

Company Number: 04368018

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

of

NEW EARTH SOLUTIONS GROUP LIMITED
(the "Company")

PASSED ON 31 JANUARY 2013

TUESDAY



A40

A22JPSUW

19/02/2013

#20

COMPANIES HOUSE

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006 (the "**2006 Act**"), the following resolutions were passed by written resolution as Special Resolutions

SPECIAL RESOLUTIONS

- 1 THAT, in accordance with article 8(B)(1) of the new articles of association of the Company adopted by the Company in accordance with resolution 3 below (the "**Articles**"), the provisions of article 8(B) of the Articles shall not apply to the allotment of
 - (a) 18,980 B ordinary shares of £0 01 each in the Company to W H White Limited at a price of £89 57 per share, and/or
 - (b) 35,000 A ordinary shares of £0 01 each in the capital of the Company at a price of £0 50 per share
- 2 THAT, the directors be generally and unconditionally authorised for the purposes of section 551 of the 2006 Act to exercise all the powers of the Company to allot
 - (a) 18,980 B ordinary shares of £0 01 each in the Company to W H White Limited at a price of £89 57 per share, and
 - (b) 35,000 A ordinary shares of £0 01 each in the capital of the Company at a price of £0 50 per share

This authority is in substitution for any existing authority to allot shares or grant rights in accordance with section 551 of the 2006 Act, save for the authority to allot Employee Share Option Shares (as defined in the Articles) granted in accordance with article 4 of the Articles, and shall expire on the fifth anniversary of the date of the passing of this resolution save that the Company may before that expiry make offers or agreements which would or might require relevant securities to be allotted after that expiry

- 3 THAT, subject to the redemption of 1,700,000 non-cumulative redeemable preference shares of £1 each in the Company held by W H White Limited, the regulations contained in the printed document circulated with this written resolution and for the purpose of identification only initialled by a director of the Company be and are hereby approved and adopted as the Articles of Association of the Company in substitution for and to the exclusion of all existing articles of association

No 04368018

**THE COMPANIES ACT 1985 AND 1989
and
THE COMPANIES ACT 2006**

CERTIFIED A TRUE AND COMPLETE COPY OF THE ORIGINAL	
DATE	<u>7/2/13</u>
SOLICITOR'S REFERENCE	<u>PD05</u>
BURGES SALMON LLP	
<small>One Glass Wharf Bristol BS2 0ZX Burgess Salmon LLP is authorised and regulated by the Solicitors Regulation Authority</small>	

COMPANY LIMITED BY SHARES

NEW

ARTICLES OF ASSOCIATION

of

NEW EARTH SOLUTIONS GROUP LIMITED

(Adopted by Written Resolutions passed on 31 January 2013)

PRELIMINARY

- 1 The regulations constituting Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 as amended by The Companies (Tables A to F) (Amendment) Regulations 2007 (SI 2007/2541) and The Companies (Tables A to F) (Amendment) (No 2) Regulations 2007 (SI 2007/2826), and as otherwise amended prior to the adoption of these Articles ("Table A") apply to New Earth Solutions Group Limited (the "Company") except in so far as they are excluded or varied by these Articles
- 2 (A) Words and expressions defined in Regulation 1 of Table A have the same meanings in these Articles where the context admits. Regulations, 3, 41, 54, 64, 66, 76-79, 94 and 118 of Table A do not apply to the Company. References in these Articles to one gender shall include a reference to all genders including the neuter
- 2 (B) In these Articles the following words and expressions shall have the meanings set out below -
 - "2006 Act" means the Companies Act 2006,
 - "A Ordinary Shares" means A ordinary shares of £0.01 each in the capital of the Company,
 - "B Ordinary Shares" means B ordinary shares of £0.01 each in the capital of the Company,

"Employee Share Option Shares" means 93,315 Ordinary Shares of 1p each in the unissued capital of the Company at 31 January 2013 in respect of which options have been granted prior to such date and in respect of the remainder of which the Board have identified as being available for the grant of options to employees of the Company,

"Equity Shares" means the A Ordinary Shares, B Ordinary Shares and Ordinary Shares of 1p each in the capital of the Company and all shares derived from them (and any of them),

"Family Trust" means a trust (whether arising under a settlement, declaration of trust, testamentary disposition or on an intestacy) under which the only persons being (or capable of being) beneficiaries are the individual beneficial owner of the Shares held in trust and/or his Privileged Relations, and no power of control over the voting powers conferred by such Shares is exercisable at any time by or subject to the consent of any person other than the trustees as trustees or such individual beneficial owner or his Privileged Relations,

