has on the business of the meeting.

17 Directors

- 17.1 The quorum for the transaction of the business of the Directors may be fixed by the Directors for so long as no Investor Directors are appointed and, in a situation where no Investor Directors are appointed and no such determination has been made or such determination has been made but insufficient Directors are appointed to meet that requirement, shall be a majority of the Directors then appointed. If Investor Directors are appointed the quorum required for the transaction of business by the Directors shall be a majority of the Directors of whom at least two shall be Investor Directors or their respective alternates (unless in any case the provisions of Article 17.2 apply). A person who holds office only as an alternate director shall, if his appointer is not present, be counted in the quorum. If there are Investor Directors in office but the required number of Investor Directors or their respective alternates to meet the applicable quorum requirements are not present at any duly convened meeting of the Directors, the meeting shall be adjourned to such time (being not less than one or more than seven days from the date of the meeting so adjourned) as the Directors present at the adjourned meeting shall agree and this shall be notified to each Director. The quorum for the transaction of business at the reconvened meeting shall be determined as aforesaid. The only business which may be transacted at that meeting is the business details of which are set out in the notice of the reconvened meeting.
- 17.2 Notwithstanding Article 17 above, if the conflict of interest provisions contained in the Act apply such that there are no Investor Directors or only one Investor Director who is entitled to vote, form part of the quorum or attend any meeting of the Directors despite the application of Article 19.3 or any authorisation granted in respect of any Investor Director pursuant to Article 29.2 then the quorum requirements for the relevant meeting shall be modified in light thereof and shall not require any Investor Director or (as the case may) shall only require one Investor Director to form part of the quorum except that if any such affected Investor Director has appointed an alternate and his alternate is not affected by the conflict of interest provisions then the quorum requirements for the relevant meeting shall not be modified (either to exclude the requirement for any Investor Director to form part of the quorum or to reduce the number required to one, as the case may be) if such alternate attends the relevant meeting or adjourned meeting in his stead.
- 17.3 Unless and until otherwise determined by ordinary resolution of the Company, the minimum number of Directors shall be one and the maximum number of Directors shall be seven. A sole director shall have all the power and authority vested in "the Directors" in terms of these Articles.
- 17.4 A Director shall not be required to hold shares in order to qualify for office as a director, but he shall be entitled to receive notice of and attend and speak at all general meetings of the Company or meetings of any class of members of the Company.
- 17.5 A Director who is in any way, whether directly or indirectly, interested in an actual or proposed transaction or arrangement with the Company shall declare the nature and extent of his interest at a meeting of the Directors in accordance with section 177 and/or section 182 of the Act. Subject to such disclosure as aforesaid a Director may vote in respect of an actual or proposed transaction or arrangement in which he is interested and if he does so vote his vote shall be counted and he may be counted in ascertaining whether a quorum is present at any

meeting at which any actual contract or proposed transaction or arrangement shall come before the Directors for consideration and may retain for his own absolute use and benefit all profits and advantages accruing to him therefrom. For the purposes of this Article:

- 17.5.1 a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified; and
- 17.5.2 an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.
- 17.6 The Directors shall keep attendance records and minutes for meetings of the Directors or committees of the Directors.
- 17.7 The office of a Director shall be vacated:
 - 17.7.1 if he becomes bankrupt or suspends payment of or compounds with his creditors; or
 - 17.7.2 if he becomes of unsound mind or a patient for the purpose of any statute relating to mental health or otherwise mentally incapacitated; or
 - 17.7.3 if (not being a Director holding executive office as such for a fixed term) by notice in writing to the Company he resigns his office; or
 - 17.7.4 if he is prohibited by law from being a director or ceases to be a director by virtue of any provision of the Act; or
 - 17.7.5 if he is a Bad Leaver or a Gross Misconduct Leaver;
 - 17.7.6 if the Board determines that he has breached the Code of Conduct; or
 - 17.7.7 if he shall for more than six consecutive months have been absent without permission of the Directors from meetings of the Directors held during that period and the Directors resolve that his or her office be vacated; or
 - 17.7.8 in the case of an Investor Director that has been appointed by a Lead Investor (the Appointing Lead Investor), at the first general meeting of the Company that is held following the Appointing Lead Investor ceasing to qualify as a Lead Investor (unless any person who becomes a Lead Investor as a result of the cessation of the Appointing Lead Investor as a Lead Investor serves a notice on the Company confirming that he wishes that Investor Director to remain on the Board); or
 - 17.7.9 if he, not being an Investor Director or B Director, is removed from office by notice in writing signed by all his co-directors and served upon him.
- 17.8 The Directors shall have power at any time to appoint any person to be a Director either to fill a casual vacancy or as an addition to the existing Directors.
- 17.9 The ordinary remuneration of the Directors for their services as directors shall from time to time be determined by an ordinary resolution of the Company and shall (unless such resolution otherwise provides) be divisible amongst the Directors as they may unanimously agree or, failing agreement, equally except that any Director who shall hold office for part only of the period in respect of which such remuneration is payable shall be entitled only to rank in

such division for such proportion of remuneration as relates to the period during which he has held office. The Directors may repay to any Director all such reasonable expenses as he may properly incur in attending meetings of the Directors or of any committee of the Directors or general meetings of the Company or any class of members of the Company or otherwise in or about the business of the Company. In the event of any Director necessarily performing or rendering any special duties or services to the Company outside his ordinary duties as a director the Directors may, if so authorised by an ordinary resolution of the Company, pay such Director special remuneration and such special remuneration may be paid by way of salary, commission, participation in profits or otherwise as may be arranged and approved by the Directors.

- 17.10 The Directors may from time to time appoint one or more of their number to an executive office (including that of Chief Executive Officer, Managing Director, Deputy or Assistant Managing Director, Manager or any other salaried office) for such period and on such terms and conditions as they shall think fit and, subject to the terms and conditions of any agreement entered into in any particular case, may revoke such appointment. Subject to the terms and conditions of any such agreement the appointment of any Director as aforesaid shall be ipso facto determined if he ceases from any cause to be a Director. A Chief Executive Officer, Managing Director, Deputy or Assistant Managing Director, Manager or other executive officer as aforesaid shall receive such remuneration (either by way of salary, commission, participation in profits or pension or otherwise howsoever, whether similar to the foregoing or not) as the Directors may determine.
- 17.11 The Directors on behalf of the Company and without the approval of any resolution of the Company may establish, maintain, participate in and contribute to, or procure the establishment and maintenance of, participation in and contribution to, any pension, superannuation, benevolent or life assurance fund, scheme or arrangement (whether contributory or otherwise) for the benefit of any persons (including directors, former directors, officers and former officers) who are or shall have been at any time in the employment or service of the Company or of any company which at the time is or was a member of the Group or otherwise associated with the Company or of the predecessors of the Company in business or of any such other company as aforesaid, or for the benefit of the relations, spouses, widows, families, connections or dependants of any such persons or for the benefit of any other persons whose service or services have directly or indirectly been of benefit to the Company and their relations, connections or dependants, and the Directors on behalf of the Company and without the approval of any resolution of the Company may grant or procure the grant of donations, gratuities, pensions, allowances, including allowances on death, or other payments or benefits of any kind to any of such persons as aforesaid; and the Directors on behalf of the Company and without the approval of any resolution of the Company may establish, subsidise, subscribe to or support institutions, associations, clubs, schools, funds or trusts calculated or considered to be for the benefit of any of such persons as aforesaid or otherwise for the advancement of the interests and well-being of the Company or of any such other company as aforesaid or its members; and the Directors on behalf of the Company and without the approval of any resolution of the Company may make payments for or towards the insurance of any of such persons as aforesaid. Any such director or ex-director may participate in and retain for his own benefit any such donation, gratuity, pension, allowance, payment or other benefit conferred under or pursuant to this Article and the receipt thereof shall not disqualify any person from being or becoming a Director.
- 17.12 The Directors on behalf of the Company, subject to obtaining Operational Shareholder Consent, may:

- 17.12.1 establish and contribute to any employees' share scheme (within the meaning of section 1168 of the Act) for the purchase or subscription by trustees of shares of the Company or of a holding company of the Company and may lend money to the Company's employees to enable them to purchase or subscribe for shares of the Company or of a holding company of the Company; and
- 17.12.2 establish and maintain any option or incentive scheme whereby selected employees (including salaried Directors and officers) of the Company are given the opportunity of acquiring shares; and
- 17.12.3 formulate and carry into effect any scheme for sharing the profits of the Company with its employees (including salaried Directors and officers) or any of them.

