

**Company number: SC537030**

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## **ARTICLES OF ASSOCIATION**

**relating to Ardgowan Distillery Company Limited**

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**Adopted on 10 June 2021**

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## CONTENTS

### PART A

1.	Definitions and interpretation .....	2
2.	Share capital and Rights attaching to Shares .....	16
3.	Issue of Shares .....	17
4.	Transfer of Shares - general .....	21
5.	Permitted transfers.....	22
6.	Pre-emption on transfer of Shares.....	24
7.	Compulsory transfers.....	29
8.	Drag along .....	30
9.	Tag along .....	32
10.	General meetings.....	35
11.	Appointment and removal of Directors .....	36
12.	Appointment of chairman .....	38
13.	Alternate Directors .....	38
14.	Proceedings of Directors .....	40
15.	Transactions or other arrangements with the Company.....	41
16.	Directors' conflicts of interest.....	42
17.	Directors' benefits .....	44
18.	Secretary.....	44
19.	Service of documents .....	44
20.	Indemnity .....	45
21.	Insurance .....	46

### PART B

#### G Ordinary Shares and Deferred Shares Provisions

22.	Definitions .....	47
23.	G Ordinary Shares and G1 Ordinary Shares.....	53
24.	Deferred Shares.....	58
25.	Anti-dilution .....	59

Company number: SC537030

**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION OF**  
**ARDGOWAN DISTILLERY COMPANY LIMITED**

**PART A**

**1. DEFINITIONS AND INTERPRETATION**

1.1 In these Articles the following definitions will apply:

<b>"AB"</b>	Alan Baker of 3 Inverhouse Garden, Inverkip, PA16 0GF;
<b>"Accepting Shareholders"</b>	the meaning given to it in article 9.7.5;
<b>"Act"</b>	the Companies Act 2006;
<b>"acting in concert"</b>	has the meaning set out in the City Code on Takeovers and Mergers in force for the time being;
<b>"A Ordinary Shareholder Change of Control Notice"</b>	has the meaning given to it in article 9.4;
<b>"A Ordinary Shareholder Tag Along Consideration"</b>	has the meaning given to it in article 9.5;
<b>"A Ordinary Shareholder Tag Along Notice"</b>	has the meaning given to it in article 9.5;
<b>"A Ordinary Shareholder Tag Along Offer"</b>	has the meaning given to it in article 9.5;
<b>"A Ordinary Shareholder Transfer Event"</b>	in respect of any A Ordinary Shareholder, such A Ordinary Shareholder suffers an A Ordinary Shareholder Change of Control in circumstances in which it has: (i) failed to notify the Board of the same in accordance with article 9.4 or (ii) failed to procure (if required to do so under article 9.5) that the A Ordinary Shareholder Acquiror makes an A Ordinary Shareholder Tag Along Offer in accordance with article 9.5; or (iii) otherwise failed to procure that the sale and purchase of the Relevant Shares of the Accepting Shareholders (if any) is completed prior to the A

Ordinary Shareholder Change of Control being effected in accordance with article 9.8;

<b>"Adoption Date"</b>	the date of the adoption of these Articles by the Company;
<b>"Anti-dilution Shares"</b>	has the meaning given to it in article 25.1;
<b>"A Ordinary Shares"</b>	'A' ordinary shares of £0.10 each in the capital of the Company having the rights and being subject to the restrictions set out in these Articles (and <b>"A Ordinary Share"</b> shall be construed accordingly);
<b>"A Ordinary Shareholder"</b>	means a person entered in the register of members of the Company as the holder from time to time of an A Ordinary Share;
<b>"A Ordinary Shareholder Change of Control"</b>	in relation to any A Ordinary Shareholder, any acquisition (by any means), by any person other than Roland Grain or a Grain Permitted Transferee, of any (direct or indirect) interest in the shares of such A Ordinary Shareholder, or any other event, if, upon completion of that acquisition (or event), any person (the <b>"A Ordinary Shareholder Acquiror"</b> ) (together with any person connected with or acting in concert with the A Ordinary Shareholder Acquiror) is or would be entitled to exercise or control the exercise of more than 50% of the total voting rights normally exercisable at any general meeting of (or otherwise in respect of) that A Ordinary Shareholder (as applicable);
<b>"A Ordinary Shareholder Acquirer"</b>	has the meaning given to it in the definition of A Ordinary Shareholder Change of Control;
<b>"A Transfer Event"</b>	has the meaning given to it in article 2.5;
<b>"Auditors"</b>	the auditors (or if no auditors are appointed, the reporting accountants) of the Company for the time being or if, in relation to any reference made to such auditors (or reporting accountants, as the case may be) in accordance with these Articles, the auditors (or reporting accountants, as the case may be) of the Company are unable or unwilling to act in connection with that reference, a chartered accountant nominated by, and engaged on terms approved by:

- (a) the Directors (with the consent of (i) prior to and including the Ratchet End Date, a Majority; or (ii) after the Ratchet End Date, the Minority Shareholder Director); or
- (b) in the event that the Directors do not or cannot appoint a chartered accountant under paragraph (a) above, the President for the time being of the Institute of Chartered Accountants in Scotland.

**"Board"**

the board of Directors of the Company from time to time;

**"Business Day"**

any day (other than a Saturday, Sunday or public holiday in Scotland) during which clearing banks in Edinburgh and Vienna are open for normal business;

**"Call"**

has the meaning given in article 3.12.1;

**"Change of Control"**

the acquisition (by any means) by a Third Party Purchaser of any interest in any Shares if, upon completion of that acquisition, that Third Party Purchaser (together with any person connected with or acting in concert with that Third Party Purchaser) would be entitled to exercise more than 50% of the total voting rights normally exercisable at any general meeting of the Company;

**"Changing A Ordinary Shareholder"**

has the meaning given to it in article 9.4;

**"Company"**

Ardgowan Distillery Company Limited (Company No. SC 537030);

**"Committed Shares"**

the meaning given to it in article 9.1;

**"Compulsory Transfer Shares"**

in relation to a Defaulting Shareholder (or any A Ordinary Shareholder upon occurrence of an A Ordinary Shareholder Transfer Event in relation to it), any Shares:

- (a) held by the Defaulting Shareholder (or such A Ordinary Shareholder) at the time of the relevant Event of Default (or A Ordinary Shareholder Transfer Event, as the case may be);
- (b) held at the time of the relevant Event of Default by any Family Member or Family Trust of the Defaulting Shareholder;
- (c) acquired by the Defaulting Shareholder, his Family Members, Family Trusts and/or personal representatives after the occurrence of the Event of Default pursuant to any share option agreement or any other scheme or arrangement entered into prior to the Event of Default;
- (d) (if applicable) held at the time of the relevant A Ordinary Shareholder Transfer Event by the relevant A Ordinary Shareholder's Permitted Transferees;
- (e) (if applicable) acquired by such A Ordinary Shareholder and/or its Permitted Transferees after the occurrence of the A Ordinary Shareholder Transfer Event pursuant to any share option agreement or any other scheme or arrangement entered into prior to the A Ordinary Shareholder Transfer Event,

together with, in any case, any further Shares received by any relevant person referred to above at any time after the relevant Event of Default (or A Ordinary Shareholder Transfer Event) by way of rights or on a capitalisation in respect of any of the Shares referred to above;

**"Control"**

control within the meaning of section 1124 or section 450 of the Corporation Tax Act 2010 (so that there is "Control" whenever there is control within the meaning of either the said section 1124 or the said section 450);

**"Defaulting Shareholder"**

has the meaning given in the definition of **"Event of Default"**;

<b>"Default Notice"</b>	has the meaning given to it in article 7.1;
<b>"Deferred Shares"</b>	deferred shares of £0.10 each in the capital of the Company having the rights and being subject to the restrictions set out in these Articles, and <b>"Deferred Share"</b> shall mean any one of them as appropriate;
<b>"Director"</b>	a duly appointed director of the Company for the time being;
<b>"Eligible Director"</b>	a Director who would be entitled to vote on the matter at a meeting of the Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter) and references to "eligible directors" in article 8 of the Model Articles shall be construed accordingly;
<b>"Encumbrance"</b>	a mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, right of set-off, third-party right or interest, assignment by way of security, other encumbrance or security interest of any kind or another type of preferential arrangement (including a title transfer or retention arrangement) having similar effect howsoever arising (but excluding any such rights or arrangements arising under these Articles or the Shareholders' Agreement);
<b>"Exercising Investor"</b>	has the meaning given to it in article 25.1;
<b>"Equity Shares"</b>	Ordinary Shares and Fully Paid A Ordinary Shares;
<b>"Equity Shareholder"</b>	a Shareholder holding any Equity Shares;
<b>"Event of Default"</b>	<p>the occurrence of any of the following events in relation to a Shareholder (excluding the A Ordinary Shareholders unless otherwise stated) (a <b>"Defaulting Shareholder"</b>):</p> <ul style="list-style-type: none"> <li>(a) a petition being presented or an order being made for the bankruptcy of the Defaulting Shareholder;</li> <li>(b) the Defaulting Shareholder (including any A Ordinary Shareholder) convening a meeting of his creditors or circulating a proposal in relation to, or taking any other steps with a view to, making an arrangement or composition in satisfaction of his creditors generally;</li> </ul>

- (c) the Defaulting Shareholder being unable to pay his debts as they fall due within the meaning of section 268 of the Insolvency Act 1986;
- (d) any step being taken for the appointment of a receiver, manager or administrative receiver over all or any material part of the Defaulting Shareholder's assets, or any other steps being taken to enforce any Encumbrance over all or any material part of the Defaulting Shareholder's assets or any Shares held by the Defaulting Shareholder;
- (e) in the case of an A Ordinary Shareholder, a liquidator, administrator or like official is appointed in respect of such entity and/or a manager or administrative receiver is appointed over all or any material part of the Shareholder's assets;
- (f) any proceedings or orders equivalent or analogous to any of those described in paragraphs (a) to (d) above occurring in respect of the Defaulting Shareholder under the law of any jurisdiction outside Scotland;
- (g) the Defaulting Shareholder suffering from mental disorder and being admitted to hospital or, by reason of his mental health, being subject to any court order which wholly or partly prevents the Defaulting Shareholder from personally exercising any powers or rights which he would otherwise have;
- (h) the Defaulting Shareholder or a Nominated Director appointed by such Shareholder breaching any material provision of these Articles or the Shareholders' Agreement which breach, if capable of remedy, has not been remedied to the reasonable satisfaction of the Remaining Shareholders within 10 Business Days of a notice from the Remaining Shareholders to the Defaulting Shareholder in breach requesting such remedy; or
- (i) the death of the Defaulting Shareholder;



**"Fair Value"**

the price which the Auditors state in writing to be their opinion of the fair value of the Shares concerned, calculated on the basis that:

- (a) the Fair Value is the sum which a willing buyer would agree with a willing seller to be the purchase price for the Shares concerned on a sale of the entire issued share capital of the Company;
- (b) no account shall be taken of the size of the holding which the relevant Shares comprise or whether those Shares represent a majority or minority interest;
- (c) no account shall be taken of the fact that the transferability of the relevant Shares is restricted under these Articles;
- (d) if the Company is then carrying on business as a going concern, it will continue to do so;
- (e) if the Shares in question are A Ordinary Shares which are not Fully Paid, then notwithstanding any of the foregoing their Fair Value shall be reduced to take account of the amounts unpaid thereon; and
- (f) any difficulty in applying any of the bases set out above shall be resolved by the Auditors as they, in their absolute discretion, think fit;

**"Family Member"**

in relation to any Shareholder, the spouse or civil partner of that Shareholder and their children (including step and adopted children) for the time being;

**"Family Trust"**

a trust under which the only persons being (or capable of being) beneficiaries are:

- (a) the settlor; and/or
- (b) the Family Members of that settlor; and
- (c) any charity or charities as default beneficiaries (meaning that such charity or charities have no immediate beneficial interest in any of the settled property or the income from that settled property when the trust is created but may become so interested if there are no other beneficiaries for the time being except other charities),

and under which no power of control over the voting powers conferred by any Share is exercisable at any time by, or subject to the consent of, any person other than the trustees, the settlor or the Family Members of that settlor. For the purposes of this definition:

- (i) **"settlor"** shall include a testator or an intestate in relation to a Family Trust arising under a testamentary disposition or an intestacy of a deceased Shareholder (as the case may be); and
- (ii) **"Family Member"** shall include the widow or widower of the settlor or the civil partner of such settlor at the date of his death;

**"Founder"**

each of MM, AB & PD for as long as he (or his Permitted Transferees) holds Shares;

**"Founder Majority"**

a simple majority of Founders from time to time;

<b>"Fully Paid"</b>	<p>in respect of any A Ordinary Share that:</p> <ul style="list-style-type: none"> <li>(a) it has been issued fully paid; or</li> <li>(b) that it has been issued nil paid or partly paid and that its subscription price (including nominal value and any share premium) has subsequently been paid in full no later than the date on which it is required to be paid up in full under these Articles; or</li> <li>(c) that it has been issued credited as fully paid pursuant to article 25;</li> </ul>
<b>"G Ordinary Shares"</b>	G Ordinary Shares of £0.10 each in the capital of the Company and <b>"G Ordinary Share"</b> shall mean any one of them as appropriate;
<b>"G1 Ordinary Shares"</b>	G1 Ordinary Shares of £0.10 each in the capital of the Company and <b>"G1 Ordinary Share"</b> shall mean any one of them as appropriate;
<b>"G Ordinary Shareholder"</b>	means a person entered in the register of members of the Company as the holder from time to time of a G Ordinary Share;
<b>"G1 Ordinary Shareholder"</b>	means a person entered in the register of members of the Company as the holder from time to time of a G1 Ordinary Share;;
<b>"Grain"</b>	Grain GmbH, a company incorporated and registered in Austria (Company Registration No. 202050h) and having its registered office at Schoenbach 80, 3633 Schoenbach, Austria (or where applicable Grain's Permitted Transferees);
<b>"Grain Director"</b>	has the meaning given to it in article 11.5;
<b>"Grain Director Consent"</b>	means the prior written consent of the Grain Director (if one has been appointed and is in office);
<b>"Grain Permitted Transferee"</b>	<p>means any of the following:-</p> <ul style="list-style-type: none"> <li>(i) RGS Privatstiftung, 3633 Schönbach 80, Austria</li> <li>(ii) RGS Beteiligungs- und Mangement GmbH, 3633 Schönbach 80, Austria</li> </ul>