"NERR" means New Earth Recycling & Renewables (Infrastructure) plc (a company incorporated in the Isle of Man with number 123613C) whose registered office is at International House, Castle Hill, Victoria Road, Douglas, Isle of Man IM2 4RB,

"NERR Group" means NERR and any fund which invests in NERR from time to time and any company which is a holding company of NERR from time to time and any company which is a subsidiary of NERR of any such holding company from time to time (and the expression **"NERR Group Company"** shall be construed accordingly),

"Ordinary Shares" means ordinary shares of £0.01 each in the capital of the Company,

"Privileged Relation" means in relation to any member, the member's spouse and all lineal descendants (including for this purpose any step-child, adopted child or illegitimate child of the member) but no lineal descendent may be a Privileged Relation whilst a minor,

"Share" means a share in the capital of the Company, and

"Shareholders" means the holders from time to time of the Shares

3 Subject to the provisions of these Articles and for the purposes of section 551 of the 2006 Act, the Shares shall be under the control of the Directors and the Directors may allot, grant options over, or otherwise deal with or dispose of any Shares to such persons and generally on such terms and in such manner as they think fit

4 The general authority conferred by Article 3 hereof shall extend to all Employee Share Option Shares during the currency of such authority. The said general authority shall expire on 31 January 2018 unless varied or revoked or renewed by the Company in General Meeting or by

written resolution

- 5 The Directors shall be entitled under the general authority conferred by Article 3 to make at any time before the expiry of such authority any offer or agreement which will or may require securities to be allotted after the expiry of such authority
- 6 In accordance with Section 567(1) of the 2006 Act, Section 561 and 562 of the 2006 Act shall be excluded from applying to the allotment of equity securities (as defined in Section 560(1) of the 2006 Act)
- 7 The Directors may procure the establishment and maintenance of or participate in, or contribute to any non-contributory or contributory pension or superannuation fund, scheme or arrangement or life assurance scheme or arrangement or other scheme for the benefit of, and pay, provide for or procure the grant of donations, gratuities, pensions, allowances, benefits or rights or emoluments to, any persons who are or shall have been at any time Directors of the Company or in the employment or service of the Company or the wives, widows, families, relatives or dependants of any such persons

SHARE CAPITAL

8 (A) Rights Attaching to the A Ordinary Shares, the B Ordinary Shares and the Ordinary Shares:

- (1) In this Article 8(A)

“Event” means any event (or series of related events) as a result of which all or a majority (by nominal value of Shares held) of the Shareholders derive any capital sum or other distribution or receipt of monies or assets (other than sums, distributions or receipts of an income nature) in respect of the Shares whether received from the Company or a third party including without limitation a sale of Shares or admission of any Shares to listing on the Official List of the UK Listing Authority and to trading on the Main Market of London Stock Exchange plc or the grant of permission for any Shares to be dealt with on the Alternative Investment Market or any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000) or any other public securities market and such permission becoming effective or a distribution of assets by the Company by way of a dividend in specie or by a return of capital on liquidation or otherwise (other than a conversion, redemption or purchase of Shares by the Company),

(2) Every dividend to be paid by the Company (other than a dividend payable on or following the occurrence of an Event) will be distributed to the holders of the Ordinary Shares and the B Ordinary Shares only as if they constituted one class of share, such dividend to be distributed pro rata to their holdings of Ordinary Shares and/or B Ordinary Shares. For the avoidance of doubt the holders of A Ordinary Shares shall not be entitled to participate in or receive any dividend other than a dividend payable on or following the occurrence of an Event

(3) On or following the occurrence of an Event the capital sum or other distribution or receipt shall after the payment of all expenses and costs connected therewith or payment of the Company's liabilities as applicable (the "**Net Proceeds of the Event**") be applied (to the extent that the Company is lawfully permitted to do so) as follows -

(a) the first £A (as defined below) in value thereof (or, if less, the whole of the Net Proceeds of the Event) shall be paid to the holders of B Ordinary Shares pro rata amongst the holders of B Ordinary Shares. For this purpose

£A = an amount equal to £89.57 multiplied by the number of B Ordinary Shares in issue on the date of the relevant Event

(b) the next £B (as defined below) in value thereof (or, if less, the entire balance of the Net Proceeds of the Event) shall be paid to the holders of Ordinary Shares pro rata to their respective holdings of Ordinary Shares. For this purpose