Any Director may participate in and retain for his own benefit any such shares, profit or other benefit conferred under or pursuant to this Article and the receipt thereof shall not disqualify any person from being or becoming a Director.

- 17.13 No material business not referred to in the notice calling a meeting of Directors shall be transacted at that meeting unless each of the Directors then appointed consents.
- 17.14 Without prejudice to article 8 of the Model Articles, a resolution in writing signed by all the Directors eligible to vote on the matter had it been proposed as a resolution at a Directors meeting or a committee of the Directors shall be as valid and effectual as a resolution passed at a meeting of the Directors duly convened and held and may consist of several documents in the like form, each signed by one or more of the Directors. For the avoidance of doubt, confirmation by a Director by email shall be considered a valid and effectual means of communicating agreement to a resolution proposed in accordance with this Article 17.14.
- 17.15 A meeting of the Directors or of a committee of the Directors may consist of a conference between Directors who are not all in one place, but of whom each is able (directly or by telephonic communication) to speak to each of the others, and to be heard by each of the others simultaneously. A Director taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly. Subject to the Act, all business transacted in such manner by the Directors or a committee of the Directors shall for the purposes of these Articles be deemed to be validly and effectively transacted at a meeting of the Directors or a committee notwithstanding that fewer than two Directors or alternate directors are physically present at the same place. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is. The word meeting in these Articles shall be construed accordingly.

18 Borrowing and other powers

The Directors may exercise all the powers of the Company without limit as to amount to borrow and raise money and to accept money on deposit and to grant any security, mortgage, charge or discharge as they may consider fit for any debt or obligation of the Company or which is binding on the Company in any manner or way in which the Company is empowered so to grant and similarly as they may consider fit to enter into any guarantee, contract of indemnity or suretyship in any manner or way in which the Company is empowered so to enter into.

19 Alternate directors

- 19.1 Any Director (other than an alternate director) may at any time by writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint any person to be his alternate director and may in like manner at any time terminate such appointment. If such alternate director is not another Director, such appointment, unless previously approved by the Directors, shall have effect only upon and subject to being so approved (provided that the appointment of an alternate by an Investor Director or a B Director shall be effective immediately on notice of such appointment being given to the Company and shall not require the approval of the Directors).
- 19.2 The appointment of an alternate director shall determine on the happening of any event which if he were a Director would cause him to vacate such office or if his appointer ceases to be a Director.
- 19.3 An alternate director shall (except when absent from the United Kingdom) be entitled to receive notice of all meetings of the Directors and of all meetings of committees of the Directors of which his appointer is a member and shall be entitled to attend and vote as a Director at any such meetings at which his appointer is not personally present and generally at such meetings to perform all the functions of his appointer as a director in his absence and for the purposes of the proceedings at such meeting the provisions of these Articles shall apply as if he were a Director. If his appointer is for the time being absent from the United Kingdom or temporarily unable to act through ill-health or disability, an alternate director's signature to any resolution in writing of the Directors shall be as effective as the signature of his appointer. Every person acting as an alternate director shall have one vote for each Director for whom he acts as alternate (in addition to his own vote if he is also a Director). An alternate director shall not (save as aforesaid) have power to act as a director or be deemed to be a Director for the purposes of these Articles.
- 19.4 An alternate director may be repaid expenses and shall be entitled to be indemnified by the Company to the same extent mutatis mutandis as if he were a Director but he shall not be entitled to receive from the Company any remuneration except only such proportion (if any) of the remuneration otherwise payable to his appointer as such appointer may by notice in writing to the Company from time to time direct.

20 Indemnity and insurance

- 20.1 Without prejudice to any other indemnity which may from time to time be applicable, a relevant officer of the Company or an associated company shall be indemnified out of the assets of the Company against:
- 20.1.1 any liability incurred by that officer in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated company;
- 20.1.2 any liability incurred by that officer in connection with the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Act); and
- 20.1.3 any other liability incurred by that officer as an officer of the Company or an associated company,

provided always that this Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

20.2 In this Article:

20.2.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and

20.2.2 a relevant officer means any director, former director, company secretary or former company secretary or other officer of the company or an associated company (but not its auditor).

20.3 The Directors may decide to purchase and maintain insurance at the expense of the Company for the benefit of any relevant officer in respect of any relevant loss. Without prejudice to the generality of Article 17.5, at a meeting of the Directors where such insurance is under consideration a Director may form part of the quorum and vote notwithstanding any interest he may have in such insurance.

20.4 In this Article:

20.4.1 a relevant officer means any director or former director, company secretary or former company secretary of the Company or an associated company, any other officer or employee or former officer or employee of the Company (but not its auditor) or any trustee of an occupational pension scheme (as defined in section 235(6) of the Act) for the purposes of an employees' share scheme of the Company or an associated company;

20.4.2 a relevant loss means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company; and

20.4.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

21 Permitted Transfers

21.1 The following transfers of shares may be made without restriction as to price or otherwise and without any requirement to offer such shares pursuant to the provisions of Article 22 (pre-emptive transfers) namely transfers:

21.1.1 by any member being a company and not holding shares as a nominee or on trust (whether directly or indirectly) to:

21.1.2 any other company of which such company is a subsidiary (a holdco company) or any direct or indirect subsidiary of any such holdco company; or

21.1.3 any person who is:

(a) a natural person and the beneficial owner of such shares, voting or other rights that provide Control of such company or such company's holdco company; or

(b) a Privileged Relation of an individual referred to in Article 21.1.3(a) or to a Family Settlement of an individual referred to in Article 21.1.3(a); or

21.1.4 by any member being a company and holding shares as a nominee for any person or persons that is/are party to the Shareholders' Agreement in respect of the shares held by such member (such person or persons being the Beneficial Shareholder) to:

- (a) any other company succeeding as a nominee for the Beneficial Shareholder in respect of the shares held by the member;

21.1.5 by any member that is a natural person to:

- (a) any company in respect of which that natural person is the beneficial owner of shares, voting or other rights that provide Control of such company or such company's holdco company,

provided that this Article 21.1.1 only permits a transfer where the transferee (unless a successor nominee as referred to in (c) above whose Beneficial Shareholder remains bound by the Shareholders' Agreement) undertakes in a form satisfactory to the Board that such transferee will be bound by the provisions of these Articles (in particular, the provisions of Article 23 (compulsory transfers)) as if such transferee were the member from whom the shares were transferred;

21.1.6 by any member holding shares as a nominee or on trust (whether directly or indirectly) for an employees' share scheme to any other nominee or trustee of the same scheme;

21.1.7 by any member who is a natural person to any Privileged Relation or Family Settlement of that member and by such Permitted Transferee to any other Privileged Relation or Family Settlement of the original member and by any other member that is a company holding shares as a nominee for a Beneficial Shareholder to any Privileged Relation or Family Settlement of that Beneficial Shareholder and by such Permitted Transferee to any other Privileged Relation or Family Settlement of the Beneficial Shareholder, subject in each case to the following restrictions:

- (a) this Article 21.1.7(a) does not permit the transfer of A3 Shares held by an Employee Member to any of his Privileged Relations or Family Settlements where the Employee Member holds those shares as a result of that Employee Member being an Employee Member Transferee;
- (b) this Article 21.1.7(b) only permits a transfer where the transferee undertakes in a form satisfactory to the Board that such transferee will be bound by the provisions of these Articles (in particular, the provisions of Article 23 (compulsory transfers)) as if such transferee were the member from whom the shares were transferred;

21.1.8 by any trustee of a Family Settlement to any successor trustee(s) of such Family Settlement or by any such trustee(s) to any Privileged Relation of the original member or indirect member (as confirmed in the Shareholders' Agreement) whose Family Settlement it is;

21.1.9 by the trustees of any trust established for the benefit of employees or directors (or former employees or directors) of any member of the Group to the beneficiaries of such trust (or any of them) as may be approved by Operational Shareholder Consent and from such beneficiaries to the trustees of such trust to hold on trust for the benefit of the beneficiaries of the trust;