- (iii) Anxo Holding GmbH, Wienerbergstr. 41, 1120  
Wien, Austria

in each case only for so long as that transferee is (and remains) either (a) a Family Trust with the settlor being Roland Grain; (b) a private company which is 100% owned (legally and beneficially) by such a Family Trust; or (c) a private company in which Roland Grain holds (legally and beneficially) not less than 75% of the economic and voting rights and which is in any event directly controlled by Roland Grain and no other person;

**"Group"** the Company and any subsidiary from time to time of the Company. Each company in the Group is a **"member of the Group"** or a **"Group Company"**;

**"Long Term Debt"** the ten year term convertible debt raised or borrowed by the Company under a loan agreement entered into (or to be entered into) by the Company within 90 days (or such longer period as the Board (with written consent of a Majority) shall notify to the Shareholders) following the Adoption Date;

**"Long Term Lender"** the lender in respect of the Long Term Debt;

**"Majority"** means:

- (1) at any time prior to and including the Ratchet End Date: Shareholders (who must include (i) one Founder (for so long as there are at least two Founders (or of former Founders) each of whom together with his Permitted Transferees, holds at least 3% of the Equity Shares and (ii) the holders for the time being of a majority of the A Ordinary Shares) holding for the time being not less than:

- (a) 65% of the Equity Shares; or,  
(b) where a particular Shareholder is to be excluded from the reckoning in respect of a decision or consent required to be take or given by a Majority, 65% of the Equity Shares held by the other Shareholders; and

- (2) at any time after the Ratchet End Date, Shareholders (who must include the holders for the time being of a majority of the A Ordinary Shares) holding for the time

being not less than:

- (a) 65% of the Equity Shares; or
- (b) where a particular Shareholder is to be excluded from the reckoning in respect of a decision or consent required to be taken or given by a Majority, 65% of the Equity Shares held by the other Shareholders;

<b>"Minority Shareholder"</b>	an Equity Shareholder (other than MM, AB, PD or Grain or Grain's Permitted Transferees or any other A Ordinary Shareholder) who at any time holds less than 5% of the Ordinary Shares and <b>"Minority Shareholders"</b> shall be construed accordingly;
<b>"Minority Shareholder Director"</b>	has the meaning given to it in article 11.6;
<b>"MM"</b>	Martin McAdam of 32a Abercromby Place, Edinburgh EH3 6QE;
<b>"Model Articles"</b>	the model articles for private companies limited by shares contained in schedule 1 of the Companies (Model Articles) Regulations 2008 as amended prior to, and in force as at, the Adoption Date;
<b>"Nominated Director"</b>	any Director appointed by a Shareholder (or Shareholders) pursuant to or under articles 11.3, 11.5, 11.6 or 11.6 (or, if the context so admits, his or her alternate);
<b>"Ordinary Shareholder"</b>	means a person entered in the register of members of the Company as the holder from time to time of an Ordinary Share;
<b>"Ordinary Shares"</b>	ordinary shares of £0.10 each in the capital of the Company having the rights and being subject to the restrictions set out in these Articles (and excluding for the avoidance of doubt, the A Ordinary Shares and the G Ordinary Shares) and <b>"Ordinary Share"</b> shall be construed accordingly;
<b>"Permitted Incentives"</b>	any Shares, or any right to subscribe for or convert any securities into any Shares issued or to be issued pursuant to an employee share or option scheme approved by the Board with the prior consent of a Majority;

<b>"Permitted Transferee"</b>	in relation to any Shareholder (or former Shareholder), a person to whom he has transferred Shares pursuant to article 5.2, 5.3 or 5.4 (and which in respect of Grain shall include any Grain Permitted Transferee to whom Grain has transferred Shares);
<b>"PD"</b>	Paul Dowling of Weston, Eadestown, Nass, Co. Kildare, Ireland;
<b>"PD Associates"</b>	means: <ul style="list-style-type: none"> <li>(a) Doorbury Limited;</li> <li>(b) Louis Fitzgerald;</li> <li>(c) Mary Fitzgerald;</li> <li>(d) Louis Fitzgerald &amp; Mary Fitzgerald (jointly); and</li> <li>(e) the respective Permitted Transferees of any of (a), (b), (c) or (d) above,</li> </ul> <p>(and <b>"PD Associate"</b> shall be construed accordingly);</p>
<b>"Qualifying issue"</b>	has the meaning given to it in article 25.1;
<b>"Ratchet End Date"</b>	the earlier of (i) the tenth anniversary of the commencement of first production of new make spirit at the new distillery being built and developed by (or on behalf of) the Company (or any Group Company) and (ii) the date of conversion of the Long Term Debt into Shares;
<b>"Relevant Event of Default Shareholder"</b>	has the meaning given in article 7.1;
<b>"Relevant A Shareholder"</b>	has the meaning given in article 7.2;
<b>"Relevant Shareholder"</b>	a Relevant A Shareholder or a Relevant Event of Default Shareholder (as the context requires);
<b>"Relevant Shareholders"</b>	all Relevant Shareholders or any of them (as the context requires);
<b>"Relevant Shares"</b>	has the meaning given in article 9.5;
<b>"Relevant Securities"</b>	any Shares (other than (i) Anti-Dilution Shares and (ii) up to 1,000 G1 Ordinary Shares to be issued prior to the Ratchet End Date), or any right to subscribe for or convert any securities into any

	Shares (other than Anti-Dilution or the aforementioned 1,000 G1 Ordinary Shares);
<b>"Remaining Shareholders"</b>	following (or in relation to) the occurrence of an Event of Default, the Relevant Event of Default Shareholders following (or in relation to) the occurrence of an A Shareholder Transfer Event, the Shareholders other than the Relevant A Shareholders;
<b>"Sale Shares"</b>	has the meaning given in article 6.1.3(a);
<b>"Share"</b>	any share of any class in the capital of the Company for the time being (other than a Deferred Share);
<b>"Shareholder"</b>	a registered holder for the time being of an issued Share, as recorded in the register of members of the Company;
<b>"Shareholders' Agreement"</b>	the subscription and shareholders' agreement among the company, the Existing Shareholders (as defined therein) and others dated on or around the Adoption Date, as varied, amended and/ or restated from time to time;
<b>"Subscriber"</b>	has the meaning given to it in article 3.5;
<b>"Subscription Allocation Date"</b>	has the meaning given to it in article 3.4;
<b>"Subscription Allocation Notice"</b>	has the meaning given to it in article 3.5;
<b>"Subscription Notice"</b>	has the meaning given to it in article 3.2;
<b>"Tag Along Consideration"</b>	the meaning given to it in article 9.1.2;
<b>"Tag Along Notice"</b>	the meaning given to it in article 9.1.2;
<b>"Tag Along Offer"</b>	the meaning given to it in article 9.1.2;
<b>"Third Party Purchaser"</b>	any person who is not a Shareholder for the time being or a person connected with such a Shareholder; and
<b>"Transfer Notice"</b>	a notice in accordance with article 6 that a Shareholder wishes to transfer his Shares.
<b>"Uncommitted Shares"</b>	the meaning given to it in article 9.1.2;

- 1.2 The regulations set out in this document and the provisions of the Model Articles (subject to any modifications and exclusions set out herein) shall constitute all the articles of association of the Company. In the case of any conflict between the provisions of regulations set out herein and the provisions of the Model Articles, the provisions set out herein shall apply.
- 1.3 In these Articles a reference to:
- 1.3.1 a statutory provision includes a reference to the statutory provision as replaced, modified or re-enacted from time to time before or after the Adoption Date and any subordinate legislation made under the statutory provision before or after the Adoption Date;
  - 1.3.2 a "subsidiary" shall include a reference to a "subsidiary" and a "subsidiary undertaking" (each as defined in the Act) and a reference to a "holding company" shall include a reference to a "holding company" and a "parent undertaking" (each as defined in the Act);
  - 1.3.3 a person includes a reference to an individual, body corporate, association, government, state, agency of state or any undertaking (whether or not having a legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);
  - 1.3.4 "these Articles" is to these articles of association (including the provisions of the Model Articles incorporated in them), and a reference to an article is to an article of these Articles, in each case as amended from time to time in accordance with the terms of these Articles and the Act; and
  - 1.3.5 any agreement or document is to that agreement or document as in force for the time being and as amended from time to time in accordance with the terms of that agreement or document or with the agreement of all the relevant parties.
- 1.4 The contents table and headings in these Articles are for convenience only and do not affect the interpretation or construction of these Articles.
- 1.5 Words importing the singular include the plural and vice versa and words importing a gender include every gender.
- 1.6 The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- 1.7 Any question as to whether a person is connected with another shall be determined in accordance with section 1122 of the Corporation Tax Act 2010 (except that in construing section 1122 "control" has the meaning given by section 1124 or section 450 of that Act so that there is control whenever section 1124 or 450 requires) which shall apply in relation to this agreement as it applies in relation to that Act.



- 1.8 These Articles shall be binding on and shall survive for the benefit of the personal representatives and successors-in-title of each party.
- 1.9 The Company shall be entitled, but shall not be bound, to recognise in such manner and to such extent as it may think fit any trusts in respect of any of the shares of the Company. Notwithstanding any such recognition, the Company shall not be bound to see to the execution, administration or observance of any trust (whether express, implied or constructive) in respect of any shares of the Company and shall be entitled to recognise and give effect to the acts and deeds of the holders of such shares as if they were the absolute owners thereof. For the purposes of this article, "trust" includes any right thereto in respect of any shares of the Company other than an absolute right thereto in the holder thereof for the time being or such other rights in case of transmission thereof as are mentioned in the Model Articles. Article 23 of the Model Articles shall not apply to the Company.
- 1.10 Part B of the Articles sets out the provisions relating to any G Ordinary Shares, G1 Ordinary Shares and Deferred Shares that may be in issue from time to time.
- 1.11 For the purposes of interpreting the definitions of "Founder" and "Majority" and articles 11.3 and 11.4, PD shall be deemed to be the holder of (in addition to the Equity Shares registered in his name) any Equity Shares for the time being held by any PD Associates.

## **2. SHARE CAPITAL AND RIGHTS ATTACHING TO SHARES**

- 2.1 The issued share capital of the Company on the Adoption Date is £9,367 comprising:
- 2.1.1 46,204 Ordinary Shares,
  - 2.1.2 49,156 A Ordinary Shares;
  - 2.1.3 1,000 G Ordinary Shares; and
  - 2.1.4 10 Deferred Shares.
- 2.2 Except as otherwise provided in these Articles, the Ordinary Shares, the A Ordinary Shares the G Ordinary Shares and the G1 Ordinary Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.
- 2.3 The rights attaching to the Equity Shares are as follows:
- 2.3.1 **Income**  
  
Any profits available for distribution and resolved to be distributed in respect of any accounting period of the Company shall be distributed amongst the Equity Shareholders, the G Ordinary Shareholders and the G1 Ordinary Shareholders *pro rata* according to the number of Equity Shares, G Ordinary Shares and G1 Ordinary Shares held by each of them respectively.
  - 2.3.2 **Capital**

Subject to articles 23.3 and 24.3, on a return of capital, whether on liquidation, capital reduction or otherwise (but excluding a purchase of own shares), any surplus assets of the Company remaining after the payment of its liabilities shall be distributed amongst the Equity Shareholders *pro rata* according to the number of Equity Shares held by each of them respectively.

### 2.3.3 Voting

Each Equity Share shall entitle its holder to receive notice of, and attend, any general meeting of the Company. Subject to article 7.5.2, and the provisions of the Act, at a general meeting of the Company on a show of hands every Equity Shareholder who (being an individual) is present in person or by proxy, or (being a corporation) is present by a representative duly authorised under section 323 of the Act, shall have one vote and on a poll every Equity Shareholder present in person, by representative or by proxy shall have one vote for every Equity Share of which it is the holder. On a written resolution every Equity Shareholder shall have one vote for each Equity Share of which it is the holder.

2.4 The A Ordinary Shares which are not Fully Paid shall not entitle their holders to:

2.4.1 participate in distributions;

2.4.2 participate in any return of capital;

2.4.3 receive notice of, or attend, any general meeting of the Company, or

2.4.4 any voting rights (whether at a general meeting of the Company or otherwise).

2.5 Upon the first transfer of any A Ordinary Shares to occur after adoption of these Articles other than (i) a transfer to a Grain Permitted Transferee or (ii) as otherwise agreed by the Board with the prior consent of a Majority (the "**A Transfer Event**");

2.5.1 the A Ordinary Shares so-transferred shall be automatically converted into, and redesignated as, Ordinary Shares; and

2.5.2 the anti-dilution rights set out in article 25.3 shall cease to apply to the A Ordinary Shares (including all A Ordinary Shares then in issue and any A Ordinary Shares issued after the A Transfer Event);

2.6 Other rights attaching to the G Ordinary Shares and the G1 Ordinary Shares and the rights attaching to the Deferred Shares are as set out in Articles 23 and 24, respectively.

## 3. ISSUE OF SHARES

3.1 The Directors shall only exercise any power of the Company to allot Relevant Securities to the extent authorised to do so for the purposes of section 551 of the Act from time to time by ordinary resolution of the Company.