£B = £15 multiplied by the number of Ordinary Shares in issue on the date of the relevant Event

(c) the next £C (as defined below) in value thereof (or, if less, the entire balance of the Net Proceeds of the Event) shall be paid to the holders of the Ordinary Shares and the holders of A Ordinary Shares (as if they constituted one class of shares) pro rata to their respective holdings of Ordinary Shares and A Ordinary Shares. For this purpose

£C = £74.57 multiplied by the aggregate number of Ordinary Shares and A Ordinary Shares in issue on the date of the relevant Event

(d) the balance thereof (if any) shall be paid to the holders of

the Ordinary Shares and the holders of A Ordinary Shares and the holders of the B Ordinary Shares as if they constituted one class of shares pro rata to their respective holdings of Ordinary Shares, A Ordinary Shares and B Ordinary Shares

- (4) The Shareholders shall sign and/or execute such resolutions and documents and do all such acts to give effect to the provisions of Article 8(A)(3) and the Directors shall not register any transfer of Shares or do any corporate act which would contravene the provisions of Article 8(A)(3) other than as required by law or by a special resolution of the holders of Ordinary Shares
- (5) Except as otherwise provided in these Articles, the A Ordinary Shares, the B Ordinary Shares and the Ordinary Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares. In particular
 - (a) the Ordinary Shares and the B Ordinary Shares will confer on their holders the right to receive notice of and to attend, speak, and vote at all general meetings of the Company and to sign written resolutions of the Company. Save as provided for in Article 8(A)(5)(d) the holders of A Ordinary Shares shall not be entitled to receive notice of or to attend either in person or by proxy general meetings of the Company and shall not be entitled to vote thereat (either personally or by proxy) and shall not be entitled to receive or participate in written resolutions of the Company,
 - (b) where Shares confer a right to vote, on a show of hands each holder of such shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy shall have one vote and on a poll each such holder so present shall have one vote for each such Share held by him,
 - (c) the creation or issue of new A Ordinary Shares, B Ordinary Shares, Ordinary Shares and/or Shares of any other class will not constitute a breach of the class rights attaching to the A Ordinary Shares, the B Ordinary Shares or the Ordinary Shares, and
 - (d) any variation of the rights attached to the A Ordinary Shares, the B Ordinary Shares or the Ordinary Shares shall

only be valid if approved at a class meeting of the holders of the class of shares in question by a special resolution of those attending and voting at such meeting (being a resolution in which holders of at least three quarters in nominal value of the shares in question held by those attending the meeting voted in favour) or by a special resolution passed by written resolution of the holders of the shares in question

- (6) In the event that there occurs hereafter any return of capital, bonus issue of Shares or other share issue by the Company or any consolidation, sub-division, repurchase or redemption of Shares in the Company or other alteration to the share capital of the Company ("**the Share Capital Event**") the rights attaching to the A Ordinary Shares, the B Ordinary Shares and/or the Ordinary Shares will be adjusted in such amount or manner as the auditors of the Company at the relevant time shall certify as fair and reasonable to take account of and adjust for the Share Capital Event so that no members or class of members of the Company are materially prejudiced by it. In so acting the auditors will be deemed to be acting as experts, not arbitrators, and in the absence of manifest error, their certificate will be binding on the Company and its members. The costs of such auditors in so deciding will be borne by the Company.

8 (B) Issue and Allotment of new Shares:

- (1) Unless authorised by a special resolution of the Company, any new Shares (other than any Employee Share Option Shares) will be offered by the Directors for subscription to the holders of the Ordinary Shares and the B Ordinary Shares as if they constituted one class of shares in such proportions as equal (as nearly as possible) the proportion of Ordinary Shares and B Ordinary Shares held by them respectively at that time.
- (2) The offer will be made by notice specifying the number and class of Shares offered, the price per Share, and a time (being not less than 15 Business Days) within which the offer, if not accepted, will be deemed to be declined. At the end of that period or, if earlier, on the receipt of an indication of their intentions from all of the persons to whom Shares are offered and from some of the person(s) to whom such notice is given that he/they decline(s) to accept some or all of the Shares so offered, the Directors will offer the declined Shares in the same proportions to the holders of Ordinary Shares and B Ordinary Shares who have accepted all the Shares initially offered to them. This further offer will be made in the same manner as the original offer but may, at the discretion of the Directors, be limited to a period of 5 Business

Days after which it will (to the extent that any Shares remain unaccepted) be deemed to have been withdrawn