21.1.10 by Scottish Enterprise to any other member of the Scottish Enterprise Group or to any member of the HIE Group or by any member of the Scottish Enterprise Group to any other member of the Scottish Enterprise Group or to any member of the HIE Group; or by any member of the HIE Group to any other member of the HIE Group or to any member of the Scottish Enterprise Group;

- 21.1.11 by any member at any time with the unanimous prior written consent of all of the Directors or all of the other members (provided in the case of any member that holds shares solely as a nominee for a Beneficial Shareholder the consent of the member shall not be required if the Beneficial Shareholder has given his/its consent).
- 21.2 If any person to whom shares are transferred pursuant to Articles 21 to 21.1.8 above (or, where it is confirmed in the unanimous consent given in accordance with Article 21.1.10, pursuant to Article 21.1.10 above) ceases to be within the required relationship with the original transferor of such shares, or in the case of any transfer by a nominee pursuant to Article 21.1.6 ceases to be within the required relationship with the Beneficial Shareholder, such shares shall be transferred back to the original transferor (or to any other person falling within the required relationship with the original transferor/Beneficial Shareholder (as the case may be)) forthwith (and in any event within 21 days) upon such relationship ceasing and, if the holder of such shares fails to make such transfer, the holder shall be deemed to have served a separate Transfer Notice in respect of all of such shares then held by him/it (a PT Deemed Transfer Notice) and the provisions of Article 22 (pre-emptive transfers) shall apply save that the Specified Price shall be deemed to be the Fair Price unless in the case where such cessation of relationship with the original transferor/Beneficial Shareholder (as the case may be) constitutes an Event of Default as described in paragraph (i) of the definition of Event of Default in which case the provisions of Article 23.3.2 shall apply. If a transferee pursuant to Article 21.1.9 ceases to be a member of either the Scottish Enterprise Group or the HIE Group such transferee shall:
- 21.2.1 within 21 days of such cessation transfer its entire holding of shares back to any person that is a member of the Scottish Enterprise Group or a member of the HIE Group; or
- 21.2.2 be deemed to have given a Transfer Notice (also a PT Deemed Transfer Notice) in respect of its entire holding of shares in accordance with Article 22 (pre-emptive transfers) and the provisions of Article 22 shall apply save that the Specified Price shall be deemed to be the Fair Price.
- 22 Pre-Emptive transfers
- 22.1 Save as provided by Article 21 (permitted transfers), Article 23 (compulsory transfers), Article 25 (drag along) and Article 26 (tag along), and subject to Article 22.12, no member or person entitled by transmission shall transfer or dispose of or agree to transfer or dispose of or grant any interest or right in any Equity Shares to any person (a transferee for the purposes of this Article 22) without first offering the same for transfer to the holders for the time being of Equity Shares (other than the proposing transferor). Such offer may be in respect of all or part only of the Equity Shares held by the proposing transferor and shall be made by the proposing transferor by the giving in writing of a notice (a Transfer Notice).
- 22.2 Each Transfer Notice shall specify the number and class of Equity Shares offered (the Sale Shares) and (unless the Transfer Notice is deemed given as provided by these Articles) the price at which the Sale Shares are offered (the Specified Price) and the identity(ies) of the proposed transferee(s) (if any) and it shall constitute the Directors as the agent of the proposing transferor for the sale of the Sale Shares to the other holders of Equity Shares (other than the proposing transferor).
- 22.3 Subject to Article 22.12, upon receipt or deemed receipt by the Company of the Transfer Notice the Directors shall forthwith give written notice to the holders of Voting Shares (other than the proposing transferor) of the number and description of the Sale Shares and the Specified Price and (unless the Transfer Notice is deemed given as provided by these

Articles) the identity(ies) of the proposed transferee(s) inviting each of such holders to state by notice in writing to the Company within 40 days (the Offer Period) whether he is willing to purchase any and, if so, what maximum number of the Sale Shares (Maximum) he is willing to purchase, and shall also forthwith give a copy of such notice to the proposing transferor. A person who, pursuant to such a notice, expresses a willingness to purchase any Sale Shares is referred to below as a Purchaser. No member shall be entitled to be a Purchaser (other than under Article 22.9) if their only holding of shares is C Shares.

- 22.4 Within 10 days of the expiration of the Offer Period the Directors shall, subject to Article 22.6, allocate the Sale Shares to or amongst the Purchasers and such allocation shall be made so far as practicable as follows:
- 22.4.1 if the shares proposed to be transferred are Voting Shares then they shall be offered to the other holders of Voting Shares excluding the transferor; and
- 22.4.2 if the shares proposed to be transferred are C Shares then they shall be offered to holders of Voting Shares excluding the transferor.
- 22.5 Each allocation among the relevant persons identified in Article 22.4 shall in the case of competition be made:
- 22.5.1 prior to either an Exit Event or B Share Event, pro rata to the nominal amount paid up on the Voting Shares held by each holder of Voting Shares (save that for the purpose of this Article only each A4 Share in issue shall be treated as having a nominal value of £1 notwithstanding its actual nominal value is £0.01); and
- 22.5.2 after the first to occur of an Exit Event or B Share Event, pro-rata to the number of Voting Shares of any class held by them,
- but individual allocations shall not exceed the Maximum which the relevant person shall have expressed a willingness to purchase.
- 22.6 If the Transfer Notice shall state that the proposing transferor is not willing to transfer part only of the Sale Shares, no allocation shall be made unless all the Sale Shares are allocated.
- 22.7 Forthwith upon such allocation being made, the Purchasers to or amongst whom such allocation has been made shall be bound to pay to the Company (as agent for the proposing transferor) the Specified Price for, and to accept a transfer of, the Sale Shares so allocated to them respectively and the proposing transferor shall be bound forthwith upon payment of the Specified Price as aforesaid to deliver to the Company (as agent for the Purchasers) such documents as are required to transfer such shares to the respective Purchasers.
- 22.8 If in any case the proposing transferor, after having become bound to transfer Sale Shares as aforesaid, does not do so, the Company may receive the Specified Price and the Directors may appoint some person to execute instruments of transfer of such Sale Shares in favour of the Purchasers and shall thereupon, subject to such transfers being properly stamped (if applicable), cause the name of each of the Purchasers to be entered in the Register of Members as the holder of those Sale Shares allocated to him as aforesaid and shall hold the Specified Price in trust for the proposing transferor. The issue of a receipt by the Company therefor shall be a good discharge to the Purchasers and after their names shall have been entered in the Register of Members in exercise of the aforesaid power, the validity of the transactions shall not be questioned by any person.

- 22.9 If, at the expiration of the period of 10 days referred to in Article 22.4 above, any of the Sale Shares have not been allocated in accordance with the provisions of this Article, the proposing transferor may (subject always to any restrictions set out in other Articles) at any time within a period of 60 days after the expiration of the said period of 10 days referred to in Article 22.4 above transfer such unallocated Sale Shares to the proposed transferee(s) (if any) specified in the Transfer Notice, or to any other person at any price not being less than the Specified Price provided that:
- 22.9.1 if the Transfer Notice shall contain the statement referred to in Article 22.6 the proposing transferor shall not be entitled hereunder to transfer any of such unallocated Sale Shares unless in aggregate all of such unallocated Sale Shares are so transferred;
- 22.9.2 the Directors may require to be satisfied on reasonable grounds that such unallocated Sale Shares are being transferred in pursuance of a bona fide sale for the consideration stated in the transfer without any deduction, rebate or allowance whatsoever to the transferee and if not so satisfied may refuse to register the instrument of transfer; and
- 22.9.3 the proposing transferor shall be prohibited from transferring any of such unallocated Sale Shares to a Competitor unless the Board gives their prior written consent to such a transfer.
- 22.10 The restrictions on transfer contained in this Article shall apply to all transfers and transmissions by operation of law or otherwise of Equity Shares.
- 22.11 Where a member or other person is under these Articles deemed to have served a Transfer Notice in respect of Equity Shares, such Transfer Notice shall be deemed not to contain the statement referred to in Article 22.6.
- 22.12 If the Sale Shares are A3 Shares, the Directors may allocate some or all of the Sale Shares to existing or prospective employees of the Company or any of its subsidiaries and/or to a trust established for the benefit of such employees or former employees (in each case as approved by Principal Shareholder Consent) in which event the provisions of Articles 22.3 to 22.7 (inclusive) and 22.9 shall not apply to the Sale Shares allocated pursuant to this Article 22.12. For the avoidance of doubt, the provisions of Article 22 shall apply to any Sale Shares not allocated pursuant to this Article 22.12.