- 3.2 Subject to article 3.3, and unless otherwise determined by a Majority (and on or after the Ratchet End Date, with Minority Shareholder Director Consent), any Relevant Securities which the Directors propose to allot, grant or otherwise dispose of shall, before they are so allotted, granted or otherwise disposed of, be offered to the Equity Shareholders holding Equity Shares. Such offer shall be made by means of a notice (a "**Subscription Notice**") served by the Directors on all Equity Shareholders holding Equity Shares which shall:
- 3.2.1 state the number and class of Relevant Securities offered;
  - 3.2.2 state the subscription price per Relevant Security, which shall be determined by the Directors;
  - 3.2.3 invite the relevant offerees to respond in writing to the Company stating the number of Relevant Securities for which they wish to subscribe; and
  - 3.2.4 expire, and the offer made in that Subscription Notice to an offeree shall be deemed to be withdrawn, if not previously accepted by such offeree, on the date specified in the Subscription Notice, being not less than 10 nor more than 20 Business Days after the date of the Subscription Notice.
- 3.3 A Subscription Notice shall not be sent to, and no Shares shall be treated as offered to, any Relevant Shareholder upon whom a Default Notice has been served in accordance with article 7.
- 3.4 After the expiry of the period referred to in the Subscription Notice or, if sooner, upon all Equity Shareholders to whom a Subscription Notice was sent having responded to the Subscription Notice (in either case, the "**Subscription Allocation Date**"), the Directors shall allocate the Relevant Securities in accordance with the applications received provided that:
- 3.4.1 no Relevant Securities shall be allocated to:
    - (a) any Equity Shareholder who, at the Subscription Allocation Date, is bound to give, or has given or is deemed to have given, a Transfer Notice in respect of any Ordinary Shares or A Ordinary Shares registered in his name; or
    - (b) any Relevant Shareholder upon whom a Default Notice has been served pursuant to article 7;
  - 3.4.2 if there are applications for more than the number of Relevant Securities available, the Relevant Securities shall be allocated to the relevant applicants in proportion (as nearly as practicable but without allocating to any applicant more Relevant Securities than it applied for) to the number of Equity Shares held by each of them respectively; and

- 3.4.3 the allocation of any fractional entitlements to Relevant Securities amongst the Equity Shareholders shall be dealt with by the Directors in such manner as they see fit.
- 3.5 Within 5 Business Days of the Subscription Allocation Date the Directors shall give notice in writing (a "**Subscription Allocation Notice**") to each Equity Shareholder to whom Relevant Securities have been allocated pursuant to article 3.4 (each a **Subscriber**). A Subscription Allocation Notice shall state:
- 3.5.1 the number and class of Relevant Securities allocated to that Subscriber;
- 3.5.2 the aggregate subscription price payable by the Subscriber in respect of the Relevant Securities allocated to him; and
- 3.5.3 the place, date and time (being not less than 2 nor more than 5 Business Days after the date of the Subscription Allocation Notice) at which completion of the subscription for the Relevant Securities shall take place.
- 3.6 Completion of a subscription for Relevant Securities pursuant to a Subscription Allocation Notice shall take place at the place, date and time specified in the Subscription Allocation Notice when the Subscriber will pay the relevant subscription monies to the Company in cleared funds and the Company will allot or grant the Relevant Securities to that Subscriber and deliver to that Subscriber a duly executed share certificate or certificate of grant (as the case may be) in respect thereof. If a Subscriber shall fail for any reason to pay the relevant subscription monies in respect of any Relevant Securities to the Company in cleared funds by the date specified in the Subscription Allocation Notice he shall be deemed to have declined the offer made to him in respect of those Relevant Securities which shall immediately be deemed to be released from the provisions of articles 3.2 to 3.5.
- 3.7 Any Relevant Securities which are not accepted pursuant to articles 3.2 to 3.5, and any Relevant Securities released from the provisions of those articles either by virtue of a Subscriber's default in accordance with article 3.6 or by virtue of a special resolution of the Company, may be offered by the Directors to any person approved by a Majority and such Relevant Securities shall, subject to the provisions of the Act, be at the disposal of the Directors who may allot, grant or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think fit in their absolute discretion, provided that:
- 3.7.1 no Share shall be issued at a discount;
- 3.7.2 no Relevant Securities shall be allotted, granted or otherwise disposed of on terms which are more favourable than those on which they were offered to the Equity Shareholders pursuant to article 3.2; and

- 3.7.3 no Relevant Securities shall be allotted, granted or otherwise disposed of more than 3 months after the date of the relevant Subscription Notice in respect thereof (or, in the case of Relevant Securities released from the provisions of articles 3.2 to 3.5 by virtue of a special resolution, the date of that special resolution) unless the procedure in articles 3.2 to 3.5 is repeated in relation to that Relevant Security.
- 3.8 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to the Company.
- 3.9 Notwithstanding any other provision of these Articles, no Share shall be allotted to a person who is not already a party to the Shareholders' Agreement unless that person has entered into a deed of adherence to, and in the form required by, the Shareholders' Agreement.
- 3.10 The Company may issue A Ordinary Shares nil paid or partly paid. Article 21(1) of the Model Articles shall be deemed modified by inserting the words "(other than an A Ordinary Share)" between the words "share" and "is".
- 3.11 Where an A Ordinary Share is issued nil paid or partly paid, unless otherwise agreed with the Board with the prior consent of a Majority it must be paid up in full (including its nominal value and any share premium) no later than 30 days after the third anniversary of its date of issue (or such earlier date as it is required to be paid up pursuant to article 3.12.1).
- 3.12 Without prejudice to article 3.11:-
- 3.12.1 the Company may at any time by notice in writing to an A Ordinary Shareholder, demand that the whole amount which remains unpaid on any or all of such A Ordinary Shareholder's A Ordinary Shares (including their nominal value and any share premium) be paid up in full (a **Call**), in which event the A Ordinary Shareholder shall pay such amount to the Company no later than three months after the date such notice is (or is deemed to be) given (or by such other date as it has agreed in writing with the Company) by depositing a cheque at the Company's registered office, or by such other means it has agreed in writing with the Company; and
- 3.12.2 the holder of any A Ordinary Share which is for the time being unpaid may at any time pay it up in full (including its nominal value and any share premium) by giving notice in writing to the Company of his intention to do so, and delivering with such notice a cheque for the relevant amount (or making payment to the Company by whatever alternative means he agrees in writing with the Company).
- 3.13 Any amount paid to the Company under article 3.12 shall be applied by the Company in fully paying up such maximum number of A Ordinary Shares as can thereby be paid up in full at their respective issue prices (including their nominal value and any share premium) and (if necessary) partly paying up one (and no more than one) additional A Ordinary Share.

#### **4. TRANSFER OF SHARES - GENERAL**

4.1 Subject to articles 4.2 and 4.3, the Directors shall forthwith register any duly stamped transfer made in accordance with, or permitted by, these Articles and the Directors shall not register any transfer of Shares which is not so made or permitted. Article 26(5) of the Model Articles shall not apply to the Company.

4.2 No transfer, other than one made under article 8 or 9, shall be registered unless the relevant transferee, if not already a party to the Shareholders' Agreement, has entered into a deed of adherence to, and in the form required by, the Shareholders' Agreement. Any person who wishes to be registered as the holder of a Share shall, if requested by the Directors, enter into a joint election with the Company in terms of section 431(1) of the Income Tax (Earnings and Pensions) Act 2003 within 14 days of acquiring any right or interest in that Share.

4.3 For the purposes of ensuring that:

4.3.1 a transfer of any Share is in accordance with these Articles;

4.3.2 no circumstances have arisen whereby a Shareholder is required to give or may be deemed to have given a Transfer Notice in respect of any Share; or

4.3.3 no circumstances have arisen whereby the provisions of article 9 are required to be or ought to have been triggered,

the Directors may from time to time and shall, if so requested to do by a Majority, require any Shareholder to provide, or to procure that any person named as the transferee in any transfer lodged for registration or any other person whom the Directors or a Majority reasonably believe to have information relevant to such purpose provides, such information and evidence as the Directors or a Majority may reasonably require for such purpose. Pending such information or evidence being provided, the Directors are entitled to and shall, if so requested to do by a Majority, refuse to register any relevant transfer of Shares.

4.4 If any information or evidence provided pursuant to article 4.3 discloses to the reasonable satisfaction of the Directors that circumstances have arisen whereby a Shareholder may be required to give or be deemed to have given a Transfer Notice, the Directors may (and shall, if so requested to do by a Majority) by notice in writing to the relevant Shareholder, require that a Transfer Notice be given in respect of the Shares concerned.

4.5 In any case where a Shareholder is required to give a Transfer Notice in accordance with the provisions of these Articles and such Transfer Notice is not duly given within a period of 10 Business Days of written notice from the Directors to the relevant Shareholder requesting that such Transfer Notice be duly given, such Transfer Notice shall be deemed to have been given immediately upon the expiry of that period of 10 Business Days. Notwithstanding any other provision of these Articles, unless a Majority resolves otherwise, any Shares which are the subject of a Transfer Notice deemed to have been served in accordance with this article 4.5

(and any Shares received after the date of service, or deemed service, of any such Transfer Notice by way of rights or on a capitalisation in respect of the Shares which are the subject of that Transfer Notice) shall with effect from the date of the relevant Transfer Notice (or, if later, the date on which such Shares are issued), cease to confer upon the holder thereof any right to receive notice of, or attend, speak or vote at, any general meeting of the Company (or at any meeting of the holders of any class of Shares) or any right to receive or vote on any written resolution of the Company (or the holders of any class of Shares) until such time as another person is entered in the register of members of the Company as the holder of those Shares.

4.6 Notwithstanding any other provision of these Articles, an obligation to transfer a Share under these Articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free from all Encumbrances.

4.7 Notwithstanding any other provision of these Articles, no transfer of any Share which is the subject of a Transfer Notice shall be permitted pursuant to article 5.

## **5. PERMITTED TRANSFERS**

### **5.1 Transfer with consent**

Any Shares may be transferred at any time with the prior written consent of a Majority. Any Deferred Shares may be transferred at any time with the prior consent of a Majority and the prior consent of the Board.

### **5.2 Transfer to a Family Member**

5.2.1 Subject to article 5.2.2, any Equity Shareholder may at any time transfer any of the Equity Shares held by him to one or more of his Family Members.

5.2.2 Unless otherwise agreed by a Majority, no transfer of Equity Shares shall be permitted pursuant to article 5.2.1 if the registration of that transfer would result in the number of Equity Shares held by the relevant transferor representing less than 50% of the total number of Equity Shares held from time to time by that transferor, his Family Members and/or any Family Trust of his.

5.2.3 Where, following a transfer of Equity Shares pursuant to article 5.2.1, the transferee of those Equity Shares ceases for any reason to be a Family Member of the original transferor of those Equity Shares, such transferee shall forthwith, and in any event within 20 Business Days of the date on which the transferee ceased to be a Family Member of the original transferor, transfer all the Equity Shares held by him to the original transferor failing which the Directors may authorise and instruct any Director to execute a transfer of the Equity Shares on behalf of the relevant transferee and register the original transferor of those Equity Shares as the holder of such Equity Shares.

- 5.2.4 A Family Member to whom Equity Shares have been transferred pursuant to this article 5.2 may transfer those Equity Shares back to the original transferor at any time but may not otherwise transfer such Equity Shares pursuant to this article 5.2 or article 5.3 without the prior written consent of a Majority.

### **5.3 Transfer to a Family Trust**

- 5.3.1 Subject to article 5.3.2, any Equity Shareholder may at any time transfer any of the Equity Shares held by him to one or more trustees to be held on a Family Trust.
- 5.3.2 Unless otherwise agreed by a Majority, no transfer of Equity Shares shall be permitted pursuant to article 5.3.1 if the registration of that transfer would result in the number of Equity Shares held by the relevant transferor representing less than 50% of the total number of Equity Shares held from time to time by that transferor, his Family Members and/or any Family Trust of his.
- 5.3.3 Where any Equity Shares are held by a trustee(s) on a Family Trust, those Equity Shares may be transferred to:
- (a) any new trustee(s) of the Family Trust appointed on a change in trustee(s);
  - (b) the settlor of such Family Trust;
  - (c) the trustees of another Family Trust which has the same settlor; or
  - (d) any Family Member of the settlor of such Family Trust.
- 5.3.4 Where any Equity Shares are held by a trustee(s) on a Family Trust and either:
- (a) the relevant trust ceases to be a Family Trust in relation to the settlor; or
  - (b) there ceases to be any beneficiaries of the Family Trust other than charities

the trustee(s) shall forthwith, and in any event within 20 Business Days of the date on which the trust ceased to be such a Family Trust or there ceased to be any beneficiaries as above, transfer all the Equity Shares held by them to the member who originally transferred the Equity Shares to the Family Trust pursuant to this article 5.3, failing which the Directors may authorise and instruct any Director to execute a transfer of the Equity Shares on behalf of the relevant transferee and register the original transferor of those Equity Shares as the holder of such Equity Shares.

### **5.4 Transfers by Grain**

- 5.4.1 Grain may transfer all or any Shares held by it to a Grain Permitted Transferee and such Grain Permitted Transferee may transfer any Shares back to Grain or to another Grain Permitted Transferee.
- 5.4.2 Where any Grain Permitted Transferee ceases to meet the requirements for being a Grain Permitted Transferee as set out in the definition thereof, that person (or the



trustees of any trust, if applicable) shall forthwith, and in any event within 20 Business Days of the date on which the Grain Permitted Transferee ceased to meet such requirements, transfer all the Equity Shares held by them to Grain or to another Grain Permitted Transferee, failing which the Directors may authorise and instruct any Director to execute a transfer of the Equity Shares on behalf of the relevant transferee and register Grain (or, if Grain no longer exists, Roland Grain) as the holder of such Equity Shares.