- (3) Any Shares not taken up at the end of the procedure set out in paragraphs (1) and (2) above may be offered by the Directors to a third party and, subject to these Articles and the provisions of section 551 of the 2006 Act, such Shares will be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms as they think fit
- (4) Notwithstanding the foregoing
 - (a) no Shares will be issued at a discount,
 - (b) no Shares will be issued more than three months after the end of the period for acceptance of the last offer of such Shares under paragraphs (1) and (2) unless the procedure set out in those Articles is repeated in respect of such Shares, and
 - (c) no Shares will be issued on terms which are more favourable than those on which they were offered to the Members
- (5) If, due to any inequality between the number of new Shares to be issued and the number of Shares held by members entitled to have the offer of new Shares made to them, any fractional entitlement arises in the apportionment of any such new Shares amongst the members, such entitlement to Shares will be rounded up or down as determined by the Board

LIEN

- 9 The Company shall also have a first and paramount lien on all shares (whether or not fully paid) standing registered in the name of any person, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all monies presently payable by him or his estate to the Company, and regulation 8 of Table A shall be modified accordingly

TRANSFERS - GENERAL

- 10 An instrument of transfer of a Share (other than a partly paid share) need not be executed by or on behalf of the transferee
- 11 Subject (in the case of transmission of shares) to Regulations 29 to 31 (inclusive) of Table A the Directors shall not register any transfer of shares in the Company except in the circumstances permitted in Article

12, but shall have no right to refuse to register any transfer of shares in the Company made in accordance with Article 12

PERMITTED TRANSFERS

12(A)(1) Any Share may be transferred or sold at any time

- (i) by a NERR Group Company to another member of the NERR Group provided always that where the transferee ceases to be a member of the NERR Group, such transferee will, on or before such cessation, transfer such Share or Shares to a member of the NERR Group,
- (ii) by a NERR Group Company to a nominee, custodian or trustee for, or general partner of it, and by any such nominee, custodian or trustee to another nominee, custodian or trustee for such NERR Group Company or to such NERR Group Company itself provided that if the relevant NERR Group Company ceases to be a member of the NERR Group the transferee will, on or before such cessation, transfer such Share or Shares to a member of the NERR Group (or to a nominee, custodian, trustee or general partner of another NERR Group Company),
- (iii) by NERR, to a nominee, custodian or trustee for, or general partner of it, and by any such nominee, custodian or trustee to another nominee, custodian or trustee for NERR or to NERR itself

12(A)(2) Subject as provided below, any Share may be transferred by its beneficial owner (being an individual) to the trustee or trustees of a Family Trust and by any trustee(s) to the beneficial owner, or to any other person or persons shown to the reasonable satisfaction of the Directors to be a trustee or trustees for the time being (on a change of trustee) of the Family Trust in question provided always that such transfer(s) shall not take place unless

- (i) the transfer is required for bona fide tax planning purposes by the transferor, and
- (ii) where Shares are held by a trustee or trustees of a Family Trust and any such person ceases to be a trustee of the Family Trust of the beneficial owner of the Shares, such person will, on or before the cessation, transfer such Shares to a transferee permitted under this Article 12(A)(2)

12(A)(3) Any Share may be transferred by a member (being an individual) to a Privileged Relation

12(A)(4) Where Shares are held by a trustee or trustees of a Family Trust or any person has acquired Shares from a member (for this purpose the "Original Member") as a Privileged Relation by one or more permitted

transfers pursuant to this Article 12(A) and any such person ceases to be

(a) a trustee of the Family Trust of the beneficial owner of the Shares, or

(b) a Privileged Relation of the Original Member,

such person will, on or before the cessation, transfer such Shares to a transferee permitted under Articles 12(A)(2) or (3) (as the case may be) within 6 months of the cessation, or, failing such transfer within that period, shall be deemed to have given a Sale Notice in respect of all the Shares then held by that person pursuant to Article 12(B)

TRANSFERS BY A ORDINARY, B ORDINARY AND ORDINARY SHAREHOLDERS - PRE-EMPTION RIGHTS

12(B) Unless authorised by the Shareholders who at the relevant time together hold more than 50% in nominal value of the aggregate of the Ordinary Shares and B Ordinary Shares (as if they were one class) in issue (provided that such authorisation shall have been given by all holders of B Ordinary Shares in issue at the relevant time) and further subject to and save as provided in Articles 11 and 12(A) the Members shall not be entitled to transfer any A Ordinary Shares, B Ordinary Shares or Ordinary Shares or any interest in any such shares except in accordance with the following provisions of this Article 12(B) -

