

THE COMPANIES ACT 1985  
AND THE COMPANIES ACT 1989

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COMPANY LIMITED BY SHARES

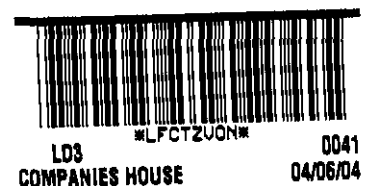
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SPECIAL RESOLUTION

of

UTILICO INVESTMENT TRUST PLC  
(the "Company")

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Passed 5 May 2004

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At an Extraordinary General Meeting duly convened and held on 5 May 2004, the following Resolution was duly passed as a Special Resolution:

**SPECIAL RESOLUTION:**

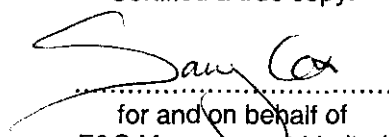
"THAT, conditional on (i) the passing of the ordinary resolution numbered 2 set out in the notice of this meeting and of the extraordinary resolution set out in the notice of the Separate General Meeting of Warrantholders contained in the circular of the Company dated 1 April 2004 (the "Circular") (a copy of which is produced to the meeting and initialled by the Chairman for the purpose of identification); (ii) Admission becoming effective; and (iii) the Placing and Underwriting Agreement becoming unconditional and remaining in force in accordance with its terms:

- (A) the authorised share capital of the Company be increased from £2,050,000 to £180,645,000 divided into 100,000,000 ZDP Shares and 200,000,000 New Ordinary Shares having the rights and privileges, and being subject to the limitations and restrictions, as set out in the new Articles adopted by this resolution;
- (B) the Directors be authorised in accordance with section 80 of the Act to exercise all the powers of the Company to allot relevant securities (as defined in section 80(2) of the Act) up to an aggregate nominal amount equal to the authorised unissued share capital of the Company for the period expiring on the earlier of 18 months following the date of this meeting and the conclusion of the annual general meeting of the Company next following this meeting, provided that:
  - (i) this resolution shall authorise the allotment of all ZDP Shares and CULS falling to be allotted on implementation and under the terms of the Proposals (including a bonus issue in respect of Ordinary Shares arising on the exercise of Warrants on 30 April 2004 as described in the Circular), and the allotment of New Ordinary Shares and ZDP Shares falling to be allotted on exercise or conversion of Warrants or CULS;
  - (ii) the maximum number of ZDP Shares which may be allotted pursuant to this authority other than under the Proposals or pursuant to the exercise of Warrants is 22,500,000;

- (iii) this resolution shall authorise the allotment of New Ordinary Shares falling to be allotted on the exercise of conversion rights (other than conversion rights attaching to CULS issued under the Proposals) on terms determined by the Directors up to a maximum nominal value of £234,375;
  - (iv) no allotment following the implementation of the Proposals of relevant securities which would have the effect of reducing ZDP Cover below 1.5 times (as determined in accordance with the Articles) will proceed without the approval by separate extraordinary resolutions of the holders of the New Ordinary Shares and the ZDP Shares; and
  - (v) such authority shall allow the Company to make an offer or enter into an agreement which would or might require relevant securities to be allotted after the expiry of such authority;
- (C) the Directors be given power pursuant to section 95 of the Act to allot (as defined in section 94(3A) of the Act) or make offers or agreements to allot equity securities (as defined in section 94 of the Act) pursuant to the authority conferred by paragraph (B) above as if section 89(1) of the Act did not apply to any such allotment provided that this power shall be limited to the allotment and sales of equity securities:
- (i) on implementation and under the terms of the Proposals (including a bonus issue in respect of Ordinary Shares arising on exercise of Warrants on 30 April 2004 as described in the Circular);
  - (ii) in connection with or the subject of an offer or invitation, open for acceptance for a period fixed by the Directors to holders of shares and such other equity securities of the Company as the Directors may determine on the register on a fixed record date in proportion (as nearly as may be) to their respective holdings of such securities or in accordance with the rights attached thereto (including equity securities which, in connection with such offer or invitation, are the subject of such exclusions or other arrangements as the Directors may deem necessary or expedient to deal with fractional entitlements that would otherwise arise or with legal or practical problems under the laws of, or the requirements of any recognised regulatory body or any stock exchange in, any territory);
  - (iii) (otherwise than pursuant to sub-paragraph (i) or (ii) above) in the form of rights to convert into New Ordinary Shares on terms determined by the Directors up to a maximum nominal value of £234,375;
  - (iv) (otherwise than pursuant to sub-paragraph (i) or (ii) above) in the form of New Ordinary Shares with an aggregate nominal value equal to 10 per cent. of the Company's issued New Ordinary Share capital on implementation of the Proposals at a price of not less than the Net Asset Value per New Ordinary Share as close as practicable to the allotment or sale;
- and this power shall enable the Company to make an offer or agreement which would or might require equity securities to be allotted after it expires;
- (D) the authority and power granted to the Directors under paragraphs (B) and (C) above extend to the allotment of subordinated convertible unsecured loan stock on interest, conversion, redemption and other terms determined by the Directors which differ from those of the CULS;
- (E) the Company be authorised in accordance with section 166 of the Act to make market purchases (within the meaning of section 163 of the Act) of Shares provided that:
- (i) the maximum number of Shares authorised to be purchased is 14.99 per cent. in number of the issued Shares of that class immediately following implementation of the Proposals;
  - (ii) the minimum price which may be paid for a New Ordinary Share shall be 1.5625p and for a ZDP Share shall be 1p;

- (iii) the maximum price which may be paid for a Share is the lower of (a) the amount determined by the rules of the UK Listing Authority at the time of purchase (which currently set a maximum equal to 5 per cent. above the average of the market values for a Share taken from the Official List for the five business days immediately preceding the day on which the Share is purchased) and (b) in the case of a New Ordinary Share, the Net Asset Value per New Ordinary Share on a date determined by the Directors being not more than 10 days before the date of purchase and, in the case of a ZDP Share, its accrued capital entitlement (as determined in accordance with the Articles) on a date determined by the Directors being not more than 10 days before the date of purchase or a higher price per ZDP Share if the Directors determine this to be in the interests of Shareholders;
  - (iv) New Ordinary Shares may only be purchased at a price such that immediately after such purchase, on the basis of the Company's Net Asset Value on a date determined by the Directors being not more than 10 days before the date of purchase, the ZDP Cover would be at least 1.4 times (account being taken of any related purchase of ZDP Shares);
  - (v) the authority hereby conferred shall expire at the conclusion of the annual general meeting of the Company next following this meeting, save that the Company may, prior to such expiry, enter into a contract to purchase Shares which will or may be completed or executed wholly or partly after such expiry;
- (F) every 100 Ordinary Shares in issue on the Consolidation Record Date be consolidated and divided into 64 New Ordinary Shares and that in accordance with Article 44 of the Company's Articles of Association the Company be and is hereby authorised to sell any fractional shares arising from the consolidation at the best price reasonably obtainable and to distribute the net proceeds of such sale amongst the Shareholders entitled to such fractions in due proportions unless the value of such fractional share is, after deduction of the proper expenses of such sale, less than £3, whereupon the net proceeds of such sale shall belong to and be vested in the Company, and to otherwise deal with fractions as determined by the Directors;
- (G) the new Articles of Association, produced to the meeting and initialled by the Chairman for the purpose of identification, be adopted in substitution for, and to the exclusion of, the existing Articles; and
- (H) the terms defined in the Circular shall have the same meanings in this resolution save where the context otherwise requires."

Certified a true copy:

  
.....  
for and on behalf of  
F&C Management Limited  
Company Secretary

ARTICLES OF ASSOCIATION

of

**UTILICO INVESTMENT TRUST PLC**  
(as adopted by special resolution passed on 5 May 2004)

Incorporated 20 May 2003

Norton Rose  
London

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THE COMPANIES ACTS 1985

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PUBLIC COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

of

Utilico Investment Trust plc

(As adopted by special resolution passed on 5 May 2004)

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**PRELIMINARY**

**1 Table "A" not to apply**

- 1.1 No regulations for the management of a company set out in any schedule to any statute concerning companies or contained in any regulations or instrument made pursuant to a statute shall apply to the Company, but the following shall be the Articles of Association of the Company.

**2 Interpretation**

- 2.1 In these Articles, unless the context otherwise requires, the following expressions have the following meanings:

**"Act"** means, subject to paragraph 2.3 of this Article, the Companies Act 1985 and, where the context requires, every other statute from time to time in force concerning companies and affecting the Company;

**"address"** in relation to any electronic communication includes any number or address used for the purposes of such communication;

**"Admission"** means the admission of the Ordinary Shares and ZDP Shares to the Official List and to trading on the London Stock Exchange;

**"Articles"** means these Articles of Association as altered or varied from time to time (and "Article" means one of these Articles);

**"Auditors"** means the auditors for the time being of the Company or, in the case of joint auditors, any one of them;

**"Board"** means the board of Directors for the time being of the Company or the Directors present at a duly convened meeting of Directors at which a quorum is present;

**"business day"** means a day which is not a Saturday, Sunday or a public holiday in England;

**"Calculation Date"** means the close of business on a date which is not earlier than 60 days prior to (and excluding) the date of the proposed issue or reclassification or, at the

discretion of the Directors, the close of business on a date which is not earlier than 60 days prior to (and excluding) the date of the announcement of such proposed issue or reclassification or, if applicable and earlier, the date of any announcement of the intention to make such proposed issue;

**"Chairman"** means the chairman (if any) of the Board or, where the context requires, the chairman of a general meeting of the Company;

**"clear days"** means (in relation to the period of a notice) that period, excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

**"communication"** has the meaning given to it in the Electronic Communications Act 2000;

**"Company"** means Utilico Investment Trust plc;

**"CULS"** means 3.75 per cent. subordinated convertible unsecured loan stock 2009 of the Company issued subject to the terms and conditions of the Trust Deed entered into on 5 May 2004 between the Company and The Law Debenture Trust Corporation p.l.c. constituting the CULS;

**"Depository"** means a custodian or other person (or a nominee for such custodian or other person) appointed under contractual arrangements with the Company or other arrangements approved by the Board whereby such custodian or other person or nominee holds or is interested in shares of the Company or rights or interests in shares of the Company and issues securities or other documents of title or otherwise evidencing the entitlement of the holder thereof to or to receive such shares, rights or interests, provided and to the extent that such arrangements have been approved by the Board for the purpose of these Articles;

**"Director"** means a director for the time being of the Company;

**"dividend"** means a distribution or a bonus;

**"electronic communication"** has the meaning given to it in the Electronic Communications Act 2000 and "electronic communications" shall be construed accordingly;

**"execution"** means any mode of execution (and "executed" shall be construed accordingly);

**"Gross Assets"** means the unaudited aggregate value of the gross assets of the Company, including assets represented by principal monies borrowed by the Company, less current liabilities (not including contingent liabilities) of the Company (other than principal monies borrowed), each as determined by the Directors;

**"holder"** means (in relation to any share) the member whose name is entered in the Register as the holder or, where the context permits, the members whose names are entered in the Register as the joint holders, of that share;

**"the London Stock Exchange"** means the London Stock Exchange PLC or other principal stock exchange in the United Kingdom for the time being;

**"member"** means a member of the Company or, where the context requires, a member of the Board or any committee;

**"Net Asset Value"** means the total value of all of the assets of the Company, less its liabilities, determined in accordance with the Company's usual accounting policies;

**"Ordinary Shares"** is defined in Article 5.1;

**"Office"** means the registered office for the time being of the Company;

**"Official List"** means the daily official list of the UK Listing Authority;

**"paid up"** means paid up or credited as paid up;

**"recognised person"** means a recognised clearing house or a nominee of a recognised clearing house or of a recognised investment exchange who is designated as mentioned in section 185(4) of the Act;

**"Register"** means the register or registers as the case may be of members of the Company;

**"Registrar"** means the registrar of members of the Company to be kept pursuant to section 352 of the Act;

**"Regulations"** means such regulations as may be applicable to the holding of securities in dematerialised form including the Uncertificated Securities Regulations 2001 (SI 2001 No 3755) as amended from time to time;

**"Seal"** means the common seal of the Company or any official or securities seal kept by the Company by virtue of section 40 of the Act;

**"Secretary"** means the secretary for the time being of the Company or any other person (including a company) appointed to perform any of the duties of the secretary of the Company including (subject to the provisions of the Act) a joint, temporary, assistant or deputy secretary;

**"share"** means a share of the Company being an Ordinary Share or a ZDP Share, or such other share of the Company as may from time to time exist, subject to Article 44;

**"UK Listing Authority"** means the Financial Services Authority, as the competent authority for the purposes of the Financial Services and Markets Act 2000;

**"United Kingdom"** means Great Britain and Northern Ireland;

**"writing"** or **"written"** includes printing, typewriting, lithography, photography and any other mode or modes of representing or reproducing words in a legible and non-transitory form and, if the Board shall in its absolute discretion determine for any purpose or purposes under the Articles, subject to such terms and conditions as the Board may determine, electronic communications;

**"ZDP Cover"** shall represent a fraction where the numerator is equal to the Gross Assets of the Company on the Calculation Date and the denominator is equal to the aggregate on the Calculation Date of (i) the aggregate capital entitlement on the ZDP Repayment Date of the ZDP Shares in issue (ii) the aggregate nominal amount of the CULS in issue and (iii) the outstanding amount payable by the Company under bank facilities and any borrowings ranking in priority to the CULS. In calculating such ZDP Cover, the Directors shall where available:

- (a) use the Gross Assets of the Company at the most recent practicable date before the Calculation Date;
- (b) assume that the share capital or rights proposed to be issued or arising on reclassification had been issued and/or exercised and/or reclassified at the end of the month prior to the Calculation Date;

- (c) adjust the Gross Assets of the Company by adding the minimum net consideration (if any) which would be received upon such issue, reclassification or exercise;
- (d) take account of the entitlements to be attached to the new shares or securities or rights to be issued;
- (e) aggregate the final capital entitlements of the existing ZDP Shares and the capital entitlements of the new shares or securities or rights to be issued as aforesaid in each case as at the ZDP Repayment Date;
- (f) make appropriate adjustments for any other issues or reclassifications or purchases of own share capital which have been made by the Company since the end of the immediately preceding month or will have been made by or at the time of the proposed issue of shares or rights of subscription or conversion into shares or reclassification; and
- (g) make such other adjustments as they consider appropriate.