23 Compulsory transfers

- 23.1 If any Event of Default occurs in relation to a member, and the member fails (where the Event of Default is capable of remedy) to remedy that Event of Default within 20 days of the Company or any member of the Company bringing the Event of Default to the member's attention, then the member who has committed an Event of Default (the Defaulting Shareholder) shall be deemed to have served a Transfer Notice in respect of his entire holding of shares and all shares held by any Permitted Transferee of such a member (other than a Permitted Transferee pursuant to Article 21.1.9 or Article 21.1.10). Subject to Article 23.3, the provisions of Article 22 shall apply. In the event that a member who holds shares as a nominee of a Beneficial Shareholder commits an Event of Default then that Event of Default may be remedied by the Beneficial Shareholder procuring that a signed transfer in respect of the shares held by the nominee on its behalf to that Beneficial Shareholder or its Permitted Transferee or another nominee (in each case who is not subject to an Event of Default) is delivered to the Company within the said 20 days and if such transfer is so delivered then no Transfer Notice will be deemed to have been served in respect of the shares held by that defaulting member as nominee for that Beneficial Shareholder.

- 23.2 The Directors shall (unless they have Principal Shareholder Consent), upon the Leaver becoming a Leaver, serve a notice in writing on the Leaver within 40 days of him becoming a Leaver or, in relation to A3 Shares issued after he becomes a Leaver, within 40 days of that issue requiring him to offer for sale all of:
- 23.2.1 the A3 Shares then held by him; and
- 23.2.2 if he is a Gross Misconduct Leaver, all of the C Shares and/or A4 Shares then held by him, and/or any such A3 Shares and/or A4 Shares and/or C Shares held by a Permitted Transferee of such Leaver (other than a Permitted Transferee pursuant to Article 21.1.10) and/or, in the case of a Gross Misconduct Leaver, any C Shares or A4 Shares held by a Leaver Shareholder Company or Permitted Transferee of such Leaver Shareholder Company (other than a Permitted Transferee pursuant to Article 21.1.10) (such notice being a Compulsory Transfer Notice). Upon service of a Compulsory Transfer Notice the Leaver and any such Permitted Transferee or Leaver Shareholder Company or Permitted Transferee of such Leaver Shareholder Company on whom it is served (any such Permitted Transferee, Leaver Shareholder Company or Permitted Transferee of such Leaver Shareholder Company also being a Leaver for the purposes of Articles 23.3, 23.5 and 24.1.2) shall be deemed to have served a Transfer Notice in respect of such A3 Shares and/or A4 Shares and/or C Shares (as the case may be) (and such deemed Transfer Notice shall supersede any previous Transfer Notice which has not completed whether pursuant to Article 22 or otherwise) and, subject to Article 23.3 and 23.4, the provisions of Article 22 shall apply.
- 23.3 A deemed service of a Transfer Notice pursuant to Article 23 or Article 23.2 shall be deemed to provide that the Specified Price in respect of any shares the subject of the deemed Transfer Notice shall be:
- 23.3.1 in the case of any Defaulting Shareholder or Leaver to which Article 23.3.2 does not explicitly apply, the Fair Price;
- 23.3.2 in respect of a Bad Leaver, a Gross Misconduct Leaver or a Defaulting Shareholder whose default is described in paragraph (i) of the definition of Event of Default, the lower of:
- (a) the amount paid up on the relevant shares (including any premium paid thereupon); and
 - (b) the Fair Price.
- 23.4 If a Leaver is a Good Leaver who has (and/or whose Leaver Shareholder Company has) been engaged and/or employed as a consultant, employee and/or director (or a mix thereof) by the Company or any other member of the Group on a continuous basis for 5 years or more prior to becoming a Leaver then the provisions of Article 23.2 shall not apply and no Compulsory Transfer Notice shall be deemed served in such situation as regards that Leaver or in respect of any shares held by his Permitted Transferee(s).
- 23.5 The Board may, by notice in writing served on the Company and the Leaver or Defaulting Shareholder (as applicable) prior to the transfer pursuant to the Transfer Notice, with Principal Shareholder Consent:
- 23.5.1 specify that not all or none of the Leaver's or Defaulting Shareholders' shares are to be the subject of the deemed Transfer Notice or will be subject to a Compulsory Transfer Notice; and/or

- 23.5.2 specify that the obligation for the Directors to give written notice to the holders of Voting Shares inviting them to purchase the Sale Shares shall be deferred for a further period of up to twelve months; and/or
- 23.5.3 specify (in the case of a Leaver) that a Bad Leaver shall be deemed to be a Good Leaver for the purposes of Article 23 ;and/or
- 23.5.4 specify that the Specified Price is greater than that determined in accordance with Article 23.3 and may, by notice in writing served on the Leaver or Defaulting Shareholder, disapply the operation of the provisions of Article 23.3 and instead deem that the Specified Price is such greater price as the Board has so specified.

24 Fair Price

24.1 Fair Price means:

- 24.1.1 in respect of any member who holds less than 5 per cent of the entire issued share capital of the Company, the price per share which the Board determines in good faith to be the market value for the shares as at the date of the Compulsory Transfer Notice or the Event of Default (as applicable) (the Determined Price) (and such Determined Price shall be final and binding on any such member) provided that this provision shall not apply to a PT Deemed Transfer Notice; or
- 24.1.2 in respect of any member to whom Article 24.1.1 does not apply the price per share as at the date of the Compulsory Transfer Notice (in the case of a Leaver) or the Event of Default (in the case of a Defaulting Shareholder) agreed between such member and the Board within 21 days of service of the Compulsory Transfer Notice or the Company becoming aware of the Event of Default (or such longer period as the Board may determine) or, in the absence of such agreement in relation to a Compulsory Transfer Notice or Event of Default or in any case where the transfer is pursuant to a PT Deemed Transfer Notice, the Fair Price shall be the price as at such date certified in writing by the Valuer as being in their opinion the fair value of the shares as between a willing seller and a willing buyer (with no discount to reflect the unquoted status of the shares or the restrictions on the shares) provided that the Valuer, in determining the fair value of any of such shares shall:
 - (a) determine the sum in cash which a willing buyer would offer to a willing seller for the whole of the issued Equity Shares of the Company; and
 - (b) treat the sum determined under (a) as total Exit Proceeds available for Shareholders (after costs) on a Distribution Event and determine the amount of those Exit Proceeds that would be payable to the holders of those shares under Article 6.1.1,

assuming for these purposes that all outstanding options or rights to acquire or convert into Equity Shares have been exercised in full.

- 24.1.3 The costs of the Valuer shall be borne between the Company and the selling Shareholder equally or in such proportions as the Valuer shall determine to be fair and reasonable in the circumstances (and in arriving at such proportions, the Valuer may take account of the relevant price per share proposed by the relevant parties as compared to the price per share ultimately agreed to as determined by the Valuer). The Shareholder's share of those costs shall be deducted from any consideration payable.

24.1.4 For the avoidance of doubt where a Valuer is to be appointed, the identity of and the terms of engagement of the relevant Valuer shall be at the sole determination of the Company (acting reasonably) and shall not require the agreement of the relevant Leaver or Defaulting Shareholder.

25 Drag along

25.1 For the purposes of this Article 25:

25.1.1 the expression the Specified Price shall mean the consideration (in cash or otherwise) equal to no less than:

- (a) the aggregate amount offered or paid or payable by the proposed transferee or transferees or his or their nominees for the total issued Equity Shares (and, if included, any Deferred Shares); plus
- (b) the relevant amount of any other consideration (in cash or otherwise) received or receivable by or on behalf of any holders of Equity Shares (or any person on whose behalf a holder of Equity Shares holds shares) which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for such Equity Shares,

divided among the Equity Shares in accordance with Article 6.1;

25.1.2 the expression Qualifying Offer means an offer made on arms length terms to purchase all of the Equity Shares in issue at the time of the purchase (which, in the event that the Qualifying Offer will result in Conversion, means an offer to purchase all Equity Shares in issue following the Conversion irrespective of whether the offer includes Deferred Shares in issue) by a bona fide third party (which for the avoidance of doubt would not include any person or persons who are an Associate of:

- (a) the Founder;
- (b) where Article 25.1.2(c) does not apply any of the Investors; or
- (c) in the case of an Investor who holds Equity Shares only on behalf of a Beneficial Shareholder, the Beneficial Shareholder

(but not in that case an Associate of the Investor acting as nominee), (unless Principal Shareholder Consent is granted to the contrary)) and which sets out an aggregate price for the entire issued Equity Shares in the Company.