## 5.5 **Costs**

- 5.5.1 The transferor of any Share or any interest in any Share under this article 5 shall indemnify and keep indemnified the Company against any national insurance liabilities or tax liabilities suffered or incurred by the Company as a direct result of such transfer of the registered title to that Share and/or any beneficial or other interest in it.

## 6. **PRE-EMPTION ON TRANSFER OF SHARES**

### 6.1 **Transfer Notice**

- 6.1.1 Except as permitted under article 5 (Permitted Transfers) or as provided for in articles 8 (Drag Along), 9 (Tag Along), 23 (G Ordinary Shares and G1 Ordinary Shares) and 24 (Deferred Shares), and subject to article 6.1.2, any Equity Shareholder (a **Seller**) who wishes to transfer any Ordinary Share (or any interest in any Ordinary Share) shall, before transferring or agreeing to transfer such Ordinary Share (or interest), give notice in writing (a **Transfer Notice**) to the Company of its wish.
- 6.1.2 Except for any Transfer Notice which is deemed to be given under or pursuant to article 7.5 (or any other provision of these Articles) no Transfer Notice may be served under this article 6 by
- (a) a Relevant Shareholder in respect of whom a Default Notice has been served pursuant to article 7; or
  - (b) any person in respect of an A Ordinary Share which is not Fully Paid.
- 6.1.3 Subject to article 6.1.4, a Transfer Notice shall:
- (a) state the number and class of Equity Shares (or interest in Equity Shares) (the **Sale Shares**) which the Seller wishes to transfer;
  - (b) state the name of the person to whom the Seller wishes to transfer the Sale Shares;
  - (c) state the price per Sale Share (the **Proposed Price**) at which the Seller wishes to transfer the Sale Shares;

- (d) state if the Transfer Notice is conditional upon all (and not only part) of the Sale Shares being sold pursuant to this article 6 (a **Total Transfer Condition**);
- (e) constitute the Company as the agent of the Seller in relation to the sale of the Sale Shares in accordance with this article 6; and
- (f) not be capable of variation or cancellation without the consent of a Majority (excluding the Seller).

6.1.4 Where a Transfer Notice is one which is deemed to have been given by virtue of any provision of these Articles:

- (a) it shall relate to all the Shares registered in the name of the Seller;
- (b) it shall not contain a Total Transfer Condition;
- (c) the Transfer Price shall be determined in accordance with articles 6.2.1(b) and (c);
- (d) it shall be irrevocable; and
- (e) subject to article 4.5, the Seller may retain any Sale Shares for which Buyers (as defined in article 6.4.2) are not found.

## 6.2 **Transfer Price**

6.2.1 The Sale Shares will be offered for sale in accordance with this article 6 at the following price (the **Transfer Price**):

- (a) subject to the consent of the Directors, the Proposed Price; or
- (b) such other price as may be agreed between the Seller and the Directors within 10 Business Days of the date of service (or deemed service) of the Transfer Notice; or
- (c) if no price is agreed pursuant to article (b) within the period specified in that article, or if the Directors direct at any time during that period, whichever is the lower of (i) the Proposed Price and (ii) the Fair Value determined in accordance with article 6.2.2.

6.2.2 If the Seller and the Directors are unable to agree on the Transfer Price in accordance with article 6.2.1(b) or if the Directors direct in accordance with article 6.2.1(c), the Directors shall forthwith instruct the Auditors to determine and certify the Fair Value of each Sale Share.

6.2.3 The decision of the Auditors (who shall be deemed to act as an expert and not as an arbiter) shall be final and binding on the Shareholders, save in the event of fraud or manifest error, and their costs for reporting on their opinion of the Fair Value shall,

subject to article 6.2.4, be borne as directed by the Auditors (taking into account the conduct of the parties) or, in the absence of any such direction, as to one half by the Seller and the other half by the Company.

6.2.4 Where in the case of a Transfer Notice which is deemed to have been given by virtue of any provision of these Articles, the Fair Value is less than the price proposed by the Directors to the Seller not less than 5 Business Days prior to receipt of the Auditors' report by the Company, then the Auditors' fees shall be borne wholly by the Seller.

### 6.3 Offer Notice

6.3.1 Subject to article 6.3.2, the Directors shall serve a notice (an **Offer Notice**) on all Equity Shareholders within 10 Business Days of the Transfer Price being agreed or determined in accordance with these Articles.

6.3.2 An Offer Notice shall not be sent to, and no Sale Shares shall be treated as offered to:

- (a) the Seller;
- (b) any Shareholder who, at the date of the Offer Notice, is bound to give, or has given or is deemed to have given a Transfer Notice in respect of any Shares registered in his name; and
- (c) any Relevant Shareholder upon whom a Default Notice has been served pursuant to article 7.

6.3.3 An Offer Notice shall:

- (a) state the Transfer Price;
- (b) contain the other information set out in the Transfer Notice;
- (c) invite the relevant offerees to respond in writing to the Company stating the number of Sale Shares which they wish to purchase; and
- (d) expire, and the offer made in that notice to an offeree shall be deemed to be withdrawn if not previously accepted by such offeree, on a date which is not less than 20 nor more than 40 Business Days after the date of service of the Offer Notice.

### 6.4 Allocation of Sale Shares

6.4.1 After the expiry of the period specified in the Offer Notice or, if sooner, upon all Equity Shareholders to whom an Offer Notice was sent having responded to that Offer Notice (in either case the **Allocation Date**), the Directors shall allocate the Sale Shares in accordance with the applications received provided that:

- (a) if there are applications for more than the number of Sale Shares available, the Sale Shares shall be allocated to the relevant applicants in proportion (as nearly as practicable but without allocating to any applicant more Sale Shares than he applied for) to the number of Equity Shares held by each of them respectively;
- (b) the allocation of any fractional entitlements to Sale Shares amongst the Shareholders shall be dealt with by the Directors in such manner as they see fit; and
- (c) no Sale Shares shall be allocated to:
  - (i) any Shareholder who, at the Allocation Date, is bound to give, or has given or is deemed to have given a Transfer Notice in respect of any Shares registered in his name; or
  - (ii) any Relevant Shareholder upon whom a Default Notice has been served pursuant to article 7.

6.4.2 Within 5 Business Days of the Allocation Date the Directors shall give notice in writing (an **Allocation Notice**) to the Seller and each Equity Shareholder to whom Sale Shares have been allocated pursuant to article 6.4.1 (each a **Buyer**). An Allocation Notice shall state:

- (a) the number and class of Sale Shares allocated to that Buyer;
- (b) the name and address of the Buyer;
- (c) the aggregate purchase price payable by the Buyer in respect of the Sale Shares allocated to him; and
- (d) the place, date and time (being not less than 2 nor more than 5 Business Days after the date of service of the Allocation Notice) at which completion of the sale and purchase of the relevant Sale Shares shall take place.

6.4.3 Completion of a sale and purchase of Sale Shares pursuant to an Allocation Notice shall take place at the place, date and time specified in the Allocation Notice when the Seller will, upon payment of the Transfer Price in respect of the Sale Shares allocated to a Buyer, transfer those Sale Shares by delivering a duly executed transfer or transfers of the Sale Shares, and deliver the relevant share certificate(s) (or an indemnity in a form reasonably satisfactory to the Directors in respect of any such share certificates which cannot be produced) in respect of those Shares, to that Buyer.

6.4.4 Subject to article 6.4.5, the service of an Allocation Notice shall constitute the acceptance by a Buyer of the offer to purchase the number of Sale Shares specified in that notice on the terms offered to that Buyer.

6.4.5 If after following the procedure set out in this article 6 the total number of Shares applied for and allocated to the Buyers remains less than the total number of Sale Shares, then:

- (a) if the Transfer Notice contained a Total Transfer Condition, then notwithstanding any other provision of this article 6 no Sale Shares shall be deemed to have been allocated to any Buyer and the Seller and the Buyers shall not be bound to sell or purchase any Sale Shares in accordance with this article 6; and
- (b) the Company shall notify the Seller that it has failed to find Buyers for all or some (as the case may be) of the Sale Shares.

#### **6.5 Default by the Seller**

6.5.1 If a Seller shall fail for any reason to transfer any Sale Shares to a Buyer when required by this article 6, the Directors may authorise and instruct any Director to execute each necessary transfer of Sale Shares (and any indemnity in respect of share certificates which are not produced) on the Seller's behalf and to deliver that transfer (and indemnity, if applicable) to the relevant Buyer.

6.5.2 The Company may receive the purchase money from a Buyer on behalf of the Seller and thereafter shall, subject to due stamping, enter the name of that Buyer in the register of members of the Company as the holder of the Sale Shares so transferred to him. The receipt of the Company for the purchase money shall constitute a good discharge to the Buyer (who shall not be bound to see to the application of it) and after the Buyer has been registered in purported exercise of the power conferred by this article 6.5 the validity of the proceedings shall not be questioned by any person.

6.5.3 The Company shall hold the relevant purchase money on trust for the Seller (but without interest) and the Company shall not pay such money to the Seller until he has delivered the share certificate(s) in respect of the relevant Shares (or a suitable indemnity or other documentation if an interest in Shares is being transferred, in each case in a form reasonably satisfactory to the Directors) to the Company.

#### **6.6 Transfers following exhaustion of pre-emption rights**

If any Sale Shares are not allocated to a Buyer under any of the foregoing provisions of this article 6 the Seller may, at any time within 3 calendar months of the date of service of the notice referred to in article 6.4.5(b), sell any of those unallocated Sale Shares to the person

named in the Transfer Notice at not less than the Transfer Price (without any deduction, rebate or allowance to the proposed purchaser) provided that:

- 6.6.1 no Sale Shares shall be sold to, and the Directors shall not register a transfer to, a person who is not already a Shareholder without the prior written consent of a Majority;
  - 6.6.2 if the Transfer Notice contained a Total Transfer Condition, the Seller shall not be entitled to sell only some of the Sale Shares without the prior written consent of a Majority; and
  - 6.6.3 the Directors shall not register the transfer if as a result of such transfer the proposed purchaser would be required to make an offer in accordance with article 9 until such time as that offer has been made and, if accepted, completed.
- 6.7 The G Ordinary Shares and G1 Ordinary Shares may be transferred in accordance with Article 23.
- 6.8 The Deferred Shares may be transferred in accordance with Article 24.

## 7. **COMPULSORY TRANSFERS**

- 7.1 Subject to article 23.8, if an Event of Default occurs in relation to a Shareholder then the Remaining Shareholders (acting by simple majority of them) may, without prejudice to any other rights or remedies which they may have, at any time within 20 Business Days of becoming aware of the relevant Event of serve written notice (a "**Default Notice**") on the Defaulting Shareholder and any other Shareholder holding Compulsory Transfer Shares (together the "**Relevant Event of Default Shareholders**"), and on the Company, notifying them that the relevant event is an Event of Default in relation to the Relevant of Default Shareholders.
- 7.2 If an A Ordinary Shareholder Transfer Event occurs in relation to an A Ordinary Shareholder then unless the Board (acting with the consent in writing of (i) prior to and including the Ratchet End Date, a Majority; or (ii) after the Ratchet End Date, the Minority Shareholder Director) resolves otherwise within 20 Business Days of becoming aware of the relevant A Ordinary Shareholder Transfer Event, then without prejudice to any other rights or remedies which the Company or the Shareholders (or any of them) shall have, the Remaining Shareholders shall be deemed to have served a Default Notice on such A Ordinary Shareholder and any other Shareholder holding Compulsory Transfer Shares in relation to him (together the "**Relevant A Shareholders**") .
- 7.3 If, in relation to an Event of Default, no Default Notice is served within the period of 20 Business Days referred to in article 7.1, the relevant Event of Default (is deemed to have lapsed).

- 7.4 If a Shareholder becomes aware of any event which gives rise to, or which may with the passing of time give rise to, an Event of Default (or an A Ordinary Shareholder Transfer Event) in respect of a Shareholder, that Shareholder shall forthwith give notice thereof to the Directors and the other Shareholders.
- 7.5 Upon service (or deemed service) of a Default Notice:
- 7.5.1 no further Shares shall be issued or required to be offered under any provision of these Articles to the Relevant Shareholders;
  - 7.5.2 the Relevant Shareholders shall cease to be required in order to form a quorum at meetings of Shareholders or to be entitled to exercise any voting rights in respect of the Compulsory Transfer Shares registered in their name ("**Restricted Shares**");
  - 7.5.3 any Director appointed by a Relevant Shareholder (either solely or jointly with any other Shareholder(s)) shall forthwith cease to be required in order to form a quorum at any meeting of the Directors (and the quorum requirements for meetings of the Directors shall be deemed varied to the extent necessary to ensure that a quorum may still be formed without his attendance or participation) or to be entitled to exercise any vote at any such meeting; and
  - 7.5.4 save as set out in this article 7, a Relevant Shareholder may not sell or dispose of any of the Compulsory Transfer Shares or any interest in any of the Compulsory Transfer Shares.
- 7.6 Upon service (or deemed service) of a Default Notice each Relevant Shareholder shall be deemed to have served a Transfer Notice in respect of all the Compulsory Transfer Shares then held by each of them respectively. Such Transfer Notice shall be deemed to have been served on the same date that the relevant Default Notice is served and shall supersede any current Transfer Notice in respect of any Transfer Shares. Following deemed service of a Transfer Notice pursuant to this article 7.5, the Compulsory Transfer Shares shall be offered for sale in accordance with the provisions of article 6 as if the Compulsory Transfer Shares were Sale Shares.
8. **DRAG ALONG**
- 8.1 Subject to article 8.2, if Shareholders constituting a Majority (together the **Selling Shareholders**) wish to transfer all their Shares to a Third Party Purchaser, they shall have the option (a **Drag Along Option**) to require all of the other Shareholders (the **Continuing Shareholders**) to transfer all their Shares with full title guarantee to the Third Party Purchaser (or as the Third Party Purchaser shall direct) in accordance with this article 8.
- 8.2 A Relevant Shareholder in respect of whom a Default Notice has been served in accordance with article 7 may not exercise (or join in exercising) the Drag Along Option under this article 8.