The Directors shall have absolute discretion to determine whether the conditions set out above are satisfied in any case and no independent valuation need be carried out.

**"ZDP Repayment Date"** means the date by which the ZDP Shares are to be redeemed, being 31 October 2012;

**"ZDP Shareholders"** means holders of ZDP Shares;

**"ZDP Shares"** is defined in Article 5.1.

2.2 Unless the context otherwise requires:

2.2.1 words in the singular include the plural, and vice versa;

2.2.2 words importing the masculine gender include the feminine gender;

2.2.3 a reference to a person includes a body corporate and an unincorporated body of persons.

2.3 A reference to any statute or provision of a statute shall include any orders, regulations or other subordinate legislation made under it and shall, unless the context otherwise requires, include any statutory modification or re-enactment of it for the time being in force.

2.4 Save as aforesaid, and unless the context otherwise requires, words or expressions contained in these Articles shall bear the same meaning as in the Act.

2.5 Where for any purpose an ordinary resolution of the Company is required, a special resolution or an extraordinary resolution shall also be effective, and where an extraordinary resolution is required a special resolution shall also be effective.

2.6 The headings are inserted for convenience only and shall not affect the construction of these Articles.

### **3 Registered Office**

The Office shall be at such place in England and Wales as the Board shall from time to time appoint.

## **4 Uncertificated shares**

4.1 Notwithstanding anything in these Articles to the contrary, any shares in the Company may be issued, held, registered, converted, transferred or otherwise dealt with in uncertificated form and converted from uncertificated form to certificated form in accordance with the Regulations and the practices instituted by the operator of the relevant system. Any provisions of these Articles shall not apply to any uncertificated shares to the extent that such provisions are inconsistent with:

4.1.1 the holding of shares in uncertificated form;

4.1.2 the transfer of title to shares by means of a relevant system; or

4.1.3 any provision of the Regulations.

4.2 Without prejudice to the generality and effectiveness of the foregoing:

4.2.1 conversion of certificated shares into uncertificated shares, and vice versa, may be made in such manner as the Board may, in its absolute discretion, think fit (subject always to the Regulations and the facilities and requirements of the relevant system);

4.2.2 Articles 12, 13 and 34 and the second and third sentences of Article 36 shall not apply to uncertificated shares and the remainder of Article 36 shall apply in relation to such shares as if the reference therein to the date on which the transfer was lodged with the Company were a reference to the date on which the appropriate instruction was received by or on behalf of the Company in accordance with the facilities and requirements of the relevant system;

4.2.3 without prejudice to Article 35 in relation to uncertificated shares, the Board may also refuse to register a transfer of uncertificated shares in such other circumstances as may be permitted or required by the Regulations and the relevant system;

4.2.4 references in these Articles to a requirement on any person to execute or deliver an instrument of transfer or certificate or other document which shall not be appropriate in the case of uncertificated shares shall, in the case of uncertificated shares, be treated as references to a requirement to comply with any relevant requirements of the relevant system and any relevant arrangements or regulations which the Board may make from time to time pursuant to Article 4.2.12 below;

4.2.5 for the purposes referred to in Article 41, a person entitled by transmission to a share in uncertificated form who elects to have some other person registered shall either:

(a) procure that instructions are given by means of the relevant system to effect transfer of such uncertificated share to that person; or

(b) change the uncertificated share to certificated form and execute an instrument of transfer of that certificated share to that person;

4.2.6 the Company shall enter on the Register the number of shares which are held by each member in uncertificated form and in certificated form and shall maintain the Register in each case as is required by the Regulations and the relevant system and, unless the Board otherwise determines, holdings of the same holder or joint holders in certificated form and uncertificated form shall be treated as separate holdings;

4.2.7 a class of share shall not be treated as two classes by virtue only of that class comprising both certificated shares and uncertificated shares or as a result of any provision of these Articles or the Regulations which applies only in respect of certificated shares or uncertificated shares;

4.2.8 references in Article 43 to instruments of transfer shall include, in relation to uncertificated shares, instructions and/or notifications made in accordance with the relevant system

relating to the transfer of such shares;

- 4.2.9 for the purposes referred to in Article 45.2, the Board may, in respect of uncertificated shares, authorise some person to transfer and/or require the holder to transfer the relevant shares in accordance with the facilities and requirements of the relevant system;
- 4.2.10 for the purposes of Article 140, any payment in the case of uncertificated shares may be made by means of the relevant system (subject always to the facilities and requirements of the relevant system) and, without prejudice to the generality of the foregoing, such payment may be made by the sending by the Company or any person on its behalf of an instruction to the Operator of the relevant system to credit the cash memorandum account of the holder or joint holders of such shares or, if permitted by the Company, of such person as the holder or joint holders may in writing direct and for the purposes of Article 140 the making of a payment in accordance with the facilities and requirements of the relevant system concerned shall be a good discharge to the Company;
- 4.2.11 subject to the Act, the Board may issue shares as certificated shares or as uncertificated shares in its absolute discretion and Articles 7 and 144 shall be construed accordingly;
- 4.2.12 the Board may make such arrangements or regulations (if any) as it may from time to time in its absolute discretion think fit in relation to the evidencing and transfer of uncertificated shares and otherwise for the purpose of implementing and/or supplementing the provisions of this Article 4 and the Regulations and the facilities and requirements of the relevant system and such arrangements and regulations (as the case may be) shall have the same effect as if set out in this Article 4;
- 4.2.13 the Board may utilise the relevant system to the fullest extent available from time to time in the exercise of the Company's powers or functions under the Act or these Articles or otherwise in effecting any actions; and
- 4.2.14 the Board may resolve that a class of shares is to become a participating security and may at any time determine that a class of shares shall cease to be a participating security.
- 4.3 Where any class of shares in the capital of the Company is a participating security and the Company is entitled under any provisions of the Act or the rules made and practices instituted by the Operator of any relevant system or under these Articles to dispose of, forfeit, enforce a lien or sell or otherwise procure the sale of any shares which are held in uncertificated form, such entitlement (to the extent permitted by the Regulations and the rules made and practices instituted by the Operator of the relevant system) shall include the right to:
  - 4.3.1 request or require the deletion of any computer-based entries in the relevant system relating to the holding of such shares in uncertificated form; and/or
  - 4.3.2 require any holder of any uncertificated shares which are the subject of any exercise by the Company of any such entitlement, by notice in writing to the holder concerned, to change his holding of such uncertificated shares into certificated form within such period as may be specified in the notice, prior to completion of any disposal, sale or transfer of such shares or direct the holder to take such steps, by instructions given by means of a relevant system or otherwise, as may be necessary to sell or transfer such shares; and/or
  - 4.3.3 appoint any person to take such other steps, by instruction given by means of a relevant system or otherwise, in the name of the holder of such shares as may be required to effect a transfer of such shares and such steps shall be as effective as if they had been taken by the registered holder of the uncertificated shares concerned; and/or
  - 4.3.4 transfer any uncertificated shares which are the subject of any exercise by the Company of any such entitlement by entering the name of the transferee in the Register in respect of that share as a transferred share; and/or



- 4.3.5 otherwise rectify or change the Register in respect of that share in such manner as may be appropriate; and/or
- 4.3.6 take such other action as may be necessary to enable those shares to be registered in the name of the person to whom the shares have been sold or disposed of or as directed by him.
- 4.4 For the purposes of this Article 4:
  - 4.4.1 words and expressions shall have the same respective meanings as in the Regulations;
  - 4.4.2 references to an uncertificated share or to a share (or to a holding of shares) being in uncertificated form are references to that share being an uncertificated unit of a security, and references to a certificated share or to a share being in certificated form are references to that share being a unit of a security which is not an uncertificated unit;
  - 4.4.3 "cash memorandum account" means an account so designated by the Operator of the relevant system;
  - 4.4.4 a dematerialised instruction is properly authenticated if it complies with the specifications referred to in paragraph 5(b) of Schedule 1 to the Regulations.

## **SHARE CAPITAL**

### **5 Share capital**

- 5.1 The share capital of the Company at the date of the adoption of these Articles is £180,645,000 divided into 200,000,000 ordinary shares of 1.5625p each ("Ordinary Shares") and 100,000,000 redeemable zero dividend preference shares of 177.52p each ("ZDP Shares").

### **6 Rights attaching to classes of shares**

The holders of the Ordinary Shares and ZDP Shares shall have the following rights:

- 6.1 As to dividends:
  - 6.1.1 the Ordinary Shares carry the right to receive the profits of the Company available for distribution and determined to be distributed by way of dividend at such times as the Directors may determine; and
  - 6.1.2 the ZDP Shares carry no rights to receive dividends out of the revenue or any other profits of the Company.
- 6.2 As to capital:
  - 6.2.1 on a return of assets, on a liquidation or otherwise, the surplus assets of the Company after payment of all debts and satisfaction of all liabilities of the Company shall be applied as follows:
    - (a) first, if all of the Winding Up Revenue Profits (as defined in Article 159.2) have not then been distributed to holders of Ordinary Shares by way of dividend pursuant to Article 159.3, an amount equivalent to the amount of Winding Up Revenue Profits not so distributed shall be paid to the holders of Ordinary Shares pro rata to the number of Ordinary Shares then held by them;
    - (b) second, there shall be paid to holders of the ZDP Shares an amount equal to 100p per ZDP Share as increased with effect from and including Admission on a daily basis at such compounded rate as results in an entitlement of 177.52p per ZDP Share on the ZDP Repayment Date, and increasing thereafter (in the event

that the ZDP Shares are not redeemed on or before the ZDP Repayment Date) on the same compounded basis; and

- (c) third, there shall be paid to the holders of the Ordinary Shares the surplus assets of the Company available for distribution pro rata to the number of Ordinary Shares then held by them.

6.3 As to voting:

*Ordinary Shares*

- 6.3.1 The holders of the Ordinary Shares shall have the right to receive notice of and to attend and vote at general meetings of the Company. Each holder of an Ordinary Share being present at a meeting shall upon a show of hands have one vote and (subject as referred to in Article 6.5 below) upon a poll every such holder present in person or by proxy shall have one vote in respect of every Ordinary Share held by him.

*ZDP Shares*

- 6.3.2 The holders of the ZDP Shares shall have the right to receive notice of, but shall not have the right to attend or vote at, any general meeting of the Company except (but save as provided in Article 6.5 below):
  - (a) upon any resolution to alter, modify or abrogate the special rights or privileges attached to the ZDP Shares; or
  - (b) upon a Liquidation Resolution, Recommended Resolution and Reconstruction Resolution (as respectively defined in Articles 6.5.1, 6.5.3 and 6.5.4 below).
- 6.3.3 Save as provided in Articles 6.5.3 and 6.5.4 below, the Company may not, without the previous sanction of an extraordinary resolution passed at a separate general meeting of the ZDP Shareholders convened and held in accordance with the provisions of these Articles:
  - (a) issue any further shares or rights to subscribe or convert any securities into shares in the Company or reclassify issued share capital into shares of a particular class where such shares rank, or would on issue, conversion or reclassification rank, as to capital in priority to, or *pari passu* with, the ZDP Shares unless the Directors shall have calculated and the Company's financial adviser shall have reported to the Directors on such calculations within 60 days prior to the Calculation Date that, were the further shares to be issued or the shares to be reclassified or rights of subscription or conversion to be issued and immediately exercised at the date of the report, those ZDP Shares in issue immediately thereafter would have a ZDP Cover of not less than 1.5 times; or
  - (b) pass a resolution to reduce the capital of the Company in any manner or to purchase shares in the Company other than as permitted below; or
  - (c) pass a resolution for the voluntary winding up of the Company, such winding up to take effect prior to the ZDP Repayment Date; or
  - (d) alter any objects set out in the Memorandum of the Company; or
  - (e) pass any resolution which authorises or permits the Directors to pay a dividend or other distribution out of the capital reserves of the Company (which, for the avoidance of doubt, shall not include a bonus or capitalisation issue of shares) other than as permitted below; or
  - (f) change the investment policy of the Company materially,

provided that no such sanction will be required for the passing of a resolution authorising the Company to purchase (i) Ordinary Shares which such shares may only be purchased at prices at or below their prevailing Net Asset Value (as determined by the Directors as at a date falling not more than 10 days before the date of the relevant repurchase) and where such purchases will not reduce the ZDP Cover below 1.4 times (as determined by the Directors as at a date falling not more than 10 days before the date of purchase) and taking account of any related purchase of ZDP Shares which the Directors determine that the Company will be able to make at or about the same time or (ii) ZDP Shares where such shares may only be purchased at prices at or below their prevailing accrued capital entitlement (as determined by the Directors in accordance with these Articles as at a date falling not more than 10 days before the date of the relevant repurchase) or at a higher price per ZDP Share if the Directors determine this to be in the interests of holders of shares, or for any purchase of such shares in accordance with any such resolution.