25.2 In the event that a Qualifying Offer is received from a bona fide third party (the Proposed Purchaser), and members constituting the Drag Majority (as defined in Article 25.3) give the notice referred to in Article 25.3, then (subject to the proviso below) the shares held by the other members in respect of whose shares the Qualifying Offer applies (the Remaining Shareholders) shall be sold or transferred at the Specified Price simultaneously with the transfer of shares by the Drag Majority (which transfer cannot occur less than 28 days after the issue of the notice pursuant to Article 25.3).

25.3 If members between them holding 60 per cent. of the issued Voting Shares (referred to herein as the Drag Majority) wish to accept the Qualifying Offer, then those members (or their duly authorised agent(s)) shall notify the Remaining Shareholders of the fact of the Qualifying Offer, the identity of the Proposed Purchaser, the total consideration to be provided by the

Proposed Purchaser and the terms and conditions of the Qualifying Offer. Such notice must be despatched at the same time to all members at their address as last notified to the Company.

- 25.4 Upon notification of the Qualifying Offer pursuant to Article 25.3 the Remaining Shareholders shall:
- 25.4.1 be deemed to have accepted the Qualifying Offer in accordance with its terms and to have irrevocably waived any pre-emption rights that they may have in relation to the transfer of the relevant Equity Shares of which they are holder; and
 - 25.4.2 be obliged to deliver to the Proposed Purchaser or his nominee an executed transfer of such shares and the share certificate(s) in respect of them (subject to the minimum time period in Article 25.2) no later than the date on which the members who issued the notice under Article 25.3 deliver such items to the Proposed Purchaser in respect of their own Equity Shares.
- 25.5 If any Remaining Shareholder shall not, within fourteen days of being required to do so under Article 25.4, execute and deliver transfers in respect of the shares held by him and deliver the share certificate(s) in respect of the same (or a suitable indemnity in lieu thereof), then any member who is within the Drag Majority who issued a notice under Article 25.3 shall be entitled to authorise and instruct such person as he thinks fit to execute the necessary transfer(s) and indemnities on such member's behalf and, against receipt by the Company (on trust for such member) of the purchase moneys/other consideration (as appropriate) payable for the relevant shares, deliver such transfer(s) and certificate(s) or indemnities to the transferee(s) or their nominees and register such transferee(s) or their nominees as the holders thereof and, after such transferee(s) or their nominees have been registered as the holders, the validity of such proceedings shall not be questioned by any persons.
- 25.6 Where a Qualifying Offer is made and approved by the Drag Majority then each member shall be deemed to have irrevocably waived any pre-emption rights that he may have in relation to a transfer of shares made in accordance with that Qualifying Offer.
- 25.7 Where Article 25.3 applies, the Qualifying Offer (which must include an aggregate price for the entire Equity Shares in issue) will determine a price per Equity Share on the basis of the number of Equity Shares in issue prior to an Exit Event. The transfer pursuant to the Qualifying Offer may, however, result in Conversion of some or all of the B Shares immediately prior to completion of that sale. In the event that Conversion occurs, the amount per Equity Share that would have been payable for those B Shares that convert to Deferred Shares immediately prior to the Exit Event shall be redistributed as consideration among the Equity Shares still in issue in accordance with Article 6.1 and shall not reduce the consideration payable by the Proposed Purchaser.
- 26 Tag along
- 26.1 This Article 26 shall apply in the event that offers to purchase issued shares in the capital of the Company under Article 22 or Article 23 have been made, and/or transfers have or are proposed to be made, whereby any person (together with any Associate of his or, in the case of any person who holds Shares only as a nominee of a Beneficial Shareholder, any Associate of such Beneficial Shareholder rather than an Associate of that nominee)) will become the holder or holders of 60 per cent. or more of the total Voting Shares. In such circumstances the person or persons holding (or who would on registration of such transfers hold) 60 per cent. of the Voting Shares shall be the "Buyer(s)" and the recipient of the offers

from the Buyer(s) (prior to the issue of a Tag Share Offer Notice under this Article 26) shall be the Initial Sellers.

- 26.2 In this Article 26 the expression the "Offer Price" shall mean the highest amount (in cash or otherwise) per share paid (or payable) by the Buyer(s) to an Initial Seller for any Equity Shares held by the Initial Sellers in the 24 months prior to the proposed transfer (or at any time prior to that if no sale was completed or relevant offer accepted in that period) plus the relevant proportion of any other consideration (in cash or otherwise) received or receivable by or on behalf of the Initial Sellers (or any person on whose behalf a holder of Equity Shares holds shares) which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for such Equity Shares. In determining the extent of the Conversion that may occur as a result of a transfer under this Article 26, the Offer Price will be multiplied by the total issued Equity Shares (before Conversion) and that aggregate amount will be used as the consideration when assessing Equity Value at that Exit Event. Once all Tag Share Tag Along Notices are received, and Conversion (if relevant) has occurred, each of the Shareholders serving such notice shall receive and the Buyer(s) shall be obliged to pay the amount per share that they would have received pursuant to Article 6.1 if a Share Sale occurred at the Equity Value determined pursuant to this Article 26.2 (the Tag Along Price).
- 26.3 Where Article 26 applies the Company shall not register such a transfer of shares unless and until the Buyer(s) has served a notice (the Tag Share Offer Notice) on the Company and each of the members who hold Equity Shares offering to purchase their entire holding of Equity Shares at the Tag Along Price and complied with the obligations in Article 26.5. The Tag Share Offer Notice must be despatched at the same time to all holders of Equity Shares at their address as last notified to the Company.
- 26.4 The holders of Equity Shares who wish to accept the Tag Share Offer Notice shall (or their duly authorised agent(s) shall) notify the Buyer(s) and the Company within 21 days of the date of receipt of the Tag Share Offer Notice as to whether they wish to accept such offer by submitting a notice to the Company (the Tag Share Tag Along Notice). Any holder of Equity Shares who does not submit a notice to the Company within that 21 day period shall be deemed to have declined the offer.
- 26.5 The Buyer(s) shall complete the purchase of all shares in respect of which a Tag Share Tag Along Notice has been timeously given and no later than 21 days from the date of the deadline for validly serving a Tag Share Tag Along Notice (or such later date as the transfer of any shares to the Buyer(s) which triggered the requirement for a Tag Share Offer Notice completes). The consideration shall be payable by the Buyer(s) in full without any set off. Any transfer pursuant to a Tag Share Tag Along Notice shall not require the proposing transferor to give a Transfer Notice. The Directors shall not register any transfer to the Buyer(s) and the Buyer(s) shall not be entitled to exercise or direct the exercise of any rights in respect of any shares to be transferred to the Buyer(s) (which for the avoidance of doubt includes shares transferred to the Buyer(s) by the Initial Sellers and shares transferred under a Tag Share Offer Notice) until in each case the Buyer(s) has fulfilled all his obligations pursuant to this Article. If and for so long as the Buyer(s) fails to comply with the provisions of this Article, the shares held by the Buyer(s) (including any shares held by the Buyer(s) prior to the operation of this Article) shall confer on the Buyer(s) no right to receive notice of, attend or vote at any general meeting of the Company or at any separate general meeting of the holders of the shares of that class or on any written resolution until the obligations of the Buyer(s) hereunder have been complied with.

26.6 Where there is more than one Buyer for the purposes of Article 26.5 the Tag Share Offer Notice will not be validly given unless it is given jointly by those Buyers and their obligations thereunder to the holders of Equity Shares shall be joint and several obligations. Provided that the Buyers comply with their obligations hereunder the holders of Equity Shares shall not be concerned as to which of the Buyers is the transferee of which of the Equity Shares and the Buyers are free to determine that amongst themselves. For the avoidance of doubt where there is more than one Buyer the Offer Price used to calculate the Tag Along Price is the highest price paid by any one of them pursuant to Article 26.2 in the relevant period.