(1) Any Member (the "Transferor") wishing to transfer any A Ordinary Shares, B Ordinary Shares or Ordinary Shares or any interest in such shares, shall first give a notice in writing to the Company specifying the class, the number and de-noting numbers (if any) of the Shares he wishes to sell or transfer (a "Sale Notice"), and the Company shall be constituted his agent for the purpose of such sale or transfer. A Sale Notice may contain a provision that, unless purchasers can be found for all of the Shares comprised in the Sale Notice, the Sale Notice shall be withdrawn (the "Entire Shareholding Condition"). Where the Sale Notice contains an Entire Shareholding Condition no purchase by the Company or by Members of the Company in accordance with the provisions of this Article 12(B) shall be completed until the Entire Shareholding Condition is satisfied except with the written consent of the Transferor

(2) The price at which each Share the subject of a Sale Notice shall be sold (the "Price") shall be determined as follows -

- (i) such sum as shall have been nominated by the Transferor and agreed to by the Directors but in the event of no such nomination or if no agreement is reached within ten days of the Sale Notice then and in such event Article 12(B)(2)(ii) shall apply,
 - (ii) by the certificate of an independent Chartered Accountant of not less than five years standing to be agreed between the Transferor and the Company or the purchasing Members (as the case may be) and in default of agreement to be appointed at the request of either the Transferor or the Company or any of the purchasing Members (as the case may be) by or on behalf of the President for the time being of the Institute of Chartered Accountants in England and Wales,
 - (iii) the Price of the Sale Shares shall in all cases be calculated on the basis that (a) the sale is between a willing seller and a willing purchaser of the Sale Shares so offered (as at the date of the Sale Notice) and (b) each Share in the Company will be valued in accordance with the rights attaching thereto with no discount in value for a minority holding and no premium in value for a substantial holding,
 - (iv) any independent Chartered Accountant certifying the Price of such Sale Shares shall act as an expert and not as an arbitrator and his decision and certificate shall be final and binding on the parties
- (3) The cost of obtaining a certificate pursuant to Article 12(B)(2) above shall be borne as the auditor or independent Chartered Accountant (as applicable) shall decide Provided that if any Transferor shall within twelve months of revoking a Sale Notice serve a further Sale Notice in respect of any of the Shares comprised in an earlier Sale Notice the cost of obtaining any certificate relating to such further Sale Notice shall be borne wholly by such Transferor
- (4) In the event of the independent Chartered Accountant's certificate being issued as to the Price, the Company shall promptly give notice in writing to the Transferor of the Price as so fixed, and within a period of fourteen days after service of such notice the Transferor may by further notice in writing to the Company revoke the Sale Notice as to all but not some only of the Shares comprised therein After the expiry of such period of fourteen days the Sale Notice (if not already revoked) shall become

binding on the Transferor and shall not be revocable except with the sanction of the Directors or (if applicable) in the event that the Entire Shareholding Condition is not satisfied

- (5) The Company (acting by the Directors) may within fourteen days following the agreement of the Price between the Transferor and the Directors whether or not within the time limit referred to in Article 12(B)(2)(i) or (if applicable) the date on which the Sale Notice becomes binding on the Transferor in accordance with Article 12(B)(4) give notice in writing (the "First Company Notice") to the Transferor specifying either,
- (i) the number of Shares comprised in the Sale Notice that the Company may wish to purchase at the Price, subject to (a) the purchase by the Company of such Shares at the Price being approved by special resolution at a General Meeting of the Company ("GM") or by written resolution of the holders of Ordinary Shares and B Ordinary Shares (as if they were one class) in accordance with Article 12(B)(6)(i) and (b) the Company obtaining all tax clearances reasonably required by the Company from HM Revenue & Customs in connection with such purchase, or
 - (ii) the number of Shares comprised in the Sale Notice that the Company has been notified are desired for purchase by the trustees of any employee benefit trust ("EBT") or trusts established primarily for the benefit of the employees of the Company (or any company which is a subsidiary of the Company (directly or indirectly) or of the Company's holding company, as such terms are defined in section 1159 of the 2006 Act) at the Price (an "EBT Notice")