- 6.3.4 Where by virtue of the provisions of these Articles, the holders of ZDP Shares are entitled to vote, every such holder present at a meeting shall upon a show of hands have one vote and (subject as referred to in Article 6.5 below) upon a poll, every such holder present in person or by proxy shall have one vote in respect of each ZDP Share held by him.
- 6.4 As to redemption:
  - 6.4.1 The Company shall (subject to the provisions of the Act) redeem all the outstanding ZDP Shares on or within 14 days before the ZDP Repayment Date.
  - 6.4.2 On the redemption of ZDP Shares in accordance with Article 6.4.1 above, there shall be paid to the holders of the ZDP Shares an amount equal to the accrued capital entitlement per ZDP Share determined in accordance with Article 6.2.1(b).
  - 6.4.3 Any redemption notice shall specify the redemption amount and the address at which certificates for ZDP Shares are to be surrendered for redemption. A redemption notice may not be withdrawn without the prior class consent of the holders of the ZDP Shares. No defect in the redemption notice or in the giving thereof shall affect the validity of the redemption proceedings.
  - 6.4.4 Unless otherwise determined by the Board, payments in respect of the amount due on redemption of ZDP Shares shall be made by sterling cheque drawn on a bank in the City of London or, upon the request of the holder or joint holders, by transfer to a sterling account maintained by the payee with a bank in the City of London. Such payment will be made against surrender of the relevant certificate in the case of certificated ZDP Shares or, if the relevant certificate has been lost or destroyed, the giving of an appropriate indemnity in a form satisfactory to the Board, provided that the Board may determine that surrender of certificates shall not be required, in which event each certificate shall be void and of no effect as from the date of payment of the amount due on the redemption of the ZDP Shares to which the certificate relates. Upon redemption the name of the registered holder shall be removed from the Register and the ZDP Shares which have been redeemed shall be cancelled and the authorised unissued share capital arising on such redemption shall, by virtue of the resolution adopting these Articles, be designated as Ordinary Share Capital.
- 6.5 As to voluntary liquidation:
  - 6.5.1 If all of the ZDP Shares are not redeemed on or before the ZDP Repayment Date (except by reason of administrative error rectified within 7 days and disregarding any ZDP Shares which are not redeemed as a result of a failure by the holder to comply with a requirement relating to redemption imposed in accordance with these Articles), the Directors shall convene an extraordinary general meeting of the Company to be held on or before 31 December 2012 at which a resolution (the "Liquidation Resolution") shall be proposed requiring that the Company be wound up voluntarily pursuant to section 84 of the

Insolvency Act 1986. At such meeting the vote of those members entitled to vote shall be taken by poll and the provisions of Article 6.5.2 shall apply in relation to such vote.

- 6.5.2 At any such extraordinary general meeting, those holders of ZDP Shares and Ordinary Shares in the Company who (being individuals) are present in person or by proxy or (being corporations) are present by proxy or by duly authorised representative and entitled to vote and who vote in favour of the resolution shall, on a poll, have such number of votes in respect of each share held by them (including fractions of a vote) so that the aggregate number of votes cast in favour of the resolution is four times the aggregate number of votes cast against the resolution and each member present in person or by proxy and entitled to vote and who votes against such resolution shall on a poll have one vote for each share held.
- 6.5.3 If an offer is made to all holders of the ZDP Shares (other than the offeror and/or persons controlled by or acting in concert with the offeror) which becomes or is declared unconditional in all respects prior to the ZDP Repayment Date, which offer entitles holders of the ZDP Shares to receive not later than the date falling 14 days after the ZDP Repayment Date an amount in cash equal to not less than that to which the Directors estimate (so far as practicable at the time) that such holders would otherwise have been entitled on a winding-up of the Company (ignoring any option for alternative consideration pursuant to such offer) and such offer is recommended by the Directors of the Company and it is stated to be, in the opinion of a financial adviser appointed by the Company, fair and reasonable, then the provisions referred to in Articles 6.5.1 and 6.5.2 shall not apply and at any general meeting of the Company or separate general meeting of the holders of shares held between the date of making such recommendation and the ZDP Repayment Date (both dates inclusive) the provisions relating to voting in Article 6.5.5 below shall apply to any resolution or resolutions recommended by the Directors of the Company (a "Recommended Resolution") and stated to be, in the opinion of the financial adviser appointed by the Directors, fair and reasonable.
- 6.5.4 If at any general meeting held on or within 14 days prior to the ZDP Repayment Date there is proposed any resolution (a "Reconstruction Resolution") to sanction any form of arrangement (whether involving the winding-up of the Company, the redemption or purchase of the ZDP Shares or otherwise) which would enable the holders of the ZDP Shares to receive not later than the ZDP Repayment Date an amount in cash equal to not less than that to which the Directors estimate (so far as practicable at the time) such holders would otherwise have been entitled on a winding-up of the Company (ignoring any options they may be given to elect to receive the entitlement otherwise than in cash pursuant to the arrangement) then the provisions referred to in Articles 6.5.1 and 6.5.2 above shall not apply and the provisions relating to voting in Article 6.5.5 below shall apply in respect of any Reconstruction Resolution.
- 6.5.5 Where any resolution or resolutions are proposed pursuant to Article 6.5.3 or 6.5.4 above:
- (a) the holders of the Ordinary Shares in the Company present in person or by proxy and entitled to vote and who vote (whether for or against) on such resolution at any extraordinary general meeting of the Company shall, on a poll, have for each Ordinary Share such number of votes as is equal to four times the number of votes cast in aggregate by the holders of the ZDP Shares; and
  - (b) those holders of ZDP Shares present in person or by proxy and entitled to vote and who vote in favour of such resolution at a separate general meeting of the holders of ZDP Shares shall, on a poll, have such number of votes in respect of shares held by them (including fractions of a vote) so that the aggregate number of votes cast in favour of the resolution is four times the aggregate number of such shares in respect of which votes are cast against the resolution and each holder of ZDP Shares present in person or by proxy and entitled to vote who votes against such resolution shall, on a poll, have one vote for each share held by him, provided that, if any term of any offer or arrangement referred to in Articles 6.5.3 and 6.5.4 above (as regards any one or more holders of ZDP Shares) shall have been breached (other than by such holder(s)) in any material

respect of which the Chairman of the meeting has received written notice prior to the commencement of such meeting, each holder shall, at any such meeting at which such holder is present in person or by proxy and entitled to vote, on a poll, have one vote for each such share held by him.

## **7 Allotment**

- 7.1 Subject to the provisions of the Act and to any relevant authority of the Company in general meeting required by the Act, unissued shares at the date of adoption of these Articles and any shares hereafter created shall be at the disposal of the Board, which may allot (with or without conferring rights of renunciation), grant options over, offer or otherwise deal with or dispose of them or rights to subscribe for or convert any security into shares to such persons (including the Directors themselves), at such times and generally on such terms and conditions as the Board may decide, provided that no share shall be issued at a discount.
- 7.2 Subject to the provisions of the Act and to any special rights for the time being attached to any existing shares, any share may be issued which is, or at the option of the Company or of the holder of such share is liable, to be redeemed on such terms and in such manner as these Articles may provide.

## **8 Power to attach rights**

Subject to the provisions of the Act and to any special rights for the time being attached to any existing shares, any shares may be allotted or issued with or have attached to them such preferred, deferred or other special rights or restrictions, whether in regard to dividend, voting, transfer, return of capital or otherwise, as the Company may from time to time by ordinary resolution determine or, if no such resolution has been passed or so far as the resolution does not make specific provision, as the Board may determine.

## **9 Share warrants**

- 9.1 The Company may, with respect to any fully paid shares, issue a warrant (a "share warrant") stating that the bearer of the warrant is entitled to the shares specified in it and may provide (by coupons or otherwise) for the payment of future dividends on the shares included in a share warrant.
- 9.2 The powers referred to in Article 9.1 may be exercised by the Board, which may determine and vary the conditions on which share warrants shall be issued, and in particular on which:
- 9.2.1 a new share warrant or coupon will be issued in the place of one damaged, defaced, worn out or lost (provided that no new share warrant shall be issued to replace one that has been lost unless the Board is satisfied beyond reasonable doubt that the original has been destroyed);
- 9.2.2 the bearer of a share warrant shall be entitled to receive notice of and to attend, vote and demand a poll at general meetings;
- 9.2.3 dividends will be paid; and
- 9.2.4 a share warrant may be surrendered and the name of the holder entered in the Register in respect of the shares specified in it.

Subject to such conditions and to these Articles, the bearer of a share warrant shall be deemed to be a member for all purposes. The bearer of a share warrant shall be subject to the conditions for the time being in force and applicable thereto, whether made before or after the issue of such share warrant.

## **10 Commission and brokerage**

The Company may in connection with the issue of any shares exercise all powers of paying commission and brokerage conferred or permitted by the Act. Subject to the provisions of the Act, any such commission or brokerage may be satisfied by the payment of cash, the allotment of fully or partly paid shares, the grant of an option to call for an allotment of shares or any combination of such methods.

## **11 Trusts not to be recognised**

Except as otherwise expressly provided by these Articles, as required by law or as ordered by a court of competent jurisdiction, the Company shall not recognise any person as holding any share on any trust, and (except as aforesaid) the Company shall not be bound by or recognise (even if having notice of it) any equitable, contingent, future, partial or other claim to or interest in any share except an absolute right of the holder to the whole of the share.

## **SHARE CERTIFICATES**

### **12 Right to certificates**

- 12.1 On becoming the holder of any share, a person (except a recognised person in respect of whom the Company is not by law required to complete and have ready for delivery a certificate) shall be entitled to have issued, without charge and within two months after an allotment or the lodgement of a transfer (unless the terms of issue of the shares provide otherwise), one certificate under the Seal for all the shares of each class registered in his name. Such certificate shall specify the number, class, and distinguishing numbers (if any) of the shares in respect of which it is issued and the amount or respective amounts paid up thereon.
- 12.2 Nothing in these Articles shall prevent title to any shares or other securities of the Company from being evidenced and transferred without a written instrument in accordance with the Companies Act 1989. The Board shall have power to adopt and implement such procedures as it may think fit and as may accord with the Companies Act 1989 and any regulations made thereunder for recording and transferring title to shares or other securities and for the regulation of those procedures and the persons responsible for or involved in their operation and whether generally or in particular cases. References in these Articles to certificates for shares and instruments of transfer shall be construed accordingly.
- 12.3 If and so long as all the issued shares of the Company or all the issued shares of a particular class are fully paid up, then none of those shares shall bear a distinguishing number. In all other cases each share shall bear a distinguishing number.
- 12.4 The Company shall not be bound to issue more than one certificate in respect of shares held jointly by two or more persons. Delivery of a certificate to the person first named on the register shall be sufficient delivery to all joint holders.
- 12.5 Where a member (other than a recognised person) has transferred part only of the shares comprised in a certificate, he shall be entitled without charge to a certificate for the balance of such shares.

### **13 Replacement certificates**

- 13.1 Any two or more certificates representing shares of any one class held by any member may at his request be cancelled and a single new certificate for such shares issued in lieu (without charge) on surrender of the original certificates for cancellation.
- 13.2 If any member shall surrender for cancellation a share certificate representing shares held by him and request the Company to issue in lieu two or more share certificates

representing such shares in such proportions as he may specify, the Board may, if it thinks fit, comply with such request.

- 13.3 If any share certificate shall be defaced, worn out, destroyed or lost, it may be renewed on such terms as to provision of evidence and indemnity (with or without security) and to payment of any exceptional out of pocket expenses incurred by the Company in investigating such evidence and preparing such indemnity and security as the Board may decide, and on surrender of the original certificate (where it is defaced or worn out), but without any further charge.
- 13.4 In the case of shares held jointly by several persons, any such request as is mentioned in this Article 13 may be made by any one of the joint holders.