- 8.3 The Selling Shareholders shall exercise the Drag Along Option by giving notice to that effect (a **Drag Along Notice**) to each of the Continuing Shareholders at any time before the registration of the transfer of the Selling Shareholders' Shares. A Drag Along Notice shall specify:
- 8.3.1 that the Continuing Shareholders are required to transfer all their Shares (the **Continuing Shares**) pursuant to this article 8;
  - 8.3.2 the identity of the Third Party Purchaser;
  - 8.3.3 the consideration for which, or the price at which, the Continuing Shares are to be transferred, determined in accordance with article 8.5 (the **Drag Along Consideration**); and
  - 8.3.4 the proposed date of transfer (if known).
- 8.4 A Drag Along Notice may be revoked by the Selling Shareholders at any time prior to the completion of the sale and purchase of the Continuing Shares.
- 8.5 The Drag Along Consideration shall be the same consideration (in the same form and due at the same time(s)) per Continuing Share (regardless of the class of the Continuing Shares) as that offered, given, paid or payable by, or due from, the Third Party Purchaser in respect of each Share held by the Selling Shareholders together with the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the Selling Shareholders which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or consideration given in respect of the Shares held by those Selling Shareholders.
- 8.6 Completion of the sale and purchase of the Continuing Shares shall take place on the same date as completion of the sale and purchase of the Selling Shareholders' Shares (unless the Directors and all of the Continuing Shareholders shall agree otherwise).
- 8.7 Upon the service of a Drag Along Notice each Continuing Shareholder shall be deemed to have irrevocably appointed each of the Selling Shareholders (severally) as the agent of the Continuing Shareholder to execute, in the name of and on behalf of that Continuing Shareholder, any stock transfer form and covenant for full title guarantee in respect of the Continuing Shares registered in the name of that Continuing Shareholder and to do such other things as the agent may consider necessary or desirable to transfer and complete the sale of the Continuing Shares pursuant to this article 8.
- 8.8 The provisions of this article 8 shall prevail over any contrary provisions of these Articles and, for the avoidance of doubt, the rights of pre-emption on transfer of Shares contained in article 6 shall not apply to the transfer of any Shares to a Third Party Purchaser named in a Drag Along Notice (or as that Third Party Purchaser may direct). Any Transfer Notice served in



respect of a Share which has not been allocated to a Buyer in accordance with article 6 shall automatically be revoked by the service of a Drag Along Notice.

- 8.9 Upon any person (a "**New Shareholder**") becoming, at any time after the service of a Drag Along Notice, a registered holder of any Share pursuant to the exercise of any option, warrant or other right to subscribe for or acquire Shares, a Drag Along Notice, on the same terms as the then current Drag Along Notice, shall immediately be deemed to have been served upon that New Shareholder. Upon the deemed service of a Drag Along Notice pursuant to this article 8.9 the New Shareholder shall become bound to sell and transfer to the Third Party Purchaser (or as the Third Party Purchaser may direct) any Share acquired by him as a result of the exercise of any such option, warrant or other right to subscribe for or acquire Shares. The provisions of this article 8 shall apply *mutatis mutandis* to the sale of any such Shares by such New Shareholder provided that completion of the sale and purchase of those Shares shall take place on whichever is the later of:

- 8.9.1 the date on which a Drag Along Notice is deemed to have been served on the New Shareholder pursuant to this article 8.9; and
- 8.9.2 the date of completion of the sale and purchase of the Continuing Shares pursuant to the original Drag Along Notice.

## 9. **TAG ALONG**

- 9.1 Save in the case of a transfer of Shares which is permitted in accordance with the provisions of article 5, but otherwise notwithstanding any other provision of these Articles, no sale or other disposition of any Shares (the "**Committed Shares**") which would result in a Change of Control shall be made or registered unless before the transfer is lodged for registration:

- 9.1.1 a Majority has consented to such transfer; and
- 9.1.2 the relevant Third Party Purchaser has made a bona fide offer (a "**Tag Along Offer**") by notice in writing (a "**Tag Along Notice**") to acquire, in accordance with this article 9, from all the Shareholders other than the Third Party Purchaser (or persons connected with or acting in concert with him) all the Shares which are not Committed Shares (the "**Uncommitted Shares**") for the consideration, or at the price, (the "**Tag Along Consideration**") calculated in accordance with article 9.3.

- 9.2 A Tag Along Notice shall:

- 9.2.1 state the Tag Along Consideration (subject to article 9.3);
- 9.2.2 state the identity of the Third Party Purchaser;
- 9.2.3 invite the relevant offerees to respond in writing to the Third Party Purchaser stating that they wish to accept the Tag Along Offer; and

- 9.2.4 expire, and the offer made in the Tag Along Notice to an offeree shall be deemed to be withdrawn if not previously accepted by such offeree, on the date (being not less than 5 nor more than 20 Business Days after the date of service of the Tag Along Notice) specified in the Tag Along Notice.
- 9.3 For the purposes of this article 9 the Tag Along Consideration shall be the same consideration per Uncommitted Share (in the same form and due at the same time(s)) as that offered, given, paid or payable by, or due from, the Third Party Purchaser in respect of each Committed Share together with the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Committed 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 consideration given in respect of the Committed Shares. In the case of any dispute as to the Tag Along Consideration, such dispute shall be referred (without undue delay) by the Directors promptly to the Auditors, who shall be instructed to determine and certify the Tag Along Consideration. The decision of the Auditors (who shall be deemed to act as an expert and not as an arbiter) shall be final and binding on the Shareholders, save in the event of fraud or manifest error, and their costs for reporting on their opinion of the Tag Along Consideration shall be paid by the Company.
- 9.4 Where an event which would constitute an A Ordinary Shareholder Change of Control is proposed, the A Ordinary Shareholder who is or may suffer such A Ordinary Shareholder Change of Control ("**Changing A Ordinary Shareholder**") shall not permit such event to proceed without first complying in full with the remaining provisions of this article 9 and shall promptly shall give notice to the Board of such event (or proposed event) setting out full details of such event and the proposed A Ordinary Shareholder Change of Control ("**A Ordinary Shareholder Change of Control Notice**").
- 9.5 Unless the Board resolves otherwise (with the consent in writing of (i) prior to and including the Ratchet End Date, a Majority; or (ii) after the Ratchet End Date, the Minority Shareholder Director) the Changing A Ordinary Shareholder shall procure that the A Ordinary Shareholder Acquiror makes a bona fide offer (an "**A Ordinary Shareholder Tag Along Offer**") by notice in writing (an "**A Ordinary Shareholder Tag Along Notice**") to acquire, in accordance with the remaining provisions of this article 9, from all the Shareholders other than the Changing A Ordinary Shareholder, all of the Shares which are registered in their respective names (the "**Relevant Shares**") for a consideration, or price (the "**A Ordinary Shareholder Tag Along Consideration**") determined in accordance with article 9.6.
- 9.6 The A Ordinary Shareholder Tag Along Consideration shall be such price per Relevant Share as is agreed in writing between the Changing A Ordinary Shareholder and the Board (with consent in writing of (i) prior to and including the Ratchet End Date, a Majority; or (ii) after the Ratchet End Date, the Minority Shareholder Director) or, if no such agreement in writing is reached within 20 Business Days following the service of the A Ordinary Shareholder Change

of Control Notice, the A Ordinary Shareholder Tag Along Consideration shall be the Fair Value of the Relevant Shares determined as follows:

- 9.6.1 the Directors shall forthwith upon the expiry of the 20 Business Day period referred to in article 9.6, instruct the Auditors to determine and certify the Fair Value of each Relevant Share; and
  - 9.6.2 the decision of the Auditors (who shall be deemed to act as an expert and not as an arbiter) shall be final and binding on the Shareholders, save in the event of fraud or manifest error, and their costs for reporting on their opinion of the Fair Value shall, be paid by the Company.
- 9.7 An A Ordinary Shareholder Tag Along Notice shall:
- 9.7.1 state the A Ordinary Shareholder Tag Along Consideration (as determined in accordance with article 9.6);
  - 9.7.2 state the identity of the A Ordinary Shareholder Acquiror;
  - 9.7.3 invite the relevant offerees to respond in writing to the A Ordinary Shareholder Acquiror stating that they wish to accept the A Ordinary Shareholder Tag Along Offer;
  - 9.7.4 expire, and the offer made in the A Ordinary Shareholder Tag Along Notice to an offeree shall be deemed to be withdrawn if not previously accepted by such offeree, on the date (being not less than 10 nor more than 20 Business Days after the date of service of the A Ordinary Shareholder Tag Along Notice) specified in the A Ordinary Shareholder Tag Along Notice; and
  - 9.7.5 state the date for completion of the purchase of the Relevant Shares from all Shareholders who accept the A Ordinary Shareholder Tag Along Offer ("**Accepting Shareholders**"), which date shall be no earlier than 5 and no later than 20 Business Days after the expiry of the A Ordinary Shareholder Tag Along Notice.
- 9.8 Completion of the sale and purchase of the Relevant Shares of the Accepting Shareholders shall take place on the date specified in the A Ordinary Shareholder Tag Along Notice (unless the A Ordinary Shareholder Acquiror, the Directors and all of the Accepting Shareholders shall agree otherwise) and the Changing A Ordinary Shareholder shall procure that the A Ordinary Shareholder Change of Control giving rise to the A Ordinary Shareholder Change of Control Notice is effected no earlier than the completion of such sale and purchase.
- 9.9 Upon acceptance of an A Ordinary Shareholder Tag Along Offer, each Continuing Shareholder shall be deemed to have irrevocably appointed the Company (acting by the Minority Shareholder Director if one is office, failing which, any other Director) to act as his agent to execute, in the name of and on behalf of that Accepting Shareholder, any stock transfer form and covenant for full title guarantee in respect of the Relevant Shares registered

in the name of that Accepting Shareholder and to do such other things as the agent may (acting reasonably) consider necessary or desirable to transfer and complete the sale of such Accepting Shareholder's Relevant Shares pursuant to the A Ordinary Shareholder Tag Along Offer.

**10. GENERAL MEETINGS**

- 10.1 No business shall be transacted at any general meeting unless the requisite quorum is present at the commencement of the business and also when such business is voted upon. Subject to article 10.2 and article 10.3, three or more Shareholders holding 50% of the Equity Shares present either in person (including any shareholder participating by video or conference call), by proxy or by a duly appointed corporate representative shall be a quorum.
- 10.2 Any Relevant Shareholder in respect of whom a Default Notice has been served pursuant to article 7 shall not be required in order to form a quorum at any general meeting (and shall be excluded from the reckoning in calculating 50% of the Equity Shares for the purposes of article 10.1).
- 10.3 At an adjourned general meeting, three or more Shareholders holding among them not less than 10% of the Equity Shares (excluding any Restricted Shares from the reckoning in calculating such percentage) present either in person, by proxy or by a duly appointed corporate representative shall be a quorum.
- 10.4 Article 41 of the Model Articles shall be amended by the addition of the following as a new paragraph 41(7) in that article: "If within half an hour of the time appointed for the holding of an adjourned meeting a quorum is not present, the meeting shall be dissolved".
- 10.5 The chairman of the board of Directors for the time being shall chair general meetings. If the chairman is unable to attend any general meeting, then:-
- 10.5.1 if he is a Nominated Director, the Shareholder (or Shareholders) that appointed him shall be entitled to nominate another Director appointed by it or, in the absence of such another Director, any other person present at the meeting, to act as chairman of the meeting; and
- 10.5.2 otherwise, the meeting shall elect another Director or any other person present at the meeting, to act as chairman of the meeting; and
- 10.5.3 in either such case, the appointment of the chairman shall be the first business transacted at the meeting. Article 39 of the Model Articles shall not apply to the Company
- 10.6 A poll may be demanded at any general meeting by:
- 10.6.1 the chairman; or

10.6.2 by any Equity Shareholder present (in person, by proxy or by a duly appointed corporate representative) and entitled to vote on the relevant resolution.

Article 44(2) of the Model Articles shall not apply to the Company.

10.7 Article 44(3) of the Model Articles shall be amended by the insertion of the following as a new paragraph at the end of that article: "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made."

10.8 Article 45(1) of the Model Articles shall be amended as follows:

10.8.1 by the deletion of the words in Article 45(1)(d) and the insertion of the following in their place: "is delivered to the Company in accordance with the articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate."; and

10.8.2 by the insertion of the following as a new paragraph at the end of Article 45(1): "and a proxy notice which is not delivered in such manner shall be invalid unless the Directors, in their discretion accept the proxy notice any time before the meeting."

## **11. APPOINTMENT AND REMOVAL OF DIRECTORS**

11.1 The number of Directors (other than alternate directors) shall not be more than 6.

11.2 Article 17 of the Model Articles shall not apply to the Company.

11.3 Each of MM, AB and PD shall have the right, exercisable by notice in writing (signed by him) to the Company to appoint one person who is willing to act as a Director, is permitted by law to do so, and who may be himself, to be a Director and to remove and/ or replace such Director from time to time. The rights of MM, AB and PD respectively under this article shall exist at all times up to and including the Ratchet End Date, for as long as he and/ or his Permitted Transferees hold Shares. Upon any of MM, AB or PD (as the case may be) together with his respective Permitted Transferees ceasing to meet the shareholding qualification under this article 11.3 such that he no longer has the right to appoint a Director under this article 11.3, he shall (unless the Board in its sole discretion agrees otherwise) forthwith procure the resignation of any Director then in office who has been appointed by him pursuant to this article 11.3, failing which any such Director may be removed by resolution of the Directors.