27 B Director and Observer

27.1 Members holding B Shares representing more than one half of the amount of paid up capital (including any premium) on all of the B Shares from time to time in issue may, by notice in writing addressed to the Company and signed by or on behalf of each of them and delivered to the Office, appoint one person (identified at their entire discretion) to be a Director (a B Director) and remove any person so appointed.

27.2 The members holding B Shares representing more than one half of the amount of paid up capital (including any premium) on all of the B Shares may designate any one person to be an Observer (but only in so far as they have not at that time appointed a B Director). An Observer shall have the right to attend all meetings of the Directors and of any committee of the Directors and to receive such other information as a Director would be entitled to receive at the same time as such information is provided to Directors and shall, as regards confidentiality, have the same obligations to the Company as if he were a Director. An Observer shall be entitled to attend and speak at any such meetings of the Directors but shall not be entitled to vote.

27.3 Any B Director and/or Observer appointed by the holders of B Shares shall be entitled to report back to the member(s) appointing him on the affairs of the Company and the other members of the Group on a confidential basis and subject to any applicable legal, regulatory or contractual restrictions to disclose to such members on a confidential basis such information as he shall reasonably consider appropriate including, for the avoidance of doubt, all papers distributed to the Directors, but provided he shall not disclose any trade secrets or confidential information of the Company or any other member of the Group without the Company's prior written agreement.

28 Investor Directors and Observer

28.1 Members may, by notice in writing addressed to the Company signed by or on behalf of each of them and delivered to the Office, appoint:

28.1.1 subject as hereinafter provided, one natural person (identified at their entire discretion) in the case of each Lead Investor;

28.1.2 one natural person (identified at their entire discretion) in the case of members holding A1 Shares representing more than one half of the amount of paid up capital (including any premium) on all of the Non Lead Investor Shares in issue; and

28.1.3 one natural person (identified at their entire discretion) in the case of Scottish Enterprise or any member of the Scottish Enterprise Group for so long as any of them holds A2 Shares or, if no member of the Scottish Enterprise Group holds A2 Shares, members holding more than one half of the amount of paid up capital (including any premium) on all of the A2 Shares in issue;

to be Directors and remove the persons so appointed, provided in the case of Article 28.1.1:

- (a) for the avoidance of doubt that no more than three Directors may be appointed pursuant to Article 28.1.1 at any time; and
- (b) if at any time there are:
 - (i) no Lead Investors or less than three Lead Investors; or
 - (ii) less than three Directors that have been appointed pursuant to Article 28.1.1 as a result of a Lead Investor or Lead Investors (as the case may be) not exercising a right of appointment within three months of becoming entitled to exercise such right,

members (other than any Lead Investor who has appointed an Investor Director then in office) that hold A1 Shares representing more than one half of the amount of paid up capital (including any premium) on all of the A1 Shares in issue (excluding for these purposes the A1 Shares held by all Lead Investors who have appointed an Investor Director then in office) shall be entitled to appoint Directors pursuant to Article 28.1.1, subject always to the limitation in paragraph (a) above.

Such Directors as are appointed in accordance with the preceding provisions of this Article 28 shall be known as the Investor Directors and individually as an Investor Director or, in the case of a Director appointed pursuant to Article 28.1.3, also referred to as the SE Director.

- 28.2 The members entitled to appoint a SE Director may designate one person to be an Observer (in addition to any SE Director who may be appointed). An Observer shall have the right to attend all meetings of the Directors and of any committee of the Directors and to receive such other information as a Director would be entitled to receive at the same time as such information is provided to Directors and shall, as regards confidentiality, have the same obligations to the Company as if he were a Director. An Observer shall be entitled to attend and speak at any such meetings of the Directors but shall not be entitled to vote.
- 28.3 An Investor Director and/or Observer appointed by holders or any holder of A2 Shares (as the case may be) shall be entitled to report back to the member or members (as the case may be) appointing him on the affairs of the Company and the other members of the Group on a confidential basis and subject to any applicable legal, regulatory or contractual restrictions to disclose to such member(s) on a confidential basis such information as he shall reasonably consider appropriate including, for the avoidance of doubt, all papers distributed to the Directors, but provided he shall not disclose any trade secrets or confidential information of the Company or any member of the Group without the Company's prior written agreement.

29 Conflicts of interest

- 29.1 The conflict of interest provisions contained in the Act, in particular section 173(2)(b), should be read in the light of the following Articles dealing with conflicts of interest.
- 29.2 If a situation arises in which a director (the Conflicted Director) has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (including without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the Company could take advantage of it) (a Situation) the following provisions shall apply:

29.2.1 the Directors (other than the Conflicted Director and any other Director with a similar interest who shall not be counted in the quorum at the meeting and shall not vote on the resolution); or

29.2.2 the members (by ordinary resolution or by notice in writing given to the Company by the holders of a majority of the Equity Shares),

may resolve to authorise such Situation and the continuing performance by the Conflicted Director of his duties and confirm that the existence of such Situation shall not give rise to a breach of the duty of the Conflicted Director pursuant to section 175 of the Act (or as such section may be amended or restated or re-numbered from time to time). Any such authorisation may be subject to such conditions as the Directors or members (as applicable) may consider necessary or desirable.

29.3 Any proposed authorisation under Article 29.2.1 may only be given in respect of a matter which constitutes a Situation in which a Director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company if two Investor Directors have given their consent to such authorisation.

29.4 In the execution of his duty to promote the success of the Company it is acknowledged that the B Director and each Investor Director shall be entitled to have regard to and take account of the interests of the person(s) or party or entity who has appointed him (the Appointer) and in doing so such B Director and/or Investor Director shall not have infringed their duty to exercise independent judgement in accordance with section 173 of the Act (or as such section may be amended or restated or re-numbered from time to time).

29.5 Notwithstanding Article 29.2 above, the existence of the following Situations relating to an Investor Director or a B Director which do or may give rise to a conflict arising as a result of the relevant Director's involvement with and relationship with his Appointer and the investment strategy and operations of the Appointer, shall be hereby authorised, without further approval being required by the Directors and/or the members (as appropriate) and consequently shall not give rise to a breach of duty to avoid conflicts of interest:

29.5.1 if the Investor Director or B Director (as the case may be) is a shareholder in and/or member and/or partner and/or employee of the Appointer;

29.5.2 if the Appointer acquires a competitor of or a supplier to the Company or any other member of the Group, or a material interest therein;

29.5.3 if the Appointer or any person connected with the Appointer wishes to take up an opportunity that had been offered to, but declined by, the Group;

29.5.4 if the Investor Director or B Director (as the case may be) is appointed by the Appointer, or any person connected with the Appointer, or is otherwise appointed as a director of any other company outside the Group, including in a competitor to or supplier of the Company;

29.5.5 if the Group is considering a refinancing proposed by or supported by the Appointer;

29.5.6 if the Appointer(s) wishes to exit its investment in the Group by way of a Share Sale or Listing or an Asset Sale;

29.5.7 if an Investor Director or B Director (as the case may be) accepts a benefit from a third party conferred by reason of his being a Director or his doing (or not doing) anything as a director,

provided such benefit falls within section 176(4) of the Act (or as such section may be amended or restated or renumbered from time to time);

29.5.8 if an Investor Director or B Director (as the case may be) consents or withholds consent or gives any direction pursuant to the Shareholders' Agreement and/or these Articles;

29.5.9 if the Investor Director or B Director (as the case may be) and/or the Appointer, and/or any person Connected with the Investor Director or B Director (as the case may be) and/or Appointer and/or who is an Associate of the Investor Director and/or the Appointer, is a director or shareholder or employee of any person or company that is undertaking a business or activity that is the same or similar to the business of the Company in so far as the business or activity of that person or company is focused on a market segment in which the Company does not operate or does not intend to operate (taking account of any legal (including contractual) restrictions on its operations),

and the Investor Director or B Director (as the case may be) shall be entitled to attend, be counted in the quorum and vote at any meeting of the Directors notwithstanding any such conflict or potential conflict.

29.6 Where the Investor Director or B Director (as the case may be) obtains confidential information (other than through his position as a Director) that is confidential to a third party, he will not be obliged to disclose it to the Company or to use it in relation to the Company's affairs in circumstances where to do so would amount to a breach of that confidence.