## **LIEN ON SHARES**

### **14 Lien on shares not fully paid**

The Company shall have a first and paramount lien on any of its shares which are not fully paid, to the extent and in the circumstances permitted by section 150 of the Act. The Board may waive any lien which has arisen and may resolve that any share shall for some limited period be exempt wholly or partially from the provisions of this Article.

### **15 Enforcement of lien by sale**

The Board may sell all or any of the shares subject to any lien at such time or times and in such manner as it may determine. However, no sale shall be made until such time as the monies in respect of which such lien exists or some part thereof are presently payable or the liability or engagement in respect of which such lien exists is liable to be presently fulfilled or discharged, and until a demand and notice in writing stating the amount due or specifying the liability or engagement and demanding payment or fulfilment or discharge thereof and giving notice of intention to sell in default shall have been served on the holder or the persons (if any) entitled by transmission to the shares, and default in payment, fulfilment or discharge shall have been made by him or them for 14 clear days after service of such notice. For giving effect to any such sale, the Board may authorise some person to execute an instrument of transfer of the shares sold in the name and on behalf of the holder or the persons entitled by transmission in favour of the purchaser or as the purchaser may direct. The purchaser shall not be bound to see to the application of the purchase money, and the title of the transferee to the shares shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

### **16 Application of proceeds of sale**

The net proceeds of any sale of shares subject to any lien, after payment of the costs, shall be applied in or towards satisfaction of so much of the amount due to the Company, or of the liability or engagement (as the case may be) as is presently payable or is liable to be presently fulfilled or discharged. The balance (if any) shall (on surrender to the Company for cancellation of the certificate for the shares sold, and subject to a like lien for any moneys not presently payable or any liability or engagement not liable to be presently fulfilled or discharged as existed on the shares before the sale) be paid to the holder or the person (if any) entitled by transmission to the shares so sold (without interest).

## **CALLS ON SHARES**

### **17 Calls**

Subject to the terms of allotment of shares, the Board may from time to time make calls on the members in respect of any moneys unpaid on the shares or any class of shares held by them respectively (whether in respect of nominal value or premium) and not payable on a date fixed by or in accordance with the terms of issue. Each member shall

(subject to receiving at least 14 clear days' notice specifying when and where payment is to be made and whether or not by instalments) be liable to pay the amount of every call so made on him as required by the notice. A call shall be deemed to have been made at the time when the resolution of the Board authorising such call was passed or (as the case may require) any person to whom power has been delegated pursuant to these Articles serves notice of exercise of such power. A call may be required to be paid by instalments and may, before receipt by the Company of any sum due thereunder, be either revoked or postponed in whole or part as regards all or any such members as the Board may determine. A person on whom a call is made shall remain liable notwithstanding the subsequent transfer of the shares in respect of which the call was made. The joint holders of a share shall be jointly and severally liable for the payment of all calls in respect thereof.

## **18 Interest on calls**

If the whole of the sum payable in respect of any call is not paid on or before the day appointed for payment, the person from whom it is due and payable shall pay all costs, charges and expenses that the Company may have incurred by reason of such non-payment, together with interest on the unpaid amount from the day appointed for payment thereof to the time of actual payment at the rate fixed by the terms of the allotment of the share or in the notice of the call or, if no rate is so fixed, at such rate, not exceeding 15 per cent. per annum (compounded on a six monthly basis), as the Board shall determine. The Board may waive payment of such costs, charges, expenses or interest in whole or in part.

## **19 Rights of member when call unpaid**

Unless the Board otherwise determines, no member shall be entitled to receive any dividend or to be present and vote at any general meeting, or at any separate meeting of the holders of any class of shares, either personally or (save as proxy for another member entitled to vote) by proxy, or be reckoned in a quorum, or to exercise any other right as a member unless and until he shall have paid all calls for the time being due and payable on every share held by him, whether alone or jointly with any other person, together with interest and expenses (if any).

## **20 Sums due on allotment treated as calls**

Any sum payable in respect of a share on allotment or at any fixed date, whether in respect of the nominal value of the share or by way of premium or as an instalment of a call, shall for all purposes of these Articles be deemed to be a call duly made. If it is not paid, the provisions of these Articles shall apply as if such amount had become due and payable on the date of allotment or on such fixed date by virtue of a call.

## **21 Power to differentiate**

The Board may make arrangements on the allotment or issue of shares for a difference as between the allottees or holders of such shares in the amount and time of payment of calls.

## **22 Payment in advance of calls**

The Board may, if it thinks fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid on the shares held by him. Such payment in advance of calls shall extinguish pro tanto the liability on the shares on which it is made. The Company may pay interest on the money paid in advance, or so much of it as exceeds the amount for the time being called up on the shares in respect of which such advance has been made, at such rate as the Board may decide. The Board may at any time repay the amount so advanced on giving to such member not less than three months' notice in writing of its intention in that behalf, unless before the expiration of such



notice the amount so advanced shall have been called up on the shares in respect of which it was advanced.

## **23 Delegation of power to make calls and liability of joint holders**

- 23.1 If any uncalled capital of the Company is included in or charged by any mortgage or other security, the Board may delegate on such terms as it thinks fit to the person in whose favour such mortgage or security is executed, or to any other person in trust for him, the power to make calls on the members in respect of such uncalled capital, to sue in the name of the Company or otherwise for the recovery of moneys becoming due in respect of calls so made and to give valid receipts for such moneys. The power so delegated shall subsist during the continuance of the mortgage or security, notwithstanding any change of Directors, and shall be assignable if expressed so to be.
- 23.2 The joint holders of a share shall be jointly and severally liable for the payment of all calls in respect thereof.

## **24 Indemnity against claims in respect of shares**

Whenever any law for the time being of any country, state or place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment, or empowers any government or taxing authority or government official to require the Company to make any payment, in respect of any shares held either jointly or solely by any member or in respect of any dividends or other monies due or payable or accruing due or which may become due or payable to such member by the Company or in respect of any such shares or for or on account or in respect of any member, and whether in consequence of:

- 24.1.1 the death of such member;
- 24.1.2 the non-payment of any income tax or other tax by such member;
- 24.1.3 the non-payment of any estate, probate, succession, death, stamp or other duty by the executor or administrator of such member or by or out of his estate; or
- 24.1.4 any other act or thing;

the Company in every such case:

- (a) shall be fully indemnified by such member or his executor or administrator from all liability arising by virtue of such law; and
- (b) may recover as a debt due from such member or his executor or administrator (wherever constituted or residing) any monies paid by the Company under or in consequence of any such law, together with interest thereon at the rate of 15 per cent. per annum thereon from the date of payment to the date of repayment.

Nothing contained in this Article shall prejudice or affect any right or remedy which any law may confer or purport to confer on the Company and as between the Company and every such member as aforesaid, his executor, administrator, and estate wherever constituted or situated, any right or remedy which such law shall confer or purport to confer on the Company shall be enforceable by the Company.

## **FORFEITURE OF SHARES**

### **25 Notice if call not paid**

If any member fails to pay the whole of any call or any instalment of any call on or before the day appointed for payment, the Board may at any time serve a notice in writing on such member or on any person entitled to the shares by transmission, requiring payment,

on a date not less than 14 clear days' from the date of the notice, of the amount unpaid and any interest which may have accrued thereon and any costs, charges and expenses incurred by the Company by reason of such non-payment. The notice shall name the place where the payment is to be made and state that, if the notice is not complied with, the shares in respect of which such call was made will be liable to be forfeited.

## **26 Forfeiture for non-compliance**

If the notice referred to in Article 25 is not complied with, any share in respect of which it was given may, at any time before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all dividends declared or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.

## **27 Notice after forfeiture**

When any share has been forfeited, notice of the forfeiture shall be served on the person who was before forfeiture the holder of the share or the person entitled to such share by transmission (as the case may be). An entry of such notice having been given and of the forfeiture (with the date thereof) shall forthwith be made in the Register in respect of such share. However, no forfeiture shall be invalidated by any omission to give such notice or to make such entry as aforesaid.

## **28 Forfeiture may be annulled**

The Board may, at any time before any share so forfeited has been cancelled or sold, re-allotted or otherwise disposed of, annul the forfeiture, on the terms that payment shall be made in respect of all calls and interest due thereon and all expenses incurred in respect of the share and on such further terms (if any) as the Board shall see fit.

## **29 Surrender**

The Board may accept a surrender of any share liable to be forfeited. In such case references in these Articles to forfeiture shall include surrender.

## **30 Disposal of forfeited shares**

Every share which shall be forfeited shall thereupon become the property of the Company. Subject to the provisions of the Act, any such share may be sold, re-allotted or otherwise disposed of, either to the person who was before forfeiture the holder thereof or entitled thereto or to any other person, on such terms and in such manner as the Board shall determine. The Board may, for the purposes of the disposal, authorise some person to transfer the share in question and may enter the name of the transferee in respect of the transferred share in the Register notwithstanding the absence of any share certificate being lodged in respect thereof and may issue a new certificate to the transferee. An instrument of transfer executed by that person shall be as effective as if it had been executed by the holder of, or the person entitled by transmission to, the share. The Company may receive the consideration (if any) given for the share on its disposal.

## **31 Effect of forfeiture**

A shareholder whose shares have been forfeited shall cease to be a member in respect of them and shall surrender to the Company for cancellation the certificate for the shares forfeited. He shall nevertheless be liable to pay to the Company all calls made and not paid on such shares at the time of forfeiture, and interest thereon from the date of the forfeiture to the date of payment, in the same manner in all respects as if the shares had not been forfeited, and to satisfy all (if any) claims, demands and liabilities which the Company might have enforced in respect of the shares at the time of forfeiture, without any reduction or allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.

## **32 Extinction of claims**

The forfeiture of a share shall involve the extinction at the time of forfeiture of all interest in and all claims and demands against the Company in respect of the share and all other rights and liabilities incidental to the share as between the holder whose share is forfeited and the Company, except only such of those rights and liabilities as are by these Articles expressly saved, or as are by the Act given or imposed in the case of past members.

## **33 Evidence of forfeiture**

A statutory declaration by a Director or the Secretary that a share has been forfeited in pursuance of these Articles, and stating the date on which it was forfeited, shall, as against all persons claiming to be entitled to the share adversely to the forfeiture thereof, be conclusive evidence of the facts therein stated. The declaration, together with the receipt of the Company for the consideration (if any) given for the share on the sale or disposition thereof and a certificate for the share under the Seal delivered to the person to whom the same is sold or disposed of, shall (subject if necessary to the execution of an instrument of transfer) constitute a good title to the share. Subject to the execution of any necessary transfer, such person shall be registered as the holder of the share and shall be discharged from all calls made prior to such sale or disposition and shall not be bound to see to the application of the purchase money or other consideration (if any), nor shall his title to the share be affected by any act, omission or irregularity relating to or connected with the proceedings in reference to the forfeiture or disposal of the share. Such person shall not (except by express agreement with the Company) become entitled to any dividend which might have accrued on the share before the completion of the sale or disposition thereof.

# **TRANSFER OF SHARES**

## **34 Form of transfer**

Each member may transfer all or any of his shares by instrument of transfer, in the case of certificated shares, in writing in any usual form or in any form approved by the Board. Such instrument shall be executed by or on behalf of the transferor and (in the case of a transfer of a share which is not fully paid up) by or on behalf of the transferee. The transferor shall be deemed to remain the holder of such share until the name of the transferee is entered in the Register in respect of it. In relation to uncertificated shares, references in these Articles to instruments of transfer shall include instructions and/or notifications made in accordance with the relevant system relating to the transfer of such shares. Right to refuse registration

## **35 Right to refuse registration**

35.1.1 In respect of a share which is fully paid up, the Board may, in its absolute discretion and without giving any reason, refuse to register any share transfer unless such transfer satisfies the following conditions:

- (a) it is in respect of a share upon which the Company has no lien;
- (b) it is in respect of only one class of share;
- (c) it is in favour of a single transferee or not more than four joint transferees;
- (d) it is duly stamped (if so required); and
- (e) it is delivered for registration to the registered office of the Company or such other place as the Board may from time to time determine, accompanied, except in the case of a transfer by a recognised person where a certificate has not been issued, by the certificate for the shares to which it relates and such other evidence as the Board may reasonably require to prove the title of the transferor

and the due execution by him of the transfer or, if the transfer is executed by some other person on his behalf, the authority of that person to do so.

35.1.2 In the case of partly paid shares which are listed, the Board may in its absolute discretion and without giving any reason, refuse to register any share transfer providing that the Directors have exercised their discretion without thereby prejudicing dealings being on an open and proper basis.

35.1.3 The Board may also refuse to register a transfer of uncertificated shares in such other circumstances as may be permitted or required by the Uncertificated Securities Regulations 2001 or such other regulations as may be applicable to the holding of dematerialised securities and the relevant system.

### **36 Notice of refusal**

If the Board refuses to register a transfer of a share it shall, within two months after the date on which the transfer was lodged with the Company, send notice of the refusal to the transferee. Any instrument of transfer which the Board refuses to register shall (except in the case of suspected fraud) be returned to the person depositing it. All instruments of transfer which are registered may be retained by the Company.