11.4 After the Ratchet End Date, at any time whilst the Founders and their respective Permitted Transferees hold among them an aggregate of not less than 5% of the Equity Shares the Founders shall together have the right, exercisable by notice in writing (signed by a Founder Majority) to appoint one person who is willing to act as a Director, is permitted by law to do so, and who may be a Founder, to be a Director and to remove and/ or replace such Director

from time to time. Upon the last Founder ceasing to hold Equity Shares he shall (unless the Board in its sole discretion agrees otherwise) forthwith procure the resignation of any Director then in office who has been appointed under this article 11.4, failing which any such Director may be removed by resolution of the Directors.

- 11.5 Grain shall, for so as it (together with its Permitted Transferees) holds in aggregate not less than 5% of the Equity Shares, have the right, exercisable by notice in writing (signed by Grain) to the Company to appoint one person who is willing to act as a Director and is permitted by law to do so, to be a Director ("**Grain Director**"), and to remove and/ or replace such Director from time to time. Upon Grain ceasing to hold 5% of the Equity Shares, it shall (unless the Board in its sole discretion agrees otherwise) forthwith procure the resignation of any Director then in office who has been appointed by it pursuant to this article 11.5, failing which any such Director may be removed by resolution of the Directors.
- 11.6 The Minority Shareholders shall together have the right, exercisable by notice in writing signed by (or on behalf of) the holders of a majority of the Equity Shares for the time being held by the Minority Shareholders, to appoint one person who is willing to act as a Director and is permitted by law to do so to be a Director ("**Minority Shareholder Director**"), and to remove and replace such Director from time to time. For the avoidance of doubt, PD shall be deemed to have been appointed as a Director under or pursuant to this article 11.6 (and to be the Minority Shareholder Director as at the Adoption Date).
- 11.7 At any time when the number of Directors in office is lower than the maximum number provided for under article 11.1, the Directors may (acting with Grain Director Consent) appoint any person who is willing to act as a Director, and who is permitted by law to do so, to be a Director, and may remove and/ or replace any such Director from time to time.
- 11.8 In the event that the exercise of rights of appointment under articles 11.3, 11.4, 11.5, or 11.6 would otherwise result in the number of Directors exceeding the maximum number provided for under article 11.1, the most recently appointed Director appointed by the Directors under article 11.7 shall be deemed automatically to resign office on the date that the person appointed under article 11.3, 11.4, 11.5, or 11.6 (as applicable) takes office.
- 11.9 Any appointment, removal and/ or replacement of a Director by notice from the relevant Shareholder(s) or other person under articles 11.3, 11.4, 11.5, or 11.6 shall take effect on the date that the relevant notice is received (or deemed received) by the Company (or such later date as is specified in such notice).
- 11.10 For so long as MM, AB, PD, the Founders or Grain (as the case may be) has the right to appoint a Nominated Director and has not appointed any such Nominated Director, he/ it/ they shall have the right to send a representative to attend all Board meetings. Such representative shall be entitled to speak but not vote at any such meeting and shall be entitled to receive (at the same time as the Directors) all notices, minutes and other papers circulated to Directors.

11.11 If and when MM, AB, PD, the Founders, the Minority Shareholders or Grain (as the case may be) removes (or procures the resignation) of a Nominated Director (appointed by them respectively) from office under any provision of the Shareholders' Agreement or the Articles, they shall indemnify and keep indemnified the Company against any and all claims connected with such removal or resignation from office and any losses, costs and expenses incurred by the Company in relation thereto.

11.12 In any case where, as a result of death or bankruptcy, the Company has no Shareholders and no Directors, the transmittee(s) of the last Shareholder to have died or to have a bankruptcy order made against him (as the case may be) has the right, by notice in writing, to appoint a natural person who is willing to act and is permitted to do so, to be a Director. Article 27(3) of the Model Articles shall be modified accordingly.

## 12. **APPOINTMENT OF CHAIRMAN**

12.1 The chairman of the Board shall be nominated in writing by the Board from time to time. The chairman shall not have a second or casting vote. Article 12 of the Model Articles shall not apply to the Company.

12.2 Any appointment or removal of the chairman of the Board pursuant to article 12.1 shall be made by resolution of the Board, shall take effect on such date as the directors resolve, and the appointment shall be notified in writing to the Shareholders without undue delay after it has been made.

## 13. **ALTERNATE DIRECTORS**

13.1 Any Director (in this article 13, an **appointor**) may appoint as an alternate any other person to:

13.1.1 exercise that Director's powers; and

13.1.2 carry out that Director's responsibilities

in relation to the taking of decisions by the Directors, in the absence of the alternate's appointor.

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

13.3 The notice must:

13.3.1 identify the proposed alternate; and

13.3.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice.

- 13.4 An alternate Director may act as alternate director to more than one Director and has the same rights in relation to any decision of the Directors as the alternate's appointor.
- 13.5 Save as provided otherwise in these Articles, alternate Directors:
- 13.5.1 are deemed for all purposes to be Directors;
  - 13.5.2 are liable for their own acts and omissions;
  - 13.5.3 are subject to the same restrictions as their appointors; and
  - 13.5.4 are not deemed to be agents of or for their appointors,
- and, in particular (without limitation), each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member.
- 13.6 A person who is an alternate Director but not a Director:
- 13.6.1 may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating);
  - 13.6.2 may participate in a unanimous decision of the Directors (but only if his appointor is an Eligible Director in relation to that decision and does not himself participate); and
  - 13.6.3 shall not be counted as more than one Director for the purposes of articles 13.6.1 and 13.6.2.
- 13.7 A Director who is also an alternate Director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the Directors (provided that his appointor is an Eligible Director in relation to that decision), but shall not count as more than one Director for the purposes of determining whether a quorum is present.
- 13.8 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the remuneration of the alternate's appointor as the appointor may direct by notice in writing to the Company. An alternate Director shall be entitled to be reimbursed by the Company such expenses as might properly be reimbursed to him if he were a Director.
- 13.9 The appointment of an alternate Director terminates:
- 13.9.1 when the alternate's appointor revokes the appointment by notice in writing to the Company specifying when it is to terminate;
  - 13.9.2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a Director;
  - 13.9.3 on the death of the alternate's appointor;



- 13.9.4 when the appointment of the alternate's appointor as a Director terminates; or
- 13.9.5 when written notice from the alternate, resigning his office, is received by the Company.

## **14. PROCEEDINGS OF DIRECTORS**

### **14.1 Frequency**

Meetings of the Directors shall be held at least 4 times per year. Board meetings may be held virtually with directors participating by video and/or conference call. Directors shall be entitled to claim expenses incurred in attending Board meetings in accordance with any applicable Company or Group expenses policy agreed and circulated by the Board (with Majority approval) and in force at the time of such meeting.

### **14.2 Notice**

Unless agreed otherwise by the Shareholders:

- 14.2.1 meetings of the Directors may be convened by any Director or the Company secretary by not less than 5 Business Days' notice provided that a meeting of the Directors may be convened by not less than 24 hours' notice if the interests of the Company would, in the reasonable opinion of a Shareholder, be likely to be materially and adversely affected if the business to be transacted at that meeting were not dealt with as a matter of urgency; or
- 14.2.2 notice of each meeting of the Directors shall be sent to each Director (and any alternate duly appointed in accordance with article 13) at the address, fax number or email address notified to the Company for this purpose by each such Director or alternate. Each notice of a meeting shall be accompanied by a full agenda and supporting papers.

Article 9(1) of the Model Articles shall not apply to the Company.

### **14.3 Quorum**

- 14.3.1 Subject to articles 7.5.3, 14.3.2 and 14.3.3, the quorum for any meeting of the Directors shall be:
  - (a) the Nominated Director appointed by Grain under article 11.5, provided that one is in office and that he is an Eligible Director in respect of that meeting; and unless (i) he has waived in writing the requirement that he be present or attending for such meeting, or (ii) article 7.5.3 applies to him; and
  - (b) two further Nominated Directors (both being Eligible Directors),in each case present or attending either in person or by a duly appointed alternate and provided that the requirement under paragraph (b) may be waived in whole or in

part in relation to a particular proposed meeting of the Directors by notice in writing from all the Nominated Directors (other than the one appointed under article 11.5), in which case the quorum shall be two Eligible Directors.

14.3.2 If at a duly convened meeting of the Directors, a quorum is not present within 30 minutes of the time at which the meeting is scheduled to take place, or if, during the meeting, such quorum ceases to be present, the meeting shall stand adjourned until the same time on the day falling seven days after the date of the original meeting and shall be held at the same place (or via the same means of communication) as the original meeting (or such other time, date and place (or means of communication) as all of the directors shall agree). If a quorum is not present at any such adjourned meeting within 30 minutes of the time at which the meeting is scheduled to take place, then the meeting shall be deemed quorate as long as any two Eligible Directors are present.

14.3.3 No business (other than a decision permitted in accordance with article 11(3) of the Model Articles) shall be transacted at any meeting of the Directors unless the requisite quorum is present at the commencement of the business and also when such business is voted upon. Article 11(2) of the Model Articles shall not apply to the Company.

#### 14.4 **Voting**

14.4.1 Save as agreed otherwise in writing by all the Shareholders:

- (a) all decisions made at any meeting of the Directors (or of any committee of the Directors) shall be made by resolution and any such resolution shall be decided by a majority of votes; and
- (b) at any Board meeting each Eligible Director present shall be entitled to cast one vote on each issue put to a vote.

14.4.2 Any Director appointed by a Relevant Shareholder upon whom a Default Notice has been served pursuant to article 7 shall not be entitled to exercise any vote at a meeting of the Directors.

#### 15. **TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY**

15.1 Subject to sections 177 and 182 of the Act and (where applicable) to any terms and conditions imposed by the Directors under article 16.3, and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a Director who is in any way (whether directly or indirectly) interested in an existing or proposed transaction or arrangement with the Company:

15.1.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;

- 15.1.2 shall be an Eligible Director for the purposes of any proposed decision of the Directors (or a committee of Directors) in respect of such transaction or arrangement, or proposed transaction or arrangement, in which he is interested;
  - 15.1.3 shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) or participate in any unanimous decision of the Directors, in respect of such transaction or arrangement, or proposed transaction or arrangement, in which he is interested;
  - 15.1.4 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director;
  - 15.1.5 may be a Director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
  - 15.1.6 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.
- 15.2 Articles 14(1) to 14(4) of the Model Articles shall not apply to the Company.
16. **DIRECTORS' CONFLICTS OF INTEREST**
- 16.1 Subject to the consent of a Majority, the Directors may, in accordance with the requirements set out in this article 16, authorise any matter or situation proposed to them by any Director which would, or may, if not authorised, involve a Director breaching his duty under section 175 of the Act to avoid conflicts of interest (a **Conflict**).
- 16.2 Any authorisation under this article will be effective only if:
- 16.2.1 the matter in question shall have been proposed by any Director for consideration at a meeting of Directors in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine;
  - 16.2.2 any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question; and
  - 16.2.3 the matter was agreed to without the Director in question or would have been agreed to if his vote had not been counted.

- 16.3 Any authorisation of a Conflict under this article 16 may (whether at the time of giving the authorisation or subsequently):
- 16.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
  - 16.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the Directors may determine; and
  - 16.3.3 be terminated or varied by the Directors at any time.
- This will not affect anything done by the Director prior to such termination or variation in accordance with the terms of the authorisation.
- 16.4 In authorising a Conflict the Directors may decide (whether at the time of giving the authorisation or subsequently) that if a Director has obtained any information through his involvement in the Conflict otherwise than as a director of the Company and in respect of which he owes a duty of confidentiality to another person, the Director is under no obligation to:
- 16.4.1 disclose such information to the Directors or to any Director or other officer or employee of the Company; or
  - 16.4.2 use or apply any such information in performing his duties as a Director
- where to do so would amount to a breach of that confidence.
- 16.5 Where the Directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the Director:
- 16.5.1 is excluded from discussions (whether at meetings of Directors or otherwise) related to the Conflict;
  - 16.5.2 is not given any documents or other information relating to the Conflict; and
  - 16.5.3 may or may not vote (or may or may not be counted in the quorum) at any future meeting of Directors in relation to any resolution relating to the Conflict.
- 16.6 Where the Directors authorise a Conflict:
- 16.6.1 the relevant Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict; and
  - 16.6.2 the Director will not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the Directors impose in respect of their authorisation.
- 16.7 A Director may, notwithstanding his office, be a director or other officer of, or employed by or otherwise interested in, a Shareholder who appointed him as a Director (or any company which is for the time being a subsidiary or holding company of that Shareholder or another

subsidiary of such holding company) and no authorisation under article 16.1 shall be necessary in respect of such interest.

16.8 Any Nominated Director shall be entitled from time to time to disclose to the Shareholder(s) who appointed him such information concerning the business and affairs of the Company as he may, in his absolute discretion, see fit.

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

## 17. **DIRECTORS' BENEFITS**

17.1 Article 19(2) of the Model Articles shall be amended by the insertion of the following words at the start of that article: "Subject to the consent of a Majority".

17.2 Article 19(3) of the Model Articles shall be amended by the insertion of the following words at the start of that article: "Subject to the consent of a Majority and".

## 18. **SECRETARY**

The Directors may, subject to the consent of a Majority, appoint any person who is willing to act as the secretary of the Company for such term, on such remuneration and on such conditions as they may think fit and may from time to time remove or replace such person.

## 19. **SERVICE OF DOCUMENTS**

19.1 Any notice, document or other information given in accordance with these Articles shall be deemed served on or delivered to the intended recipient:

19.1.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted;

19.1.2 if properly addressed and sent by reputable international overnight courier to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, 5 Business Days after posting provided that delivery in at least 5 Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider;

19.1.3 if properly addressed and delivered by hand, when it was given or left at the appropriate address;

19.1.4 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and

- 19.1.5 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this article 19.1, no account shall be taken of any part of a day that is not a Business Day.