Schedule 1- Conversion of shares

1 B Share Event

- 1.1 If a B Share Event Notice is served, the Board shall have 30 days from service of such notice to determine the valuation criteria that the Conversion Committee (and/or the Valuer) will apply in order to determine Equity Value and shall notify the Conversion Committee and each of the Shareholders of the receipt of the B Share Event Notice and the selected valuation criteria by notice in writing delivered not later than 35 days after receipt of the B Share Event Notice (such written notification being the Valuation Criteria Notice).
- 1.2 The Valuation Criteria Notice shall include a provision confirming that holders of Voting Shares may object to the valuation criteria selected within 28 days of the date of the Valuation Criteria Notice (the Rejection Period) by written notice to the Company (a Rejection Notice).
- 1.3 If the Board receives Rejection Notices from holders of Voting Shares who between them hold not less than 75 per cent. of all Voting Shares (excluding from the calculation of total Voting Shares for this purpose any shares held by the holders of B Shares or their Associates) within the Rejection Period then the B Share Event Notice will be deemed to have been withdrawn (and the holders of B Shares shall be entitled, if they wish, to serve another such B Share Event Notice and restart the process). If objections are not received from such number of holders then the Board will, at the expiry of the Rejection Period, promptly notify the Conversion Committee that the valuation criteria in the Valuation Criteria Notice are approved.
- 1.4 The Board will have total discretion in selecting the valuation criteria for Equity Value to which it will direct the Conversion Committee and/or Valuer to make their assessment but shall act in good faith in doing so and may take such professional advice in doing so as it believes is necessary. Without prejudice to the foregoing generality the Board shall consider the following in making a decision:
 - 1.4.1 the terms of any bona fide third party indicative offer received by the Company for its entire issued share capital in the previous 12 months;
 - 1.4.2 any market intelligence in respect of the valuation methodologies used for other businesses that produce Scotch whisky in which Control has changed in the previous 24 months;
 - 1.4.3 whether it would be appropriate to value the business on a multiple of earnings basis, a net asset basis or on some other method.
- 1.5 In the event that Conversion is to occur as a result of an Exit Event, the provisions of paragraph 1.1 to 1.4 do not apply and the process will initiate under paragraph 2.1.2 below.

2 Determination of Conversion calculation

- 2.1 The Conversion Committee shall:
 - 2.1.1 following expiry of the Rejection Period in the case of a B Share Event (where an Exit Event has not occurred), as soon as possible (and in any event not less than 21 days prior to the B Share Event Date):

- (a) determine the Equity Value (using the valuation criteria determined under paragraph 1) for which the Conversion Committee may, but are not required to, engage the Valuer;
 - (b) undertake the Conversion calculation referred to at paragraph 3 for which the Conversion Committee may, but are not required to, engage the Valuer; and
 - (c) notify the holders of the Equity Shares in writing (which includes email) of the Conversion Committee's determination of the above matters as soon as possible and not later than 14 days prior to the B Share Event Date which notice shall include a statement that unless an objection is received from one or more of the holders of Equity Shares at least 10 days prior to the B Share Event Date then the Conversion Committee's calculation will be final and binding.
- 2.1.2 in the case of an Exit Event (including, where a B Share Event has already occurred, for the purpose of determining the Equity Value for Articles 6.1.3, 6.1.4 and 9.2), as soon as possible (and in any event not less than 21 days prior to the Conversion Date):
- (a) estimate the timing of the Conversion Date (Anticipated Conversion Date);
 - (b) determine the Equity Value (including (where relevant) any Cash Equivalent) for which the Conversion Committee may, but are not required to, engage the Valuer;
 - (c) undertake the Conversion calculation referred to at paragraph 3 for which the Conversion Committee may, but are not required to, engage the Valuer; and
 - (d) notify the holders of the Equity Shares in writing (which includes email) of the Conversion Committee's determination of the above matters as soon as possible and not later than 14 days prior to the Anticipated Conversion Date which notice shall include a statement that unless an objection is received from one or more of the holders of Equity Shares at least 10 days prior to the Anticipated Conversion Date then the Conversion Committee's calculation will be final and binding.
- 2.2 If the holders of:
- 2.2.1 not less than 25 per cent by nominal value of the Voting Shares; and/ or
 - 2.2.2 any holder of B Shares,
- notifies the Company in writing that they object to the determination of the Equity Value notified by the Conversion Committee then the Conversion Committee shall be required to immediately refer the determination of the Equity Value (including (where relevant) any Cash Equivalent) and, in the case of an Exit Event where no B Share Event has occurred or in the case of a B Share Event, the resulting calculation of the number of B Shares that are to convert to Deferred Shares (if any) to the Valuer who will act in accordance with paragraph 2.1 and will be required to issue a certificate (not later than the Anticipated Conversion Date in the case of an Exit Event and in the case of a B Share Event not later than the B Share Event Date) setting out:
- 2.2.3 the Equity Value (including (where relevant) any Cash Equivalent);
 - 2.2.4 the number of B Shares (if any) that will convert to Deferred Shares (where applicable); and

- 2.2.5 in respect of each B Shareholder the holding of B Shares and Deferred Shares held by that B Shareholder following Conversion (if applicable).

Any such certificate shall, in the absence of fraud or manifest error, be final and binding on the Company and all Shareholders (each of whom shall be sent a copy as soon as practicable following its issue). For the avoidance of doubt no reference to the Valuer pursuant to this paragraph will be required if the Valuer undertook and certified the calculations notified by the Conversion Committee pursuant to paragraph 2.1.

- 2.3 The Valuer shall be appointed by the Conversion Committee on behalf of the Company and shall enter into an engagement letter with the Company who shall pay their fees. The Valuer shall act as an expert (and not an arbiter) in determining Equity Value and shall act in good faith. It shall consider any written representations received from the Company, any holder of B Shares or any other Shareholder (but is not required to comply with those representations). It shall follow the valuation criteria stipulated by the Board under paragraph 1 on a B Share Event and, on an Exit Event, shall give significant weight to the valuation methodology used by the potential purchaser (if any) in making an offer. The Directors shall promptly provide access to all such information as the Valuer shall reasonably request and which is in the Company's possession. The Valuer's determination shall be binding in the absence of fraud or manifest error.
- 2.4 Notwithstanding the requirement to make a reference to the Valuer in the event that a notice is received by the Company that complies with paragraph 2.2, such reference may be dispensed with or terminated in the event that the Company enters into a written agreement with such number of the holders of Equity Shares who between them hold all of the B Shares and at least 75 per cent of the remaining Voting Shares not being B Shares or held by a holder of B Shares or a Permitted Transferee of the same (other than a Permitted Transferee pursuant to Article 21.1.10) agreeing the matters that would otherwise be certified by the Valuer and in the event that such an agreement is executed the terms of that agreement shall be final and binding on the parties in the absence of fraud or manifest error.
- 2.5 If, in the case of an Exit Event, after the Conversion Committee has notified the details of its calculation pursuant to paragraph 2.1, or such calculations have been certified by the Valuer pursuant to paragraphs 2.1 or 2.2, there shall be:
- 2.5.1 any material change in the amount or terms of the consideration or any other factor that would reasonably be expected to impact on the calculation of Equity Value; or
- 2.5.2 a delay of more than 28 days between the Anticipated Conversion Date and the actual Conversion Date,

then the Conversion Committee (or, where certification by the Valuer was undertaken or required, the Valuer) shall undertake a re-computation of the calculations and notify the holders of Equity Shares of any changes that thereby result. If agreement in writing was reached as referred to in paragraph 2.4 then a re-computation shall only be undertaken if required by the terms of that agreement.