### **37 Closing of Register**

The registration of transfers of shares or of any class of shares may be suspended at such times and for such periods (not exceeding 30 days in any year) as the Board may from time to time determine. Notice of closure of the Register shall be given in accordance with the requirements of the Act.

### **38 No fees on registration**

No fee shall be charged for registration of a transfer or on the registration of any probate, letters of administration, certificate of death or marriage, power of attorney, notice or other instrument relating to or affecting the title to any shares.

### **39 Other powers in relation to transfers**

39.1 Nothing in these Articles shall preclude the Board from recognising a renunciation of the allotment of any share by the allottee in favour of some other person.

39.2 The Board may, at its discretion, determine to issue shares and warrants as units on terms such that the certificates in respect of such shares and warrants are issued in attached form and are transferable for a period determined by the Board but not exceeding 50 days only on presentation to the Office or such other place as the Board may from time to time determine of certificates for such shares and share warrants in attached form.

## **TRANSMISSION OF SHARES**

### **40 On death**

If a member dies, the survivors or survivor, where he was a joint holder, and his executors or administrators, where he was a sole or the only survivor of joint holders, shall be the only persons recognised by the Company as having any title to his shares. Nothing in these Articles shall release the estate of a deceased member from any liability in respect of any share which has been solely or jointly held by him.

### **41 Election of person entitled by transmission**

Any person becoming entitled to a share in consequence of the death or bankruptcy of any member, or of any other event giving rise to a transmission of such entitlement by

operation of law, may, on such evidence as to his title being produced as the Board may require, elect either to become registered as a member or to have some person nominated by him registered as a member. If he elects to become registered himself, he shall give notice to the Company to that effect. If he elects to have some other person registered, he shall execute an instrument of transfer of such share to that person. All the provisions of these Articles relating to the transfer of shares shall apply to the notice or instrument of transfer (as the case may be) as if it were an instrument of transfer executed by the member and his death, bankruptcy or other event as aforesaid had not occurred. Where the entitlement of a person to a share in consequence of the death or bankruptcy of a member or of any other event giving rise to its transmission by operation of law is proved to the satisfaction of the Board, the Board shall within two months after proof cause the entitlement of that person to be noted in the Register.

## **42 Rights on transmission**

Where a person becomes entitled to a share in consequence of the death or bankruptcy of any member, or of any other event giving rise to a transmission of such entitlement by operation of law, the rights of the holder in relation to such share shall cease. However, the person so entitled may give a good discharge for any dividends and other moneys payable in respect of it and shall have the same rights to which he would be entitled if he were the holder of the share, except that he shall not, before he is registered as the holder of the share, be entitled in respect of it to receive notice of, or to attend or vote at any meeting of the Company or at any separate meeting of the holders of any class of shares of the Company. The Board may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share. If the notice is not complied with within 60 days, the Board may thereafter withhold payment of all dividends and other moneys payable in respect of such share until the requirements of the notice have been complied with.

## **DESTRUCTION OF DOCUMENTS**

### **43 Destruction of documents**

43.1 The Company may destroy:

- 43.1.1 any instrument of transfer, after six years from the date on which it is registered;
- 43.1.2 any dividend mandate or any variation or cancellation thereof or any notification of change of name or address, after two years from the date on which it is recorded;
- 43.1.3 any share certificate, after one year from the date on which it is cancelled; and
- 43.1.4 any other document on the basis of which any entry in the Register is made, after six years from the date on which an entry was first made in the Register in respect of it.

Provided that the Company may destroy any such type of document after such shorter period as the Board may determine if a copy of such document is retained on microfilm or other similar means.

43.2 It shall be conclusively presumed in favour of the Company that every entry in the Register purporting to have been made on the basis of a document so destroyed was duly and properly made, that every instrument of transfer so destroyed was duly registered, that every share certificate so destroyed was duly cancelled and that every other document so destroyed had been properly dealt with in accordance with its terms and was valid and effective in accordance with the particulars in the records of the Company, provided that:

- 43.2.1 this Article 43 shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties to it) to which the document might be relevant;

- 43.2.2 nothing in this Article 43 shall be construed as imposing on the Company any liability in respect of the destruction of any such document otherwise than as provided for in this Article 43 which would not attach to the Company in the absence of this Article 43; and
- 43.2.3 references in this Article 43 to the destruction of any document include references to the disposal of it in any manner.

## **ALTERATION OF SHARE CAPITAL**

### **44 Increase, consolidation, cancellation and sub-division**

The Company in general meeting may from time to time by ordinary resolution:

- 44.1.1 increase its share capital by such sum to be divided into shares of such amount as the resolution prescribes;
- 44.1.2 consolidate and divide all or any of its share capital into shares of larger nominal amount than its existing shares;
- 44.1.3 cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled; and
- 44.1.4 subject to the provisions of the Act, sub-divide its shares or any of them into shares of smaller amount, and may by such resolution determine that, as between the shares resulting from such sub-division, one or more of the shares may, as compared with the others, have any such preferred, deferred or other special rights or be subject to any such restrictions as the Company has power to attach to unissued or new shares.

### **45 Fractions**

- 45.1 Whenever as the result of any consolidation, division or sub-division of shares any difficulty arises, the Board may settle it as it thinks fit and in particular (but without prejudice to the generality of the foregoing) where the number of shares held by any holder is not an exact multiple of the number of shares to be consolidated into a single share and as a result of such consolidation such holder would become entitled to a fraction of a consolidated share:
- 45.1.1 the Board may determine which of the shares of such holder are to be treated as giving rise to such fractional entitlement and may decide that any of those shares shall be consolidated with any of the shares of any other holder or holders which are similarly determined by it to be treated as giving rise to a fractional entitlement for such other holder or holders, into a single consolidated share and the Board may, on behalf of all such holders, sell such consolidated share for the best price reasonably obtained to any person (including the Company) and distribute the net proceeds of sale after deduction of the expenses of sale in due proportion among those holders (except that any amount otherwise due to a holder, being less than £3.00 or such other sum as the Board may from time to time determine, may be retained for the benefit of the Company); or
- 45.1.2 provided that the necessary unissued shares are available, the Board may issue to such holder credited as fully paid by way of capitalisation the minimum number of shares required to round up his holding to an exact multiple of the number of shares to be consolidated into a single share (such issue being deemed to have been effected prior to consolidation); and the amount required to pay up such shares shall be appropriated at the Board's discretion from any of the sums standing to the credit of any of the Company's reserve accounts (including share premium account and capital redemption reserve) or to the credit of profit and loss account and capitalised by applying the same in paying up the share.
- 45.2 For the purposes of any sale of consolidated shares pursuant to Article 45.1, the Board may authorise some person to execute an instrument of transfer of the shares to, or in

accordance with, the directions of the purchaser, and the transferee shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

#### **46 Reduction of capital**

Subject to the provisions of the Act and to any rights for the time being attached to any shares, the Company may by special resolution reduce its share capital or any capital redemption reserve or share premium account in any manner.

#### **47 Purchase of own shares**

Subject to the provisions of the Act and to any rights for the time being attached to any shares, the Company may purchase any of its own shares of any class (including any redeemable shares). Any shares to be so purchased may be selected in any manner whatsoever.

### **VARIATION OF CLASS RIGHTS**

#### **48 Sanction to variation**

- 48.1 All or any of the rights for the time being attached to any share or class of shares in the Company (and notwithstanding that the Company may be or be about to be in liquidation) may be varied or abrogated in such manner (if any) as may be provided by such rights or, in the absence of any such provision, either with the consent in writing of the holders of not less than three-quarters in nominal value of the issued shares of the class or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of shares of the class duly convened and held as hereinafter provided (but not otherwise) to which the provisions of these Articles relating to general meetings shall apply.
- 48.2 The foregoing provisions of this Article shall apply also to the variation or abrogation of the special rights attached to some only of the shares of any class as if each group of shares of the class differently treated formed a separate class the separate rights of which are to be varied.
- 48.3 Subject to the terms on which any shares may be issued, the rights or privileges attached to any class of shares shall be deemed to be varied or abrogated by the reduction of the capital paid up on such shares or by the allotment of further shares ranking in priority thereto in any respect, but shall not be deemed to be varied or abrogated by the creation or issue of any new shares ranking *pari passu* in all respects (save as to the date from which such new shares shall rank for dividend) with or subsequent to those already issued or by the purchase or redemption by the Company of its own shares in accordance with the provisions of the Act and these Articles.

#### **49 Class meetings**

All the provisions in these Articles as to general meetings shall *mutatis mutandis* apply to every meeting of the holders of any class of shares. The quorum at every such meeting shall be not less than two persons holding or representing by proxy at least one third of the nominal amount paid up on the issued shares of the class. Every holder of shares of the class, present in person or by proxy, may demand a poll. Each such holder shall on a poll or show of hands be entitled to one vote for every share of the class held by him. If at any adjourned meeting of such holders such quorum as aforesaid is not present, not less than one person holding shares of the class who is present in person or by proxy shall be a quorum.

## **GENERAL MEETINGS**

### **50 Annual general meetings**

Subject to the provisions of the Act, annual general meetings shall be held at such time and place as the Board may determine.

### **51 Extraordinary general meetings**

All general meetings, other than annual general meetings, shall be called extraordinary general meetings.

### **52 Convening of extraordinary general meeting**

The Board may convene an extraordinary general meeting whenever it thinks fit. An extraordinary general meeting shall also be convened on such requisition, or in default may be convened by such requisitionists, as provided by section 368 of the Act. At any meeting convened on such requisition or by such requisitionists no business shall be transacted except that stated by the requisition or proposed by the Board. If there are not within the United Kingdom sufficient members of the Board to convene a general meeting, any Director, or any member of the Company, may call a general meeting.

### **53 Notice of general meetings**

53.1 An annual general meeting and an extraordinary general meeting convened for the passing of a special resolution shall be convened by not less than 21 clear days' notice in writing. All other extraordinary general meetings shall be convened by not less than 14 clear days' notice in writing.

53.2 Subject to the provisions of the Act, and notwithstanding that it is convened by shorter notice than that specified in this Article 53, a general meeting shall be deemed to have been duly convened if it is so agreed:

53.2.1 in the case of an annual general meeting, by all the members entitled to attend and vote at the meeting; and

53.2.2 in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together holding not less than 95 per cent. in nominal value of the shares giving that right.

53.3 The notice shall specify:

53.3.1 whether the meeting is an annual general meeting or an extraordinary general meeting;

53.3.2 the place, the day and the time of the meeting;

53.3.3 in the case of special business, the general nature of that business;

53.3.4 if the meeting is convened to consider a special or extraordinary resolution, the intention to propose the resolution as such; and

53.3.5 with reasonable prominence, that a member entitled to attend and vote is entitled to appoint one or more proxies to attend and, on a poll, vote instead of him and that a proxy need not also be a member.

53.4 The notice shall be given to the members (other than any who, under the provisions of these Articles or of any restrictions imposed on any shares, are not entitled to receive notice from the Company), to the Directors and to the Auditors.



## **54 Omission to send notice**

The accidental omission to send a notice of meeting or, in cases where it is intended that it be sent out with the notice, an appointment of proxy to, or the non-receipt of either by, any person entitled to receive the same shall not invalidate the proceedings at that meeting.

## **55 Special business**

All business that is transacted at a general meeting shall be deemed special, except the following transactions at an annual general meeting:

- 55.1.1 the declaration of dividends;
- 55.1.2 the receipt and consideration of the annual accounts and the reports of the Directors and the Auditors;
- 55.1.3 the election or re-election of Directors;
- 55.1.4 the fixing of the Directors' fees pursuant to Article 101;
- 55.1.5 the re-appointment of the Auditors retiring (unless they were last appointed otherwise than by the Company in general meeting) and the fixing of the remuneration of the Auditors or the determination of the manner in which such remuneration is to be fixed.

## **PROCEEDINGS AT GENERAL MEETINGS**

## **56 Quorum**

No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. Two persons entitled to attend and to vote on the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation which is a member, shall be a quorum.

## **57 If quorum not present**

If within 15 minutes (or such longer interval as the Chairman in his absolute discretion thinks fit) from the time appointed for the holding of a general meeting a quorum is not present, or if during a meeting such a quorum ceases to be present, the meeting, if convened on the requisition of members, shall be dissolved. In any other case, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such time and place as the Chairman (or, in default, the Board) may determine. If at such adjourned meeting a quorum is not present within 15 minutes from the time appointed for holding the meeting, one person entitled to vote on the business to be transacted, being a member or a proxy for a member or a duly authorised representative of a corporation which is a member, shall be a quorum.

## **58 Chairman**

The Chairman of the Board shall preside at every general meeting of the Company. If there be no such Chairman or if at any meeting he shall not be present within 15 minutes after the time appointed for holding the meeting, or shall be unwilling to act as Chairman, the Deputy Chairman (if any) of the Board shall, if present and willing to act, preside at such meeting. If no Chairman or Deputy Chairman shall be so present and willing to act, the Directors present shall choose one of their number to act or, if there be only one Director present, he shall be Chairman if willing to act. If there be no Director present and willing to act, the members present and entitled to vote shall choose one of their number to be Chairman of the meeting.