- 19.2 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.

## 20. **INDEMNITY**

- 20.1 Subject to article 20.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

20.1.1 each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties, or in relation to them, including any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company (or any associated company); and

20.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 20.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

- 20.2 This article 20 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.

- 20.3 In this article 20 and in article 21:

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

20.3.2 a **relevant officer** means any director or other officer or former director or other officer of the Company or any associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act) but excluding in each case any person engaged by the Company (or any associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

20.4 Article 52 of the Model Articles shall not apply to the Company.

21. **INSURANCE**

21.1 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 loss or liability which has been or may be incurred by that relevant officer in connection with his 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.

21.2 Article 53 of the Model Articles shall not apply to the Company.

## PART B

### 22. DEFINITIONS

22.1 In this Part B of the Articles the following words bear the following meanings save where otherwise specified or the context otherwise requires:

**"Asset Sale"** means a sale by the Company on bona fide arms' length terms of all, or substantially all, of the Company's business, assets and undertakings (other than pursuant to an intra group reorganization);

**"Asset Distribution"** **Sale** has the meaning given in Article 23.5.1;

**"Bad Leaver"** any person who becomes a Leaver and who is not a Good Leaver;

**"Capital Distribution Amount"** has the meaning given in Article 23.3.1;

**"Capital Return"** means a return of capital to Shareholders on a liquidation, dissolution or winding up of the Company in each case save to the extent the same arises as a result of a group reorganization or reconstruction;

**"Competitor"** any person whose business competes with the principal business of the Company as undertaken during the 12 months preceding the relevant Leaver Termination Date;

**"Connected Person"** has the meaning given to such term in section 993 of the Income Tax Act 2007;

**"Controlling Interest"** an interest (as defined in section 820 to 825 of the Companies Act) in Shares in the Company conferring in aggregate more than 50% of the total voting rights normally exercisable at a general meeting of the Company;

**"Distribution Mechanism"** means that mechanism for distributing the proceeds of a Realisation among the members of the Company which is set out in Article 23.3.1;



<b>"Exit"</b>	means completion of:
	(a) a Sale;
	(b) a Listing; or
	(c) an Asset Sale;
<b>"G Ordinary Share Subscription Agreement"</b>	means any agreement for the subscription of G Ordinary Shares as may be executed and delivered to the Company from time to time by a subscriber for G Ordinary Shares, and counter-signed on behalf of the Company;
<b>"G1 Ordinary Share Subscription Agreement"</b>	means any agreement for the subscription of G1 Ordinary Shares as may be executed and delivered to the Company from time to time by a subscriber for G Ordinary Shares, and counter-signed on behalf of the Company;
<b>"Good Leaver"</b>	any person who becomes a Leaver as a result of:
	(a) his death;
	(b) disability or incapacity through ill health where the Directors resolve that such ill health is preventing, or is likely to prevent, that person from performing his normal duties;
	(c) that person being made redundant by the Company;
	(d) the retirement of that person; or
	(e) any other reason which the directors determine, in their absolute discretion, shall result in that person being a Good Leaver for the purposes of these Articles;
<b>"Hurdle (G Ordinary)"</b>	£117;
<b>"Hurdle (G1 Ordinary)"</b>	£156;
<b>"Leaver"</b>	any employee, consultant (including any consultant who provides services via a personal service company) or director of a Group Company who is a G Ordinary Shareholder and/ or a G1 Ordinary Shareholder:

- (a) whose contract of employment or whose (or whose personal service company's) contract of consultancy or for services or whose appointment with the Group Company terminates for any reason; or
- (b) whose contract of employment or (or whose personal service company's) contract of consultancy or for services or whose appointment with the Group Company, is not terminated but who has become incapable (on a permanent or long term basis) of undertaking his usual duties due to ill health, mental illness or disability;

in each case where no such contract of employment, consultancy or for services remains unterminated (or is immediately entered into) between him (or his personal service company) and the Company.

**"Leaver Date"**

**Termination**

in respect of any person who becomes a Leaver means (as the case may be) the earliest to occur of the following dates:

- (a) where his employment ceases by virtue of notice given by the employer to such person, the date on which such notice expires;
- (b) where a contract of employment is terminated by the employing Group Company and a payment is made in lieu of notice, the date on which notice of termination was served or such later date as may be agreed by the Board;
- (c) where he dies, the date of his death;
- (d) where he becomes incapable (on a permanent or long term basis) of undertaking his usual duties due to ill health, mental illness or disability and, as a result, eligible for benefits under any permanent health insurance policy of (or applicable to) the relevant Group Company, the date on which he became so eligible;
- (e) where he is a director or consultant but not an employee, the date on which his (or his personal service company's) contract for services or appointment with the relevant Group Company is

terminated; and

- (f) in any other case, the date on which his contract of employment the relevant Group Company is terminated;

**"Leaver Reference Date"** in relation to (i) any G Ordinary Shareholder, has the meaning given to that term in that G Ordinary Shareholder's G Ordinary Share Subscription Agreement and (ii) any G1 Ordinary Shareholder, has the meaning given to that term in that G1 Ordinary Shareholder's G1 Ordinary Share Subscription Agreement;

**"Listing"** means:

- (a) both the admission of any of the Company's shares (or the shares in a holding company of the Company inserted for the purpose of planning for the Listing in which the share capital structure of the Company is replicated in all material respects) to the Official List maintained for the time being by the FCA (in its capacity as the competent authority for the purposes of Part VI of FSMA) becoming effective (in accordance with paragraph 3.2.7G of the Listing Rules) and the admission of any of the Company's shares to trading on the LSE's market for listed securities (in accordance with paragraph 2.1 of the Admission and Disclosure Standards of the LSE, as amended from time to time); or
- (b) the admission to trading of any of the Company's shares (or the shares in a holding company of the Company inserted for the purpose of planning for the Listing in which the share capital structure of the Company is replicated in all material respects) on the Alternative Investment Market of the LSE becoming effective; or
- (c) the equivalent admission to trading to or permission to deal on any other Recognised Investment Exchange becoming effective in relation to any of the Company's shares (or the shares in a holding company of the Company inserted for the purpose of planning for the Listing in which the share capital structure of the Company is replicated in all material respects);

<b>"Listing Rules"</b>	means the rules made by the FCA pursuant to section 73A FSMA, as those rules are amended from time to time;
<b>"LSE"</b>	means the London Stock Exchange plc;
<b>"Mandatory Transfer Notice"</b>	has the meaning given in Article 23.8.3;
<b>"Nominal Value"</b>	means the nominal value of the Equity Shares and/or the G Ordinary Shares and/or the G1 Ordinary Shares (as the case may be) from time to time;
<b>"Realisation"</b>	means any of an Asset Sale, a Capital Return or a Sale;
<b>"Recognised Investment Exchange"</b>	has the meaning given to it in section 285 FSMA;
<b>"Reference Share Price"</b>	means, in the event of a Realisation: <ul style="list-style-type: none"> <li>(a) the Capital Distribution Amount (in the case of a Capital Return), the Sale Proceeds (in the case of a Sale), the Asset Sale Distribution amount (in the case of an Asset Sale), or the fair market value of the Company implied by the Listing, prior to the impact of any primary offering, as determined by the Board (in the case of a Listing); divided by</li> <li>(b) the total number of issued Equity Shares, G Ordinary Shares and G1 Ordinary Shares in the capital of the Company on the date on which the Distribution Mechanism is operated;</li> </ul>
<b>"Retained G Shares"</b>	has the meaning given in Article 23.8.3;

**"Sale"**

means the bona fide arms' length transfer (whether through a single transaction or a series of transactions) of the entire issued share capital (other than the Deferred Shares) of the Company to a person and (if the case may be) to any other person:

- (a) who is a Connected Person of that first person; or
- (b) with whom he is acting in concert,

other than a new holding company of the Company which is inserted for the purposes of planning for an Exit in which the share capital structure of the Company is replicated in all material respects;

**"Sale Proceeds"**

means the value of the consideration payable on completion of a Sale (the "**Value**"), provided that, including any part of the consideration for the Sale that is deferred (including where the consideration takes the form of loan notes) and including any consideration for the Sale which comprises wholly or in part the issue of securities (not accompanied by a cash alternative), provided that:

- (a) if the securities will rank *pari passu* with a class of securities already traded on a Recognised Investment Exchange, the Value or the relevant part thereof, shall be the value of such securities applied for the purposes of the Sale; and,
- (b) if the securities will not so rank, the Value or the relevant part thereof, shall be the value of such securities determined by the Auditors (or such other party as the Board may determine) in a certificate obtained for the purpose and addressed to the Company;

**"Surplus (G Ordinary)"**

means an amount equal to Threshold (G1 Ordinary) less the Threshold (G Ordinary);

**"Threshold Ordinary)"**

(G means £93 (or equivalent in the event that the Company's share capital has been consolidated or sub-divided following the issue of the G Ordinary Shares); and

**"Threshold  
Ordinary)"**

**(G1** means £125 (or equivalent in the event that the Company's share capital has been consolidated or sub-divided following the issue of the G1 Ordinary Shares).

**23. G ORDINARY SHARES AND G1 ORDINARY SHARES**

23.1 Save as otherwise provided in these Articles, the Ordinary Shares, the A Ordinary Shares, the G Ordinary Shares and the G1 Ordinary Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares. The G Ordinary Shares and the G1 Ordinary Shares shall have, and be subject to, the following rights and restrictions (as applicable to them respectively):

**23.2 Distributions:**

23.2.1 The Directors may deduct from a dividend or other amounts payable to a person on or in respect of a Share any amounts presently payable by him to the Company on account of a Call or otherwise in respect of that Share.

23.2.2 Subject only to any restrictions under the Act, the Directors are authorised to declare and pay interim and/ or final dividends.

**23.3 Capital Returns:**

23.3.1 Subject to article 23.3.2 and article 24.3, on a Capital Return, the surplus assets of the Company remaining after payment or discharge of its liabilities and available for distribution among the members of the Company (the **"Capital Distribution Amount"**) shall be applied in the following order and priority (the **"Distribution Mechanism"**):

23.3.1.1 if the Reference Share Price is not greater than the Hurdle (G Ordinary) (or equivalent in the event that the Company's share capital has been consolidated or sub-divided following the issue of the G Ordinary Shares and/or G1 Ordinary Shares) (i) the Equity Shareholders, the G Ordinary Shareholders and the G1 Ordinary Shareholders shall be paid in respect of each of their Equity Shares, G Ordinary Shares and G1 Ordinary Shares their Nominal Value *pari passu* as if the Equity Shares, the G Ordinary Shares and the G1 Ordinary Shares constituted one class of share; and (ii) the Equity Shareholders shall be entitled to the balance in proportion to the number of Equity Shares held by them *pari passu*;

23.3.1.2 if the Reference Share Price is greater than the Hurdle (G Ordinary) but less than the Hurdle (G1 Ordinary) (or in each case, the equivalent in the event that the Company's share capital has been consolidated or sub-divided following the issue of the G Ordinary Shares and/or G1 Ordinary Shares), then (i) the G Ordinary Shareholders and the G1

Ordinary Shareholders shall be paid in respect of each of their G Ordinary Shares and G1 Ordinary Shares their respective Nominal Value; (ii) the Equity Shareholders shall be paid in respect of each of their Equity Shares an amount equal to the Threshold (G Ordinary) less an amount equal to the sum of the Nominal Value of a G Ordinary Share and the Nominal Value of a G1 Ordinary Share; and (iii) the Equity Shareholders and the G Ordinary Shareholders shall be entitled to the balance of the Capital Distribution Amount which shall be divided among them in proportion to the number of Equity Shares and G Ordinary Shares held by them respectively *pari passu* as if the Equity Shares and G Ordinary Shares constituted one class of share; and

23.3.1.3 if the Reference Share Price is greater than the Hurdle (G1 Ordinary) (or in each case the equivalent in the event that the Company's share capital has been consolidated or sub-divided following the issue of G Ordinary Shares and/ or G1 Ordinary Shares), then (i) the G Ordinary Shareholders and the G1 Ordinary Shareholders shall be paid in respect of each of their G Ordinary Shares and G1 Ordinary Shares their respective Nominal Values; (ii) the Equity Shareholders shall be paid in respect of each of their Equity Shares an amount equal to the Threshold (G Ordinary) less an amount equal to the sum of the Nominal Value of a G Ordinary Share and the Nominal Value of a G1 Ordinary Share; (iii) the Equity Shareholders and G Ordinary Shareholders shall be paid in respect of each of their Equity Shares and G Ordinary Shares an amount equal to the Surplus (G Ordinary); and (iv) the Equity Shareholders, the G Ordinary Shareholders and the G1 Ordinary Shareholders shall be entitled to the balance of the Capital Distribution Amount which shall be divided among them in proportion to the number of Equity Shares, G Ordinary Shares and G1 Ordinary Shares held by them *pari passu* as if the Equity Shares, G Ordinary Shares and G1 Ordinary Shares constituted one class of share.

23.3.2 In the event that the Company issues any new Shares (other than up to 1,000 G1 Ordinary Shares) after the Adoption Date and prior to a Capital Return or a Sale, the Board may determine, in its absolute discretion, whether the Distribution Mechanism should be adjusted to reflect the fact that, but for the issue of new Shares, the Capital Distribution Amount or Sale Proceeds would be likely to be lower.

#### 23.4 **Sale:**

23.4.1 On a Sale the Sale Proceeds shall be allocated in accordance with the provisions of Article 23.3 which shall apply *mutatis mutandis* as if references to the "Capital Distribution Amount" were to "Sale Proceeds" and references to "Capital Return"

were to "Sale". To the extent that the Sale Proceeds comprise a mixture of cash, deferred consideration, contingent consideration and/or securities, the allocation of the Sale Proceeds to each participating Shareholder pursuant to this Article 23.4 shall be in the same proportion of cash, deferred consideration, contingent consideration and/or securities as is allocated to the other participating Shareholders.