In these Articles, references to a First Company Notice shall be deemed to include an EBT Notice and to apply mutatis mutandis to the purchase of Shares by the EBT Provided that in those Articles those provisions relating to compliance with the 2006 Act and clearances from HM Revenue and Customs shall not apply in the context of an EBT Notice and the Company shall be the agent of the EBT for the purposes of the acquisition by the EBT of all or any of the Shares comprised in the Sale Notice For the avoidance of doubt all or any Shares comprised in a Sale Notice may be acquired in part by the Company and in part by the EBT as the Company and the trustees of the EBT may agree

- (6) If the Company does serve a First Company Notice on the Transferor within the period specified in Article 12(B)(5) above then the following provisions apply

- (i) the Directors shall, provided the Company is then able to comply in all respects with the relevant requirements of Part 18 of the 2006 Act regarding payment by the Company for the purchase of its own shares, as soon as reasonably practicable and in any case within twenty-one days after the date of the First Company Notice
 - (a) call a GM to be held not more than 28 days after the date of the notice of the GM, at which it shall be proposed as a special resolution that the Company purchase the relevant number of Shares comprised in the First Company Notice at the Price, or
 - (b) circulate a written resolution to be proposed as a special resolution to all the holders of Ordinary Shares and B ordinary Shares (as if they were one class) (other than the Transferor if applicable) to approve that the Company purchase the relevant number of Shares comprised in the First Company Notice at the Price
- (ii) not later than seven days after the GM or the date the written resolution would have lapsed if not passed as a special resolution (as the case may be) the Directors shall give notice in writing ("the Second Company Notice") to the Transferor specifying the number, if any, of the Shares comprised in the Sale Notice to be purchased by the Company (subject to the Company first obtaining all tax clearances reasonably required by the Company from HM Revenue & Customs in connection with such purchase),
- (iii) the Company shall within seven days after the date of the Second Company Notice apply for all tax clearances it reasonably requires from HM Revenue & Customs in connection with such purchase and shall pursue such applications as quickly as reasonably practicable. Subject to the provisions of Article 12(B)(6)(iv) below the sale of the Shares comprised in the Second Company Notice to the Company shall be completed at the registered office of the Company within seven days after the Company shall have complied with the relevant requirements of the 2006 Act and received all tax clearances it reasonably requires from HM Revenue & Customs
- (iv) if the Sale Notice contains an Entire Shareholding Condition that will not be satisfied by the number of

Shares comprised in the Second Company Notice the provisions of Article 12(B)(7) shall apply forthwith in respect of those Shares comprised in the Sale Notice but not comprised in the Second Company Notice and the sale of the Shares to the Company comprised in the Second Company Notice shall be completed only when the Entire Shareholding Condition is satisfied and the Company shall have complied with the relevant requirements of the 2006 Act and received all tax clearances it reasonably requires from HM Revenue & Customs, such completion to take place at the registered office of the Company

- (v) the relevant provisions of this Article 12 (including 12(B)(9) and 12(B)(10)) shall apply mutatis mutandis to the purchase of shares in the Company by the Company under this Article 12(B)(6)
- (7) If no First Company Notice or Second Company Notice (as appropriate) is served by the Company on the Transferor within the relevant period specified in Articles 12(B)(5) and 12(B)(6) above or if there are any Shares comprised in the Sale Notice that have not been taken up by the Company pursuant to Articles 12(B)(5) and 12(B)(6) above the Directors shall as soon as is reasonably practicable thereafter inform the holders of Ordinary Shares and B Ordinary Shares (other than the Transferor if applicable) of the number of Shares comprised in the Sale Notice that have not been taken up by the Company pursuant to Articles 12(B)(5) and 12(B)(6) above, and of the Price ("the Offer Notice"), and invite each of the holders of Ordinary Shares and B Ordinary Shares (other than the Transferor if applicable) to state in writing to the Company within such period ("the Offer Period") as may be specified in the Offer Notice (being not less than fourteen and not more than twenty-eight days) whether he is willing to purchase any, and if so what maximum number of, such Shares so offered
- (8) If the holders of Ordinary Shares and/or B Ordinary Shares (other than the Transferor if applicable) within the period so specified apply for all or any of the Shares comprised in the Offer Notice, the Directors shall allocate such Shares (or as many of them as shall be applied for as aforesaid) to the holders of Ordinary Shares and/or B Ordinary Shares up to the maximum number applied for by each of them respectively or, in the case of competition between such holders of Ordinary Shares and/or B Ordinary Shares, in proportion (as nearly as may be without involving fractions) to their existing holdings of Ordinary Shares

and/or B Ordinary Shares as if they constituted one class of share (if applicable), provided that no application shall be capable of being withdrawn and that no applicant shall be obliged to take more than the maximum number of Shares specified by him as aforesaid