## **59 Director may attend and speak**

A Director shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of shares of the Company.

## **60 Power to adjourn**

The Chairman may, with the consent of a meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn any meeting from time to time (or indefinitely) and from place to place as the meeting shall determine. However, without prejudice to any other power which he may have under these Articles or at common law, the Chairman may, without the need for the consent of the meeting, interrupt or adjourn any meeting from time to time and from place to place or for an indefinite period if he is of the opinion that it has become necessary to do so in order to secure the proper and orderly conduct of the meeting, to give all persons entitled to do so a reasonable opportunity of speaking and voting at the meeting or to ensure that the business of the meeting is properly disposed of.

## **61 Notice of adjourned meeting**

Where a meeting is adjourned indefinitely, the Board shall fix the time and place for the adjourned meeting. Whenever a meeting is adjourned for 14 days or more or indefinitely, seven clear days' notice at the least, specifying the place, the day and time of the adjourned meeting and the general nature of the business to be transacted, shall be given in the same manner as in the case of an original meeting. Save as aforesaid, no member shall be entitled to any notice of an adjournment or of the business to be transacted at any adjourned meeting.

## **62 Business of adjourned meeting**

No business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting from which the adjournment took place.

# **VOTING**

## **63 Method of voting**

At any general meeting a resolution put to a vote of the meeting shall be decided on a show of hands, unless (before or on the declaration of the result of the show of hands) a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded by:

- 63.1.1 the Chairman of the meeting; or
- 63.1.2 by at least five members present in person or by proxy and entitled to vote at the meeting; or
- 63.1.3 a member or members present in person or by proxy representing not less than one tenth of the total voting rights of all the members having the right to vote at the meeting; or
- 63.1.4 a member or members present in person or by proxy holding shares conferring a right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to not less than one tenth of the total sum paid up on all the shares conferring that right.

## **64 Chairman's declaration conclusive on show of hands**

Unless a poll is duly demanded and the demand is not withdrawn, a declaration by the Chairman of the meeting that a resolution has on a show of hands been carried, or carried unanimously or by a particular majority, or lost, or not carried by a particular

majority, and an entry to that effect in the book containing the minutes of proceedings of the Company, shall be conclusive evidence thereof, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

## **65 Objection to error in voting**

No objection shall be raised to the qualification of any voter or to the counting of, or failure to count, any vote, except at the meeting or adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any objection or error shall be referred to the Chairman of the meeting and shall only vitiate the decision of the meeting on any resolution if the Chairman decides that the same is of sufficient magnitude to vitiate the resolution or may otherwise have affected the decision of the meeting. The decision of the Chairman on such matters shall be final and conclusive.

## **66 Amendment to resolutions**

If an amendment shall be proposed to any resolution under consideration but shall in good faith be ruled out of order by the Chairman of the meeting, any error in such ruling shall not invalidate the proceedings on the substantive resolution. In the case of a resolution duly proposed as a special or extraordinary resolution, no amendment thereto (other than a mere clerical amendment to correct a patent error) may in any event be considered or voted on.

## **67 Procedure on a poll**

- 67.1 Any poll duly demanded on the election of a Chairman of a meeting or on any question of adjournment shall be taken forthwith. A poll duly demanded on any other matter shall be taken in such manner (including the use of ballot or voting papers or tickets) and at such time and place, not being more than 30 days from the date of the meeting or adjourned meeting at which the poll was demanded, as the Chairman shall direct. No notice need be given of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 67.2 The demand for a poll (other than on the election of a Chairman or any question of adjournment) shall not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded. If a poll is demanded before the declaration of the result on a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- 67.3 The demand for a poll may, before the poll is taken, be withdrawn, but only with the consent of the Chairman. A demand so withdrawn shall validate the result of a show of hands declared before the demand was made.
- 67.4 On a poll votes may be given in person or by proxy. A member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.
- 67.5 A proxy shall, notwithstanding that he is not a member, be entitled to speak at any general meeting and at any separate meeting of the holders of any class of shares of the Company at which the member appointing such proxy would have been entitled to speak.

## **68 Votes of members**

- 68.1 Subject to the provisions of the Act, to any special terms as to voting on which any shares may have been issued or may for the time being be held and to any suspension or abrogation of voting rights pursuant to these Articles, at any general meeting on a show of hands every member entitled to vote who is present in person and every person (not being himself a member entitled to vote) who is present as proxy for a member entitled to

vote shall have one vote and on a poll every member entitled to vote who is present in person or by proxy shall have one vote for every share of any class of which he is the holder, provided that:

- 68.1.1 a person appointed as proxy in respect of a share shall not be entitled to vote, either on a show of hands or on a poll, if the member who appointed that person as his proxy in respect of that share, or (in the case of a corporation) the duly authorised representative of such member, exercises his right to vote in respect of that share; and
- 68.1.2 subject to Article 68.1.1 above, in the event that on a poll a member is present both in person and by proxy his proxy (or, if he has appointed more than one, each of his proxies) shall have one vote for every share of any class in respect of which he has been appointed and the member concerned shall have one vote for every share of any class of which he is the holder and in respect of which he has not appointed a proxy.
- 68.2 If two or more persons are joint holders of a share, then in voting on any question the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders. For this purpose seniority shall be determined by the order in which the names of the holders stand in the Register.
- 68.3 Where in England or elsewhere a receiver or other person (by whatever name called) has been appointed by any court claiming jurisdiction in that behalf to exercise powers with respect to the property or affairs of any member on the ground (however formulated) of mental disorder, the Board may in its absolute discretion, on or subject to production of such evidence of the appointment as the Board may require, permit such receiver or other person to vote in person and/or by proxy in accordance with these Articles on behalf of such member at any general meeting. Evidence to the satisfaction of the Board of the authority of the person claiming to exercise the right to vote shall be deposited at the Office, or at such other place as is specified in accordance with these Articles for the deposit of instruments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised, and in default the right to vote shall not be exercisable.

## **69 Casting vote**

In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll was demanded shall be entitled to a second or casting vote in addition to any other vote that he may have.

## **70 Restriction on voting rights for unpaid calls etc.**

No member shall, unless the Board otherwise determines, be entitled to vote at a general meeting or at any separate meeting of the holders of any class of shares, either in person or (save as proxy for another member entitled to vote) by proxy, in respect of any share held by him or to exercise any right as a member unless all calls or other sums presently payable by him in respect of that share in the Company have been paid to the Company.

## **71 Voting by proxy**

- 71.1 Any person (whether a member of the Company or not) may be appointed to act as a proxy. The appointment of a proxy shall not preclude a member from attending and voting in person at the meeting in respect of which the proxy is appointed or at any adjournment thereof.
- 71.2 If, in relation to the exercise by a member of his rights to vote both in person and by proxy, and/or his right to appoint more than one proxy, in respect of different parts of his holding, any question shall arise as to whether any particular person or persons has or have been validly appointed as his proxy or proxies to vote in respect of any particular part or parts of his holding (whether by reason of the aggregate number of shares

comprised in appointments of proxy deposited by him exceeding the number of shares held by him or for any other reason), such question shall be determined by the Chairman who in making such determination (which may include the rejection of a particular appointment or particular appointments of proxy as invalid) shall act in what he considers on the information available to him and in his absolute discretion to be the manner in which such member would have wished him to act.

## **72 Form of proxy**

An appointment of a proxy shall:

- 72.1.1 be in writing and, if the Board in its absolute discretion determines, may be contained in an electronic communication, in any such case in any common form or in such other form as the Board may approve and (i) if in writing but not contained in an electronic communication, under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, under its common seal or under the hand of some officer or attorney duly authorised in that behalf or (ii) in the case of an appointment contained in an electronic communication, submitted by or on behalf of the appointor, subject to such terms and conditions and authenticated in such manner as the Board may in its absolute discretion determine;
- 72.1.2 be deemed (subject to any contrary direction contained in the same) to confer authority to demand or join in demanding a poll and to vote on any resolution or amendment of a resolution put to the meeting for which it is given, as the proxy thinks fit, but shall not confer any further right to speak at the meeting, except with the permission of the Chairman (or as otherwise determined by the Board where the relevant shares are held by a Depositary);
- 72.1.3 unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates; and
- 72.1.4 where it is stated to apply to more than one meeting, be valid for all such meetings as well as for any adjournment of any such meetings.

## **73 Deposit of proxy**

The appointment of a proxy and the power of attorney or other authority (if any) under which it is signed, or a copy of such authority certified notarially or in some other way approved by the Board shall:

- 73.1.1 in the case of an instrument in writing (including, whether or not the appointment of proxy contained in an electronic communication, any such power of attorney or other authority) be deposited at the Office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any appointment of proxy sent out by the Company in relation to the meeting not less than 48 hours before the time of the holding of the meeting or adjourned meeting at which the person named in the appointment proposes to vote; or
- 73.1.2 in the case of an appointment contained in an electronic communication, where an address has been specified for the purpose of receiving communications:
  - (a) in the notice convening the meeting; or
  - (b) in any instrument of proxy sent out by the Company in relation to the meeting; or
  - (c) in any invitation contained in an electronic communication to appoint a proxy issued by the Company in relation to the meeting,

be received at such address not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote; or

73.1.3 in the case of a poll taken more than 48 hours after it is demanded, be deposited or received as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or

73.1.4 where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the Chairman of the meeting or to any Director;

and an appointment of proxy not deposited, delivered or received in a manner so permitted shall be invalid. No appointment of a proxy shall be valid after the expiry of 12 months from the date named in it as the date of its execution, except at an adjourned meeting or on a poll demanded at a meeting or an adjourned meeting in cases where the meeting was originally held within 12 months from such date.

## **74 More than one proxy may be appointed**

A member may appoint more than one proxy to attend on the same occasion. When two or more valid but differing appointments of proxy are delivered or received in respect of the same share for use at the same meeting and in respect of the same matter, the one which is last validly delivered or received (regardless of its date or of the date of its execution or submission) shall be treated as replacing and revoking the other or others as regards that share. If the Company is unable to determine which appointment was last validly delivered or received, none of them shall be treated as valid in respect of that share.

## **75 Board may supply proxy cards**

The Board may at the expense of the Company send or make available, by post, electronic communication or otherwise, appointments of proxy (reply-paid or otherwise) to members for use at any general meeting or at any separate meeting of the holders of any class of shares, either in blank or nominating in the alternative any one or more of the Directors or any other persons. If for the purpose of any meeting invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the Company, such invitations shall, subject to Article 54, be issued to all (and not some only) of the members entitled to be sent a notice of the meeting and to vote thereat by proxy.

## **76 Revocation of proxy**

A vote given or poll demanded in accordance with the terms of an appointment of proxy shall be valid notwithstanding the death or mental disorder of the principal or the revocation of the appointment of proxy, or of the authority under which the appointment of proxy was executed, or submitted, or the transfer of the share in respect of which the appointment of proxy is given, unless notice in writing of such death, mental disorder, revocation or transfer shall have been received by the Company at the Office, or where the appointment of proxy was contained in an electronic communication, at the address of which such appointment was duly received, or at such other place or address as has been appointed for the deposit or receipt of appointments of proxy, at least 48 hours before the commencement of the meeting or adjourned meeting or the taking of the poll at which the appointment of proxy is used.

## **77 Corporate representative**

A corporation (whether or not a company within the meaning of the Act) which is a member may, by resolution of its directors or other governing body, authorise such person (or if, but only if, such corporation is a Depositary voting in its capacity as such,

persons) as it thinks fit to act as its representative (or, as the case may be, representatives) at any meeting of the Company or at any separate meeting of the holders of any class of shares. Any person so authorised shall be entitled to exercise the same powers on behalf of the corporation (in respect of that part of the corporation's holdings to which the authority relates) as the corporation could exercise if it were an individual member. The corporation shall for the purposes of these Articles be deemed to be present in person at any such meeting if a person so authorised is present at it; and all references to attendance and voting in person shall be construed accordingly. A Director, the Secretary or some person authorised for the purpose by the Secretary may require the representative to produce a certified copy of the resolution so authorising him before permitting him to exercise his powers.

## **78 Failure to disclose interests in shares**

78.1 If a member, or any other person appearing to be interested in shares held by that member, has been issued with a notice pursuant to section 212 of the Act and has failed in relation to any shares ("the default shares") to give the Company the information thereby required (or, in the case of a Depositary, the information referred to in Article 78.5) within the prescribed period from the date of service of the notice, the following sanctions shall apply unless the Board otherwise determines:

78.1.1 the member shall not be entitled in respect of the default shares to be present or to vote (either in person or by representative or proxy) at any general meeting or at any separate meeting of the holders of any class of shares or on any poll or to exercise any other right conferred by membership in relation to any such meeting or poll; and

78.1.2 where the default shares represent at least 0.25 per cent. of their class:

(a) any dividend (including shares issued in lieu of dividend) or other money payable in respect of the shares shall be withheld by the Company, which shall not have any obligation to pay interest on it; and

(b) no transfer, other than an excepted transfer, of any shares held by the member shall be registered unless:

(i) the member is not himself in default as regards supplying the information required; and

(ii) the member proves to the satisfaction of the Board that no person in default as regards supplying such information is interested in any of the shares the subject of the transfer.