**23.5 Asset Sale:**

23.5.1 If and to the extent that, following an Asset Sale the proceeds (net of expenses and tax) of such Asset Sale are to be distributed by the Company to the Shareholders (an "**Asset Sale Distribution**") then the amount of the Asset Sale Distribution shall be allocated in accordance with the provisions of Article 23.3 which shall apply *mutatis mutandis* as if references to the "Capital Distribution Amount" were to "the amount of the Asset Sale Distribution" and references to "Capital Return" were to "Asset Sale".

**23.6 Listing:**

23.6.1 On a Listing of the Company (or, if the Directors so determine, shortly prior to a Listing), the share capital of the Company shall be reorganised or reconstructed in order that each G Ordinary Shareholder and each G1 Ordinary Shareholder shall benefit from the economic effect of the Listing (whether by way of issue of new ordinary shares in the listed vehicle or otherwise). The implied value of each G Ordinary Share and each G1 Ordinary Share for this purpose shall be equal to the amount which would be distributed in respect of it pursuant to the Distribution Mechanism if references to "**Capital Distribution Amount**" in Article 23.3 were to the fair market value of the Company implied by the Listing, prior to the impact of any primary offering, as determined by the Board.

23.6.2 In the event that Article 23.6 applies in the context of a Listing of the Company, each G Ordinary Shareholder and G1 Ordinary Shareholder shall cooperate with, and take all actions reasonably required to effect, such reorganisation or reconstruction of the share capital of the Company including giving such sale undertakings as may be reasonably requested by the Board acting on the advice of the Company's brokers or sponsors for the Listing.

**23.7 Voting:**

23.7.1 Neither the G Ordinary Shares nor the G1 Ordinary Shares shall confer on any holder thereof any right to receive notice of, to attend, or to speak or vote at, general meetings of the Company.



## 23.8 Leaving Provisions:

If a Leaver is a Good Leaver then, subject to the remaining provisions of Article 23.8, some or all of the G Ordinary Shares and/ or G1 Ordinary Shares held by the Leaver in question may be retained in accordance with the table below, and the balance of the G Ordinary Shares and/ or G1 Ordinary Shares held by the Leaver in question shall automatically convert into a Deferred Share unless the Board in its sole and absolute discretion determines otherwise (and for the avoidance of doubt where a Leaver holds both G Ordinary Shares and G1 Ordinary Shares, the proportion (if any) of his G Ordinary Shares retained by him pursuant to his article 23.8 shall be equal to the proportion of his G1 Ordinary Shares which are retained by him (or as near as may be without providing for fractions of shares)).

Time that has elapsed between the Leaver Reference Date and the Leaver Termination Date	% of G Ordinary Shares and/ or G1 Ordinary Shares that may be retained by the Good Leaver and shall <u>not</u> convert into Deferred Shares
Less than 2 years	0%
More than 2 years but less than 3 years	10%
More than 3 years but less than 4 years	25%
More than 4 years but less than 5 years	50%
More than 5 years	100%

- 23.8.1 If a Leaver is a Bad Leaver then, from and including the relevant Leaver Termination Date, each G Ordinary Share and each G1 Ordinary Share held by the Leaver in question shall automatically convert into a Deferred Share.
- 23.8.2 Where a Leaver was a Good Leaver but subsequently becomes a Bad Leaver after his relevant Leaver Termination Date then, from and including the date on which he becomes a Bad Leaver, each G Ordinary Share and each G1 Ordinary Share held by the Leaver in question shall automatically convert into a Deferred Share.
- 23.8.3 To the extent that a Leaver retains G Ordinary Shares pursuant to Article 23.8.1 above after his Leaver Termination Date (the "**Retained G Shares**"), the Board shall have the right, but not the obligation, to serve a mandatory transfer notice on the Leaver on or at any time after that Leaver's Leaver Termination Date (a "**Mandatory Transfer Notice**"). The Mandatory Transfer Notice shall be in writing and may, at the Board's discretion, require the Leaver to sell some or all of his Retained G Shares to

the Company and/or to such other party or parties as the Board may specify. The price to be paid under any such Mandatory Transfer Notice shall be calculated by applying the Distribution Mechanism as at the Leaver's Leaver Termination Date and using the Reference Share Price that is agreed by the Board (with such adjustments to the mechanism as are appropriate for the valuation in question). The Board shall then be entitled to apply a minority discount of up to 30%.

- 23.8.4 If any Leaver does not execute the relevant transfer documentation following receipt of a Mandatory Transfer Notice, then such defaulting Leaver shall be deemed to have irrevocably appointed any person nominated for the purpose by the Board to be his agent to execute and deliver all such documentation on his behalf and against receipt by the Company (on trust for such Leaver) of the purchase monies or any other consideration payable (without there being any duty to deposit the same in an interest bearing account) for the Retained G Shares which are the subject of the Mandatory Transfer Notice in question, deliver such documentation to the purchaser(s) (or as they may direct) and, subject to stamping, the Directors shall forthwith register the purchaser(s) (or as they may direct) as the holder thereof and, after the purchaser(s) have been registered as the holder(s), the validity of such proceedings shall not be questioned by any such person. It shall be no impediment to registration of shares under this article that no share certificate (or lost share certificate indemnity) has been produced.
- 23.8.5 Notwithstanding Article 23.3, to the extent that a Leaver retains any G Ordinary Shares and/or G1 Ordinary Shares pursuant to Article 23.8.1 above after their Leaver Termination Date then, unless and to the extent otherwise agreed by the Board in its sole and absolute discretion, on any application of the Distribution Mechanism pursuant to Article 23.3 the Capital Distribution Amount (or equivalent) for the G Ordinary Shares and/ or G1 Ordinary Shares in question shall be the lower of (i) the Capital Distribution Amount derived from the Exit in question, and (ii) the Capital Distribution Amount that would be derived using the valuation of the company as at the relevant Leaver's Leaver Termination Date, as determined by the Board.
- 23.9 No pre-emption provisions, including (without limitation) those set out in sections 561 and 562 of the Act, shall apply to the G Ordinary Shares or the G1 Ordinary Shares.
- 23.10 A transfer of G Ordinary Shares may be made by any G Ordinary Shareholder and a transfer of G1 Ordinary Shares may be made by any G1 Ordinary Shareholder, in each case without such transfer first complying with the provisions of Article 6, provided that either (i) the transfer is pursuant to these Articles (including, without limitation, article 5 (Permitted Transfers), article 8 (Drag Along) or article 9 (Tag Along)), or (ii) the transfer is pursuant to a separate contract between the relevant transferring G Ordinary Shareholder or G1 Ordinary Shareholder (as the case may be) and the Company or the Company's nominee which has been approved by the Board, or (iii) the transfer has been approved in advance by a resolution of the Board.

**24. DEFERRED SHARES**

- 24.1 Deferred Shares confer no right to receive notice of, attend or vote at any general meeting of the Company or to vote on any written resolution of the Company.
- 24.2 Deferred Shares confer no right to participate in the profits of the Company.
- 24.3 On any winding up or reduction of capital, there shall be paid to the holders of Deferred Shares the nominal capital paid up or credited as paid up on such Deferred Shares before paying to the holders of any equity share capital the nominal capital paid up or credited as paid up on each equity share held by them respectively. Thereafter, the holders of Deferred Shares shall not be entitled to any further right of participation in the assets of the Company.
- 24.4 Deferred Shares shall not be transferable (and the directors will not register any transfer) except for a transfer made pursuant to article 24.5 or a transfer permitted under article 5.1.
- 24.5 The Company may at any time (and from time to time), without obtaining the sanction of the holders of Deferred Shares:
- 24.5.1 purchase any Deferred Shares provided it is lawful for the Company to purchase them at that time. The Company shall pay on each Deferred Share so purchased an amount equal to the nominal value of such Deferred Shares. For the avoidance of doubt, the provisions of article 6 shall not apply to the purchase of any Deferred Shares by the Company pursuant to this article 24.5;
  - 24.5.2 appoint any person to execute on behalf of any or all of the holders of Deferred Shares a transfer of all or some of the Deferred Shares (and/ or an agreement to transfer the same) to the Company pursuant to article 24.5.1 or to such other person as the Board may determine, in any such case for not more than one penny for all such Deferred Shares; and
  - 24.5.3 cancel all or some of the Deferred Shares so purchased by the Company.
- 24.6 The rights attaching to the Deferred Shares as a class may be varied or abrogated either:
- 24.6.1 with the consent in writing of members holding a majority of the Deferred Shares then in issue;
  - 24.6.2 by an ordinary resolution passed at a separate general meeting of the holders of the Deferred Shares.
  - 24.6.3 by an ordinary resolution passed at a general meeting of the Company.
- 24.7 The rights conferred upon the holders of Deferred Shares shall not be and shall be deemed not to be varied or abrogated by:
- 24.7.1 the creation or issue of further shares (whether ranking in priority to, behind or pari passu with the Deferred Shares) and any alteration made to these Articles to

incorporate the rights attaching to any such further shares shall not be and shall be deemed not to be a variation of the rights attaching to the Deferred Shares;

24.7.2 the purchase or redemption by the Company of any shares; or

24.7.3 a reduction by the Company of the capital paid up on any shares (including any Deferred Shares).

## 25. ANTI-DILUTION

25.1 Subject to article 25.2 and article 25.5, if the Company intends to issue any Shares (including the avoidance of doubt any Shares to be issued to the Long Term Lender on (and pursuant to) the conversion of the Long Term Debt) prior to the earlier of the Ratchet End Date and the A Transfer Event (a "**Qualifying Issue**"), the Company shall give the A Ordinary Shareholders not less than 10 Business Days' notice of such proposed Qualifying Issue ("**QI Notice Period**") and shall (at the same time as, or immediately prior to making the Qualifying Issue) make a bonus issue of such number of A Ordinary Shares ("**Anti-Dilution Shares**") to each holder for the time being of A Ordinary Shares (unless and to the extent that Grain has specifically waived the operation of this article in writing in respect of any particular issue of Shares) (each an "**Exercising Investor**") as shall be calculated in accordance with article 25.3.

25.2 The following shall not be, or be deemed to be or to form part of, a Qualifying Issue:

25.2.1 any issue of Anti-Dilution Shares;

25.2.2 (unless otherwise agreed in writing by the Company with Grain as a condition of any investment (including as set out in any investment agreement between them)) any issue of Shares to an A Ordinary Shareholder or to Grain or a Grain Permitted Transferee;

25.2.3 any issue of Shares or other securities of the Company by way of capitalisation of profits or reserves (which in any event shall not be effected without the prior written consent of the holders of more than 50% of the A Ordinary Shares) other than a capitalisation issue in substitution for, or as an alternative to, a cash dividend which is made available to the holders of A Ordinary Shares;

25.3 The number of Anti-Dilution Shares to be issued to each Exercising Investor in respect of a Qualifying Issue shall be the number equal to N, where N is calculated as follows:

N = such proportion of X as is equal to the proportion that such Exercising Investor's holding of A Ordinary Shares immediately prior to the Qualifying Issue (and prior to the issue of any

Anti-dilution Shares in relation to that Qualifying Issue) bears to the total number of A Ordinary Shares in issue at such time.

X= such number of Anti-Dilution Shares as will result in "A" remaining constant (or as near as may be (subject as hereinafter provided) without providing for fractions of Shares) before and immediately after the Qualifying Issue and related issue of Anti-Dilution Shares.

A = the percentage which the total number of A Ordinary Shares in issue bears to the total number of all Shares and Deferred Shares in issue, which percentage shall be no lower than 51% unless a holder of A Ordinary Shares fails to comply with an obligation on it (under any agreement entered into with the Company) to subscribe for any Shares (in which case no minimum percentage shall apply).

In determining the number of Anti-dilution Shares to be issued in relation to any Qualifying Issue, the Directors shall be entitled to round up or down to the nearest whole number of Shares, save that where rounding down would in itself result in "A" falling below 51% and rounding up would not, the Directors shall round up the number of Anti-dilution Shares to the nearest whole number of Shares.

25.4 The Anti-Dilution Shares shall:

25.4.1 subject to article 25.5, be paid up by the automatic capitalisation of available reserves of the Company (without any further authority required than that contained in these Articles);

25.4.2 within 5 Business Days of the date of the Qualifying Issue be issued to the relevant Exercising Investors in accordance with article 25.1 and credited as fully paid up in cash; and

25.4.3 shall rank *pari passu* in all respects with the existing Ordinary Shares.

25.5 If and to the extent that the Company is prohibited from lawfully issuing the Anti-Dilution Shares fully paid in accordance with article 25.4 (whether by virtue of the Act or otherwise), the Anti-Dilution Shares which the Company can lawfully issue in accordance with article 25.4 (if any) shall be allocated to the Exercising Investors (in the same proportions that their holdings of A Ordinary Shares bear to the total number of A Ordinary Shares then in issue) and each Exercising Investor shall instead be entitled, at any time prior to or at the same time as the applicable Qualifying Issue), to subscribe at par for the balance of the number of Anti-Dilution Shares which he would otherwise be entitled to receive pursuant to article 25.3. For the avoidance of doubt, the Company shall be entitled to proceed with any Qualifying Issue at any time following the expiry of the QI Notice Period, whether or not the Exercising

Shareholders (or any of them) have subscribed for Anti-dilution Shares which they are entitled to subscribe for under this article 25.5.

- 25.6 If there is a dispute between the Company and any holder for the time being of A Ordinary Shares as to the operation of this article 25, the matter shall be referred (at the cost of the Company) to the Auditors who shall determine the number of Anti-Dilution Shares to be issued.
- 25.7 The Auditors' determination of any matter under this article 25 shall, in the absence of manifest error, be final and binding on the Company and each of its Shareholders.