- (9) If the Company within the space of twenty-one days after the expiry of the Offer Period delivers to the Transferor a transfer or transfers of the Share or Shares comprised in the Offer Notice or some of such shares, the Transferor shall be bound (save in the event that the Sale Notice contains an Entire Shareholding Condition in which case the Transferor shall be bound once the Entire Shareholding Condition is satisfied) to deliver the said transfer or transfers duly executed to the Company (acting by the Directors) as stakeholder, pending payment by the person or persons named therein as the transferee or transferees ("the Purchasing Member"), together with the definitive certificate for the same (or an express indemnity in a form satisfactory to the Company (acting by the Directors) in the case of any certificates found to be missing) and shall thereupon be entitled to be paid the Price in respect of the shares in question. The Purchasing Member shall be bound, within seven days following notice in writing from the Company (acting by the Directors) confirming that the Price in respect of the Shares in question is now due, to make payment thereof in full to the Company (acting by the Directors), which shall, pending payment to the Transferor, hold it separately from all other funds in a designated trust account. If the Company does not within the twenty-one day time limit referred to in this Article 12(B)(9) deliver to the Transferor a transfer or transfers of the relevant Share or Shares, or if through no default of the Transferor such transfer or transfers is or are not duly completed within the period of twenty-eight days following delivery of the transfer or transfers, duly executed by the Transferor, to the Company or the Entire Shareholding Condition is not satisfied the provisions of Article 12(B)(11) shall apply forthwith
- (10) If the Transferor, after becoming bound as aforesaid, makes default in so delivering the transfer or transfers, duly executed, of the said Share or Shares within fourteen days of the delivery to him of the transfer or transfers, the Company (acting by the Directors) may receive the Price, and the Transferor shall be deemed to have appointed any one Director or the Secretary as his attorney to execute and deliver a transfer of the Share or Shares in question to the Purchasing Member and to execute

and deliver an indemnity for the certificate in respect thereof if not produced by the Transferor, and upon the execution of such transfer the Company shall hold the Price in trust for the Transferor and shall as soon as practicable pay the Price to him. The receipt of any Director or of the Secretary of the Company for the Price shall be a good discharge to the Purchasing Member, and, after his name has been entered in the register of members in purported exercise of this aforesaid power, the validity of the proceedings shall not be questioned by any person. If the Transferor makes default as aforesaid, the Company may pay the Price by posting a cheque or banker's draft (which shall be at the risk of the Transferor) to the Transferor at his address as shown in the register of members.

- (11) If the preceding provisions of this Article 12(B) have been exhausted and some or all of the Shares comprised in the Sale Notice have through no default of the Transferor not been sold or the Entire Shareholding Condition has not been satisfied the Transferor may at any time within three calendar months thereafter transfer such Share or Shares as were not purchased by the Company or accepted by Purchasing Members or in respect of which the sale was not completed as aforesaid to any person at a price in respect of each such share not less than the Price and provided that the terms of payment of the price are no more favourable to the purchaser than those offered to the Company or the Members (as the case may be). Before approving any transfer, the Directors may require the Transferor and the transferee respectively to make declarations pursuant to the Statutory Declarations Act 1835 that the consideration paid by the transferee in respect of each of the shares in question is not less than the Price and is not subject to any deduction or rebate. If the Transferor cannot find a buyer at the Price, he may give a new Sale Notice.

DEEMED SALE NOTICE

12(C) In any case where -

- (i) a Member dies, or
- (ii) a Member (being an individual) becomes bankrupt, or
- (iii) a Member (being a corporation) enters into liquidation or receivership other than as part of a solvent reconstruction or amalgamation, or

- (iv) a Director or employee of the Company ceases for any reason to be either a Director or employee of the Company and is not continuing as either a Director or employee of the Company, or
- (v) a director or employee of NEAT Technology Limited (No 8353379) ("NTL") or any of its subsidiaries ceases for any reason to be either a director or employee of NTL or any its subsidiaries and is not continuing as either a director or employee of NTL or any its subsidiaries

there shall in any such case be deemed to have been served a Sale Notice pursuant to Article 12(B) above in respect of his or its entire holding of A Ordinary Shares, B Ordinary Shares and Ordinary Shares (including any A Ordinary Shares, B Ordinary Shares and Ordinary Shares allotted to him or it or his personal representatives after the occurrence of the events mentioned in Articles 12(C)(i) – (iv)(inclusive) above in pursuance of rights or interests obtained or granted to him prior to the occurrence of such events and any Shares at any time transferred by him or it pursuant to Articles 12(A)(2) to 12(A)(4) inclusive) and the provisions of Article 12(B) above shall apply in relation thereto PROVIDED ALWAYS that the provisions relating to revocation of a Sale Notice contained in Article 12(B)(4) shall not apply and a Sale Notice deemed to be given by such Member in the circumstances herein referred to shall not be revocable without the written consent of the Member or Members for the time being of the Company holding more than 50% in nominal value of the Ordinary Shares in issue