78.2 Where the sanctions under Article 78.1 apply in relation to any shares, they shall cease to have effect (and any dividends withheld under Article 78.1.2 shall become payable):

78.2.1 if the shares are transferred by means of an excepted transfer or by means of any other transfer approved for registration by the Board; or

78.2.2 at the end of the period of 7 days (or such shorter period as the Board may determine) following receipt by the Company of the information required by the notice mentioned in that paragraph and the Board being fully satisfied that such information is full and complete.

78.3 Where, on the basis of information obtained from a member in respect of any share held by him, the Company issues a notice pursuant to section 212 of the Act to any other person, it shall at the same time send a copy of the notice to the member, but the accidental omission to do so, or the non-receipt by the member of the copy, shall not invalidate or otherwise affect the application of Article 78.1.

78.4 Where default shares in which a person appears to be interested are held by a Depositary, the provisions of this Article 78 shall be treated as applying only to those

shares held by the Depositary in which such person appears to be interested and not (insofar as such person's apparent interest is concerned) to any other shares held by the Depositary.

78.5 Where the member on which a notice under section 212 of the Act is served is a Depositary acting in its capacity as such, the obligations of the Depositary as a member of the Company shall be limited to disclosing to the Company such information relating to any person appearing to be interested in the shares held by it as has been recorded by it pursuant to the arrangements entered into by the Company or approved by the Directors pursuant to which it was appointed as a Depositary.

78.6 For the purposes of this Article 78:

78.6.1 a person, other than the member holding a share, shall be treated as appearing to be interested in that share if the member has informed the Company that the person is, or may be, so interested, or if the Company (after taking account of any information obtained from the member or, pursuant to a notice under section 212 of the Act, from anyone else) knows or has reasonable cause to believe that the person is, or may be, so interested;

78.6.2 "interested" shall be construed as it is for the purpose of section 212 of the Act;

78.6.3 reference to a person having failed to give the Company the information required by a notice, or being in default as regards supplying such information, includes reference to his having failed or refused to give all or any part of it and to his having given information which he knows to be false in a material particular or having recklessly given information which is false in a material particular;

78.6.4 the "prescribed period" means:

- (a) in a case where the default shares represent at least 0.25 per cent. of their class, 14 days; and
- (b) in any other case, 28 days;

78.6.5 an "excepted transfer" means, in relation to any shares held by a member:

- (a) a transfer by way of or pursuant to acceptance of a takeover offer for the Company (within the meaning of Part V of the Criminal Justice Act 1993); or
- (b) a transfer in consequence of a sale made through a recognised investment exchange (as defined in Part XVIII of the Financial Services and Markets Act 2000) or any other stock exchange outside the United Kingdom on which the Company's shares are normally traded; or
- (c) a transfer which is shown to the satisfaction of the Board to be made in consequence of a sale of the whole of the beneficial interest in the shares to a person who is unconnected with the member and with any other person appearing to be interested in the shares.

78.7 Nothing contained in this Article 78 shall be taken to limit the powers of the Company under section 216 of the Act.

## **UNTRACED MEMBERS**

### **79 Power of sale**

79.1 The Company shall be entitled to sell at the best price reasonably obtainable any share of a member, or any share to which a person is entitled by transmission, if and provided that:

79.1.1 during the period of 12 years prior to the date of the publication of the advertisements



referred to in sub-paragraph (b) below (or, if published on different dates, the earlier or earliest thereof) no cheque, order or warrant in respect of such share sent by the Company through the post in a pre-paid envelope addressed to the member or to the person entitled by transmission to the share, at his address on the Register or other last known address given by the member or person to which cheques, orders or warrants in respect of such share are to be sent has been cashed and the Company has received no communications in respect of such share from such member or person, provided that during such period of 12 years the Company has paid at least three cash dividends (whether interim or final) and no such dividend has been claimed by the person entitled to it;

- 79.1.2 on expiry of the said period of 12 years the Company has given notice of its intention to sell such share(s) by advertisements in two newspapers of which one shall be a national daily newspaper published in the United Kingdom and the other shall be a newspaper circulating in the area of the address on the Register or other last known address of the member or the person entitled by transmission to the share;
- 79.1.3 the said advertisements, if not published on the same day, shall have been published within 30 days of each other;
- 79.1.4 during the further period of three months following the date of publication of the said advertisements (or, if published on different dates, the later or latest thereof) and prior to the exercise of the power of sale the Company has not received any communication in respect of such share from the member or person entitled by transmission; and
- 79.1.5 the Company has given notice to the London Stock Exchange of its intention to make such sale, if shares of the class concerned are listed or dealt in on that exchange.
- 79.2 To give effect to any sale of shares pursuant to this Article 79 the Board may authorise some person to transfer the shares in question and may enter the name of the transferee in respect of the transferred shares in the Register notwithstanding the absence of any share certificate being lodged in respect thereof and may issue a new certificate to the transferee. An instrument of transfer executed by that person shall be as effective as if it had been executed by the holder of, or the person entitled by transmission to, the shares. The purchaser shall not be bound to see to the application of the purchase moneys nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings relating to the sale.
- 79.3 If during the period of 12 years referred to in Article 79.1, or during any period ending on the date when all the requirements of paragraphs (a) to (e) of Article 79.1 have been satisfied, any additional shares have been issued in respect of those held at the beginning of, or previously so issued during, any such period and all the requirements of paragraphs (b) to (d) of Article 79.1 have been satisfied in regard to such additional shares, the Company shall also be entitled to sell the additional shares.

## **80 Application of proceeds of sale**

The Company shall account to the member or other person entitled to such shares for the net proceeds of such sale by carrying all moneys in respect thereof to a separate account. The Company shall be deemed to be a debtor to, and not a trustee for, such member or other person in respect of such moneys. Moneys carried to such separate account may either be employed in the business of the Company or invested in such investments as the Board may from time to time think fit. No interest shall be payable to such member or other person in respect of such moneys and the Company shall not be required to account for any money earned on them.

## **APPOINTMENT, RETIREMENT AND REMOVAL OF DIRECTORS**

### **81 Number of Directors**

Unless and until otherwise determined by the Company by ordinary resolution, the number of Directors (other than any alternate Directors) shall be not more than ten or less than two.

### **82 Power of Company to appoint Directors**

Subject to the provisions of these Articles, the Company may by ordinary resolution appoint a person who is willing to act to be a Director, either to fill a vacancy or as an addition to the existing Board, but the total number of Directors shall not exceed any maximum number fixed in accordance with these Articles.

### **83 Power of Board to appoint Directors**

Without prejudice to the power of the Company to appoint any person to be a Director pursuant to these Articles, the Board shall have power at any time to appoint any person who is willing to act as a Director, either to fill a vacancy or as an addition to the existing Board, but the total number of Directors shall not exceed any maximum number fixed in accordance with these Articles. Any Director so appointed shall retire at the annual general meeting of the Company next following such appointment and shall not be taken into account in determining the number of Directors who are to retire by rotation at such meeting.

### **84 Appointment of executive Directors**

Subject to the provisions of the Act, the Board may from time to time appoint one or more of its body to hold any employment or executive office (including that of Managing Director) for such term (subject to the provisions of the Act) and subject to such other conditions as the Board thinks fit in accordance with Article 108. The Board may revoke or terminate any such appointment without prejudice to any claim for damages for breach of contract between the Director and the Company.

### **85 Eligibility of new Directors**

No person, other than a Director retiring (by rotation or otherwise), shall be appointed or re-appointed a Director at any general meeting unless:

85.1.1 he is recommended by the Board; or

85.1.2 not less than seven nor more than 35 clear days before the date appointed for the meeting, notice duly executed by a member (other than the person to be proposed) qualified to vote at the meeting has been given to the Company of the intention to propose that person for appointment or re-appointment, stating the particulars which would, if he were so appointed or re-appointed, be required to be included in the Company's register of directors, together with notice executed by that person of his willingness to be appointed or re-appointed, is lodged at the Office.

### **86 Share qualification**

A Director shall not be required to hold any shares of the Company.

### **87 Resolution for appointment**

A resolution for the appointment of two or more persons as Directors by a single resolution shall be void unless an ordinary resolution that it shall be so proposed has first been agreed to by the general meeting without any vote being given against it.

## **88 Retirement**

- 88.1 At each annual general meeting of the Company one-third of the Directors who are subject to retirement by rotation or, if their number is not three or a multiple of three, the number nearest to but not exceeding one-third shall retire from office. If there are fewer than three Directors who are subject to retirement by rotation, one Director shall retire from office.
- 88.2 In addition to any Director required to retire by rotation under Article 88.1 there shall also be required to retire by rotation any Director who at an annual general meeting of the Company shall have then been a Director at each of the preceding two annual general meetings of the Company and who was not required to retire by rotation at either such annual general meeting and who has not otherwise ceased to be a Director (either by resignation, retirement, removal or otherwise) and has been reappointed by general meeting of the Company at or since either such annual general meeting.

## **89 Directors subject to retirement by rotation**

Subject to the provisions of the Act and of these Articles, the Directors to retire by rotation at each annual general meeting shall include, so far as necessary to obtain the number required, first, any Director who wishes to retire and not offer himself for re-election and secondly, those Directors who have been longest in office since their last appointment or re-appointment. As between two or more Directors who have been in office an equal length of time, the Director to retire shall, in default of agreement between them, be determined by lot. The Directors to retire on each occasion (both as to number and identity) shall be determined by the composition of the Board at the start of business on the date of the notice convening the annual general meeting notwithstanding any change in the number or identity of the Directors after that time but before the close of the meeting.

## **90 Position of retiring Director**

A Director who retires at an annual general meeting (whether by rotation or otherwise) may, if willing to act, be re-appointed. If he is not re-appointed, he shall retain office until the meeting appoints someone in his place or, if it does not do so, until the end of the meeting.

## **91 Director vacancy**

At any general meeting at which a Director retires by rotation the Company may fill the vacancy.

## **92 No retirement on account of age**

No person shall be or become incapable of being appointed a Director by reason of his having attained the age of 70 or any other age, nor shall any special notice be required in connection with the appointment or the approval of the appointment of such person. No Director shall vacate his office at any time by reason of the fact that he has attained the age of 70 or any other age; and section 293 of the Act shall not apply to the Company. Where any general meeting of the Company is convened at which, to the knowledge of the Board, a Director will be proposed for appointment or re-appointment who will at the date of the meeting be 70 or more, the Board shall give notice of his age in the notice convening the meeting or in any document accompanying the notice, but the accidental omission to do so shall not invalidate any proceedings or any appointment or re-appointment of that Director at that meeting.

## **93 Removal by ordinary resolution**

The Company may by ordinary resolution remove any Director before the expiration of his period of office in accordance with the Act, but without prejudice to any claim for damages

which he may have for breach of any contract of service between him and the Company, and may (subject to these Articles) by ordinary resolution appoint another person who is willing to act to be a Director in his place. Any person so appointed shall be treated, for the purposes of determining the time at which he or any other Director is to retire, as if he had become a Director on the day on which the person in whose place he is appointed was last appointed or re-appointed a Director.

## **94 Vacation of office by Director**

Without prejudice to the provisions for retirement (by rotation or otherwise) contained in these Articles, the office of a Director shall be vacated if:

- 94.1.1 he resigns by notice in writing delivered to the Secretary at the Office or tendered at a Board meeting;
- 94.1.2 he ceases to be a Director by virtue of any provision of the Act, is removed from office pursuant to these Articles or becomes prohibited by law from being a Director;
- 94.1.3 he becomes bankrupt, has an interim receiving order made against him, makes any arrangement or compounds with his creditors generally or applies to the court for an interim order under section 253 of the Insolvency Act 1986 in connection with a voluntary arrangement under that Act;
- 94.1.4 an order is made by any court of competent jurisdiction on the ground (howsoever formulated) of mental disorder for his detention or for the appointment of a guardian or receiver or other person to exercise powers with respect to his affairs or he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, under the Mental Health (Scotland) Act 1984 and the Board resolves that his office be vacated;
- 94.1.5 both he and his alternate Director appointed pursuant to the provisions of these Articles (if any) are absent, without the permission of the Board, from Board meetings for six consecutive months and the Board resolves (within 2 months of the date of the last meeting from which he and such alternate Director were absent during such period) that his office be vacated; or
- 94.1.6 he is requested to resign by a notice in writing delivered to the Office or tendered at a meeting of the Board signed by all of the other Directors (not being less than two in number) and, for this purpose, like notices each signed by a Director shall be as effective as a single notice signed by a number of Directors.