3 Calculation of B Shares to be converted

- 3.1 The number of B Shares (if any) that will become Deferred Shares on a B Share Event or an Exit Event (as the case may be) will vary depending upon the Equity Value of the entire issued share capital of the Company that is determined in accordance with paragraph 4 in respect of the Exit Event or B Share Event (as the case may be). An Equity Value:

- 3.1.1 of less than £40,000,000 will result in 170,765 B Shares converting to Deferred Shares;
- 3.1.2 in a range between:
- (a) £40,000,000; and
 - (b) £49,999,999.99,
- will result in 102,459 B Shares converting to Deferred Shares;
- 3.1.3 in a range between:
- (a) £50,000,000; and
 - (b) £59,999,999.99,
- will result in 34,153 B Shares converting to Deferred Shares; and
- 3.1.4 equal to or in excess of £60,000,000 will result in no B Shares converting to Deferred Shares,
- and for the avoidance of doubt any amount paid by the Company by way of Post Investment Distributions will not be taken account of in the determination of the number of B Shares that may be converted to Deferred Shares.
- 3.2 Conversion of the B Shares shall be effected among the B Shareholders pro rata according to the proportion of B Shares held by each B Shareholder and the Conversion Committee shall have a discretion to deal with fractional entitlements in the allocation among B Shareholders.
- 3.3 Conversion of the B Shares shall:
- 3.3.1 in the case of an Exit Event, occur on the date of the Exit Event immediately prior to the Exit Event; and
 - 3.3.2 in the case of a B Share Event, occur (subject to paragraph 3.4) on the later of (a) the B Share Event Date and (b) the date that is 14 days after the determination of the Equity Value by the Conversion Committee or Valuer (as the case may be) in accordance with the preceding provisions of this paragraph 2.
- Any B Shares that are not converted remain as B Shares.
- 3.4 At any point in time prior to the date for Conversion in accordance with paragraph 3.3.2 the B Shareholder(s) that serve the relevant B Share Event Notice shall be entitled to withdraw such notice and in so doing prevent any Conversion that would otherwise have taken place in accordance with paragraph 3.3.2. If a B Share Event Notice is withdrawn after the Company has incurred costs instructing a Valuer then the holders of the B Shares shall reimburse the Company for those costs and B Shareholders shall be entitled to serve another B Share Event Notice, provided B Shareholders shall not be entitled to serve a B Share Event Notice more frequently than once every three years. If a B Share Event Notice is deemed withdrawn due to receipt of Rejection Notices then the holders of B Shares will not be required to reimburse the costs of the Company in instructing a Valuer and shall not (by virtue of withdrawal of that B Share Notice) be barred from serving another B Share Event Notice within 3 years.

- 3.5 For the avoidance of doubt, Conversion shall occur only once at the time of the first Exit Event or B Share Event (where the relevant B Share Event Notice is not withdrawn) to occur following adoption of these Articles and not on any subsequent event constituting an Exit Event or B Share Event. On a B Share Event it will be based on a Share Sale and will apply the valuation criteria determined under paragraph 1.

4 Equity Value

- 4.1 This paragraph sets out the meaning of Equity Value which is to be determined by the Conversion Committee or the Valuer pursuant to paragraph 2. Equity Value is not the same as the consideration payable by a purchaser on a Share Sale or Asset Sale although it is probable that a purchaser will base the consideration offered on such an Exit Event on a determination of the Company's equity value and the Board (when assessing such an offer in order to make a recommendation to Shareholders) will also seek to reach a view on the equity value of the Company at that time. In assessing Equity Value the Conversion Committee or the Valuer (as applicable) will be expected to exercise a discretion based on their professional judgement and in good faith and in doing so will consider any such determination made by the Board (including the method of arriving at normalised working capital (where relevant)) and (where relevant) the value of any consideration payable including any amount of cash or otherwise received or receivable by any holder of Equity Shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the consideration paid or payable on the Exit Event.

- 4.2 Equity Value refers to:

- 4.2.1 in the case of a Share Sale or a B Share Event, the net amount that a purchaser might reasonably be expected to pay for the entire issued share capital of the Company based on the equity value at that time and assuming the purchaser were making an offer to acquire it on a cash free, debt free and tax free basis with adjustment for normalised working capital and taking into account the value attributable to unsold stocks;
- 4.2.2 in the case of a Liquidation or an Asset Sale, the shareholder funds remaining and which would be available for distribution to the shareholders of the Company on a voluntary winding up assuming that the Company ceased trading at the time of the Exit Event and made full provision for all reasonably foreseeable liabilities, professional fees on winding up etc; and
- 4.2.3 in the case of a Listing, the amount that the relevant bookrunner or joint bookrunners confirm in writing to the Company (on a date as close as is reasonably possible to the impact day in order to enable them to have properly assessed interest in the Equity Shares or shares in any interposed holding company whose shares are to be listed but with such timescale taking account of any pre-Listing organisation or other capital amendments as may be required and the requirement for the Conversion Committee to adhere to the timescales in paragraph 2) is the price at which they reasonably expect the entire issued share capital of the Company or any interposed Group company to be valued at on the impact day.
- 4.3 When assessing Equity Value in the context of an Exit Event (other than a Listing) where the entire value assessable is not in immediately available cash, the Conversion Committee and/or the Expert will determine the Equity Value based on:
- 4.3.1 the value of any cash consideration payable or cash assets available at date of the relevant Exit Event; and

- 4.3.2 the value of the consideration payable or assets available in total including any element of deferred consideration or non-cash assets or consideration,

and shall make a judgement as to the Cash Equivalent amount (based on information available at the time) in good faith. If the Board has made a recommendation to shareholders that they should accept an offer incorporating an element of deferred consideration then the Conversion Committee or Valuer (as applicable) shall give significant weight to the Board's appraisal of the likely amount of the deferred consideration that the vendors will receive (ignoring set off rights for warranty claims etc). If the Conversion Committee or Valuer (as applicable) believes that the vendors are unlikely, on a reasonable basis, to receive the full Equity Value indicated by the combination of the initial cash consideration and any Cash Equivalent agreed to be paid then the Conversion Committee or Valuer's determination of Equity Value shall be discounted to reflect the amount of the Cash Equivalent that they reasonably believe will become payable.

- 4.4 Where Equity Value is being determined in relation to an Exit Event that is a Share Sale then, in the event that the transaction is the purchase of less than the entire issued Equity Shares of the Company, the Equity Value for the entire issued share capital shall be based on an increase (on a straight line basis and applying no premium for a majority and no discount for a minority interest) of the price payable for the number of Equity Shares that are the subject of the Share Sale (and for these purposes assuming that all Equity Shares had equal rights).
- 4.5 Where Equity Value is being determined in relation to a B Share Event it shall be determined as if the B Share Event were a Share Sale for the entire issued share capital of the Company (and for these purposes assuming that all Equity Shares had equal rights) and will be determined applying the valuation criteria determined under paragraph 1.

5 Deferred Shares

The rights and restrictions attaching to the Deferred Shares are as follows:

- 5.1 The holders of Deferred Shares (as holders of Deferred Shares) shall not be entitled to receive any dividend or distribution and shall not be entitled to receive notice of, nor to attend, speak or vote at, any General Meeting of the Company. On a return of assets, whether on Liquidation or otherwise, the Deferred Shares shall entitle the holder thereof only to the repayment of the amounts paid up on such shares (including any premium) after repayment of the capital paid up on the Equity Shares plus the payment of £500,000 on each of the Equity Shares and the holders of the Deferred Shares (as such) shall not be entitled to any further participation in the assets or profits of the Company.
- 5.2 The special resolution passed on the date of adoption of these Articles and thereby creating the class of Deferred Shares shall be deemed to confer irrevocable authority on the Company at any time to appoint any person to execute on behalf of the holders of the Deferred Shares remaining in issue (if any) a transfer thereof and/or an agreement to transfer the same, without making any payment to the holders thereof, to such person as the Company may determine as custodian thereof and pending such transfer to retain the certificate (if any) for such shares.

6 Miscellaneous

- 6.1 Forthwith upon Conversion, the Company shall give written notice to the B Shareholders at the time of Conversion of the number of B Shares and the number of Deferred Shares of which they are then the holder following Conversion.

6.2 Forthwith upon receipt of the notice referred to in paragraph 6.1, each B Shareholder at the time of Conversion shall deliver to the Company at the Office the share certificates in respect of B Shares of which it was, prior to Conversion, the holder and the Company shall, forthwith on receipt of such certificates, deliver to the relevant Shareholder free of charge new certificates in respect of the B Shares and the Deferred Shares to which it is entitled following Conversion.

7 Definitions and interpretation

7.1 Terms defined in Article 1 of the Articles bear the same meaning when used in this Schedule 1.

7.2 References in this Schedule 1 to paragraphs are to paragraphs of this Schedule 1 unless the context otherwise requires.