12(D) Where Article 12(C) applies, when the Member ceases to be a Director or employee of the Company or a director or employee of NTL or any of its subsidiaries by reason of

- (a) death, or
- (b) serious illness or incapacity rendering him incapable of carrying out his duties, or
- (c) dismissal by the Company in circumstances which amount to a breach of his contract of employment, or
- (d) redundancy, or
- (e) retirement at normal retirement age,

then the sale price applicable will be the "Price" as determined under Article 12(B) of these Articles but where Article 12(C) applies in consequence of

- (i) the Member being adjudicated bankrupt or being disqualified to act as a director of a company, or
- (ii) ceases to be a Director or employee of the Company for any reason other than those listed in paragraphs (a) to (e) (inclusive) above of this Article 12(D)

then the sale price applicable will be a sum equal to the lower of (1) the subscription or purchase price paid for the shares in question and (2) the Price of those shares determined under Article 12(B) above

12(E) Articles 12(C) and 12 (D) shall not apply -

- (a) to any Shares held by William Riddle, Mark Scobie, Riddle & Scobie LLP, Tadeusz Bleszynski, Christopher Cox, Michael Adrian Jones and Jonathan Fryett, or
- (b) in any case, whether such direction is made before, at the same time as or after an event described in Articles 12(C) and 12 (D), where a Member or Members holding more than 50% in nominal value of the aggregate of the Ordinary Shares and B Ordinary Shares (as if they were one class) in issue direct in writing that they should not apply and such Members shall be entitled to apply such conditions and terms as they see fit on such disapplication of Articles 12(C) and 12 (D)

MEETINGS

- 13 If within one hour from the time appointed for the holding of a General Meeting a quorum be not present, the Meeting shall stand adjourned to the same day in the next week (or if that day is a holiday, to the next working day) thereafter at the same time and place as the original meeting unless the Directors unanimously determine otherwise, and if at the adjourned Meeting a quorum shall not be present within one hour from the time appointed for the meeting, the Member or Members present shall be a quorum

LIABILITY OF MEMBERS

- 14 The liability of the members is limited to the amount, if any, unpaid on the shares held by them

POWER TO APPOINT DIRECTORS

- 15 The Member or Members holding more than 50% in nominal value of

the aggregate of the Ordinary Shares and B Ordinary Shares (as if they were one class) in issue shall have power from time to time and at any time to appoint any person or persons as a Director or Directors either as an additional Director or to fill any vacancy and to remove from office any Director so appointed. Any such appointment or removal shall be effected by notice in writing to the Company signed by the Member or Members making the same or in the case of a Member being a company, signed by two directors or one director and the secretary of such company on its behalf. Any such appointment or removal shall take effect when the notice effecting the same is delivered to the registered office of the Company or to the Secretary or is produced at a meeting of the Directors, and any such removal shall be without prejudice to any claim which a Director so removed may have for damages for breach of any contract of service between him and the Company.

- 16 The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number determined in accordance with Article 18 below as the maximum number of Directors and for the time being in force.

DIRECTORS

- 17 The number of Directors shall not be less than one. If at any time and from time to time there shall be only one Director of the Company such Director may act alone in exercising all powers and authorities vested in the Directors and Regulation 89 of Table A shall be modified accordingly.
- 18 The Company may by ordinary resolution increase or reduce the permitted number of Directors.
- 19 There shall be added at the end of Regulation 82 of Table A after the word "day" the words "and be divided amongst the directors as they shall see fit".
- 20 A Director shall not be required to hold any share qualification.
- 21 Any Director who, by request, performs special services or goes or resides abroad for any purpose of the Company may be paid such extra remuneration by way of salary, percentage of profits or otherwise as the Directors may determine.
- 22 A Director may vote as a Director in regard to any contract or arrangement in which he is interested or upon any matter arising therefrom and if he shall so vote his vote shall be counted and he shall