## **95 Resolution as to vacancy conclusive**

A resolution of the Board declaring a Director to have vacated office under the terms of Article 94 shall be conclusive as to the fact and grounds of vacation stated in the resolution.

## **ALTERNATE DIRECTORS**

### **96 Appointments**

- 96.1 Each Director (other than an alternate Director) may, by notice in writing delivered to the Secretary at the Office, or in any other manner approved by the Board, appoint any other Director or any person approved for that purpose by the Board and willing to act, to be his alternate.
- 96.2 No appointment of an alternate Director shall be effective until his consent to act as a Director in the form prescribed by the Act has been received at the Office.
- 96.3 An alternate Director need not hold a share qualification and shall not be counted in

reckoning any maximum number of Directors allowed by these Articles.

## **97 Participation in Board meetings**

Every alternate Director shall (subject to his giving to the Company an address within the United Kingdom at which notices may be served on him) be entitled to receive notice of all meetings of the Board and all committees of the Board of which his appointor is a member and, in the absence from such meetings of his appointor, to attend and vote at such meetings and to exercise all the powers, rights, duties and authorities of his appointor. A Director acting as alternate Director shall have a separate vote at Board meetings for each Director for whom he acts as alternate Director, but he shall count as only one for the purpose of determining whether a quorum is present.

## **98 Alternate Director responsible for own acts**

Every person acting as an alternate Director shall be an officer of the Company, shall alone be responsible to the Company for his own acts and defaults and shall not be deemed to be the agent of the Director appointing him.

## **99 Interests of alternate Director**

An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements with the Company and to be repaid expenses and to be indemnified to the same extent *mutatis mutandis* as if he were a Director. However, he shall not be entitled to receive from the Company any fees for his services as alternate, except only such part (if any) of the fee payable to his appointor as such appointor may by notice in writing to the Company direct. Subject to this Article, the Company shall pay to an alternate Director such expenses as might properly have been paid to him if he had been a Director.

## **100 Revocation of appointment**

An alternate Director shall cease to be an alternate Director:

- 100.1.1 if his appointor revokes his appointment; or
- 100.1.2 if his appointor ceases for any reason to be a Director, provided that if any Director retires but is re-appointed or deemed to be re-appointed at the same meeting, any valid appointment of an alternate Director which was in force immediately before his retirement shall remain in force; or
- 100.1.3 if any event happens in relation to him which, if he were a Director otherwise appointed, would cause him to vacate office.

## **DIRECTORS' REMUNERATION, EXPENSES AND PENSIONS**

### **101 Directors' fees**

The Directors (other than alternate Directors) shall be entitled to receive by way of fees for their services as Directors such sum as the Board may from time to time determine provided that the aggregate amount paid to Directors by way of fees shall not exceed £150,000 in any financial year or such greater sum as may be determined from time to time by ordinary resolution of the Company. Any fees payable pursuant to this Article shall be distinct from and shall not include any salary, remuneration for an executive office or other amounts payable to a Director pursuant to any other provisions of these Articles and shall accrue from day to day.

## **102 Expenses**

Each Director shall be entitled to be repaid all reasonable travelling, hotel and other expenses properly incurred by him or her in or about the performance of his duties as Director, including any expenses incurred in attending meetings of the Board or any Committee of the Board or general meetings or separate meetings of the holders of any class of shares or of debentures of the Company.

## **103 Additional remuneration**

If by arrangement with the Board any Director shall perform or render any special duties or services outside his ordinary duties as a Director (and not in his capacity as a holder of employment or an executive office), he may be paid such reasonable additional remuneration (whether by way of salary, commission, participation in profits or otherwise) as the Board may from time to time determine.

## **104 Remuneration of executive Directors**

The salary or remuneration of any Director appointed to hold any employment or executive office in accordance with the provisions of these Articles may be either a fixed sum of money, or may altogether or in part be governed by business done or profits made or otherwise determined by the Board, and may be in addition to or in lieu of any fee payable to him for his services as Director pursuant to these Articles.

## **105 Pensions**

The Board may exercise all the powers of the Company to provide pensions or other retirement or superannuation benefits and to provide death or disability benefits or other allowances or gratuities (whether by insurance or otherwise) for, or to institute and maintain any institution, association, society, club, trust, other establishment or profit-sharing, share incentive, share purchase or employees' share scheme calculated to advance the interests of the Company or to benefit, any person who is or has at any time been a Director of the Company or any company which is a holding company or a subsidiary undertaking of or allied to or associated with the Company or any such holding company or subsidiary undertaking or any predecessor in business of the Company or of any such holding company or subsidiary undertaking, and for any member of his family (including a spouse or former spouse) and any person who is or was dependent on him. For such purpose the Board may establish, maintain, subscribe and contribute to any scheme, institution, association, club, trust or fund and pay premiums and, subject to the provisions of the Act, lend money or make payments to, guarantee or give an indemnity in respect of, or give any financial or other assistance in connection with any of the aforesaid matters. The Board may procure any of such matters to be done by the Company either alone or in conjunction with any other person. Any Director or former Director shall be entitled to receive and retain for his own benefit any pension or other benefit provided under this Article and shall not be obliged to account for it to the Company.

# **POWERS AND DUTIES OF THE BOARD**

## **106 Powers of the Board**

Subject to the provisions of the Act, the Memorandum of Association of the Company and these Articles and to any directions given by special resolution of the Company, the business of the Company shall be managed by the Board, which may exercise all the powers of the Company, whether relating to the management of the business or not. No alteration of the Memorandum of Association or of these Articles and no such direction given by the Company shall invalidate any prior act of the Board which would have been valid if such alteration had not been made or such direction had not been given. Provisions contained elsewhere in these Articles as to any specific power of the Board shall not be deemed to limit the general powers given by this Article.

## **107 Powers of Directors being less than minimum number**

If the number of Directors is less than the minimum for the time being prescribed by these Articles, the remaining Director shall act only for the purposes of appointing an additional Director to make up such minimum or of convening a general meeting of the Company for the purpose of making such appointment. If there is no Director able or willing to act, any two members may summon a general meeting for the purpose of appointing Directors. Subject to the provisions of these Articles, any additional Director so appointed shall hold office only until the dissolution of the annual general meeting of the Company next following such appointment unless he is re-elected during such meeting.

## **108 Powers of executive Directors**

The Board may from time to time:

- 108.1.1 delegate or entrust to and confer on any Director holding executive office (including a Managing Director) such of its powers, authorities and discretions (with power to sub-delegate) for such time, on such terms and subject to such conditions as it thinks fit; and
- 108.1.2 revoke, withdraw, alter or vary all or any of such powers.

## **109 Delegation to committees**

- 109.1 The Board may delegate any of its powers, authorities and discretions (with power to sub-delegate) for such time on such terms and subject to such conditions as it thinks fit to any committee consisting of one or more Directors and (if thought fit) one or more other persons, provided that:
  - 109.1.1 a majority of the members of a committee shall be Directors; and
  - 109.1.2 no resolution of a committee shall be effective unless a majority of those present when it is passed are Directors or alternate Directors.
- 109.2 The Board may confer such powers either collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Board in that respect and may from time to time revoke, withdraw, alter or vary any of such powers and discharge any such committee in whole or in part. Insofar as any power, authority or discretion is so delegated, any reference in these Articles to the exercise by the Board of such power, authority or discretion shall be construed as if it were a reference to the exercise of such power, authority or discretion by such committee.

## **110 Power of attorney**

The Board may by power of attorney or otherwise, appoint any person or persons to be the agent of the Company and may delegate to any such person or persons any of its powers, authorities and discretions (with power to sub-delegate), in each case for such purposes and for such time, on such terms (including as to remuneration) and subject to such conditions as it thinks fit. The Board may confer such powers either collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Board in that respect and may from time to time revoke, withdraw, alter or vary any of such powers.

## **111 Exercise of voting power**

The Board may exercise or cause to be exercised the voting power conferred by the shares in any other company held or owned by the Company, or any power of appointment to be exercised by the Company, in such manner in all respects as it thinks fit (including the exercise of the voting power or power of appointment in favour of the appointment of any Director as a director or other officer or employee of such company or in favour of the payment of remuneration to the directors, officers or employees of such company).

## **112 Borrowing powers**

- 112.1 Subject as provided in this Article 112, the Board may exercise all the powers of the Company to borrow money and to mortgage or charge all or any part of the undertaking, property and assets (present or future) and uncalled capital of the Company and, subject to the provisions of the Act, to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.
- 112.2 The Board shall restrict the borrowings of the Company and exercise all voting and other rights or powers of control exercisable by the Company in relation to its subsidiary undertakings (if any) so that, without the previous sanction of an ordinary resolution of the Company, (so far as the Company is able) no new borrowings are incurred if, as a result, the aggregate principal amount outstanding of all net borrowings by the Group (exclusive of certain borrowings owing by one member of the Group to another member of the Group, other than amounts to be taken into account under Article 112.4.3 below) exceeds an amount equal to 100 per cent. of the value of the gross assets of the Company provided that prior to the first audited balance sheet of the Company being available, the borrowings of the Company shall be limited to an amount equal to the amount standing to the credit of the Company's share capital and share premium account and special reserves.
- 112.3 For the purpose of this Article 112:
- 112.3.1 "the value of the gross assets of the Company" shall mean the total value of all assets owned by the Company (including the value of the Company's holdings in its subsidiary undertakings), such assets to be valued on the following bases:
- (a) the value of securities listed or dealt in on any reputable or recognised stock exchange or securities market shall be calculated by reference to the closing middle market price or average closing price, as appropriate, based on the official or other list relevant to such stock exchange or securities market on the relevant date or, if the relevant date is not a business day, the immediately preceding business day, or, where such value is unavailable, the value as certified by a stockbroker or other professional person qualified to certify the same; and
  - (b) the value of other securities (or the Company's holdings in its subsidiary undertakings) shall be at valuations determined by or on behalf of the Board in accordance with such valuation principles as may be recommended by the Auditors;
- 112.3.2 "borrowings" shall be deemed to include not only borrowings but also the following, except insofar as otherwise taken into account:
- (a) the nominal amount of any issued share capital and the principal amount of any debentures or borrowed moneys, the beneficial interest wherein, or the right to repayment whereof, is not for the time being owned by a member of the Group or of any other body (whether corporate or unincorporate) and the payment or repayment whereof is the subject of a guarantee or indemnity by a member of the Group;
  - (b) the outstanding principal amount raised by acceptances by any bank or accepting house under any acceptance credit opened on behalf of and in favour of any member of the Group;
  - (c) the principal or nominal amount of any debenture or other debt instrument (whether secured or unsecured) of a member of the Group owned otherwise than by a member of the Group;
  - (d) the nominal amount of any preference share capital of any subsidiary undertaking beneficially owned otherwise than by a member of the Group;



- (e) any fixed or minimum premium payable on final redemption or repayment of any borrowing or deemed borrowing; and
- (f) any liability under a finance lease (to the extent such amount is to be included in the audited balance sheet of any member of the Group in accordance with generally accepted accounting principles);

but shall be deemed not to include borrowings for the purposes of repaying the whole or any part of borrowings by a member of the Group for the time being outstanding and so to be applied within six months of being so borrowed, pending their application for such purpose within such period; and

- 112.3.3 "net borrowings" shall, at any time, mean the amount of borrowings at that time less cash and money market instruments (valued in accordance with the provisions set out in Article 112.3.1) held by the Company at that time, and the Board may from time to time determine which instruments shall constitute money market instruments for this purpose (which, without restricting the Board's discretion, may include floating rate notes of any maturity and gilts and bonds with a maturity of up to five years); and
- 112.3.4 "the Group" shall mean the Company and its subsidiary undertakings (if any) and "subsidiary undertaking" shall mean a subsidiary undertaking (within the meaning of the Act) of the Company (except a subsidiary undertaking which is excluded from consolidation by virtue of the provisions of section 229 of the Act).
- 112.4 When the aggregate principal amount of borrowings required to be taken into account for the purposes of this Article 112 on any particular date is being ascertained:
  - 112.4.1 any such assets or monies valued, denominated or repayable (or repayable at the option of any person other than the Company) in a currency other than sterling shall be converted for the purpose of calculating the sterling equivalent at the relevant rate of exchange used for the purposes of the translation of such currency in the latest audited balance sheet or, if the relevant currency was not thereby involved or if the Board so determine, by reference to the rate of exchange ruling in London on such date and determined on such basis as the Auditors may have certified to be appropriate; and
  - 112.4.2 where under the terms of any borrowing the amount of money that would be required to discharge the principal amount of such borrowing in full if it fell to be repaid (at the option of the Company or by reason of default) on such date is less than the amount that would otherwise be taken into account in respect of such borrowing for the purpose of this Article, the amount of such borrowing to be taken into account for the purpose of this Article shall be such lesser amount;
  - 112.4.3 monies borrowed by a partly-owned subsidiary undertaking and not owing to another member of the Group shall be taken into account subject to the exclusion of a proportion thereof equal to the relevant proportion and moneys borrowed and owing to a partly-owned subsidiary undertaking by another member of the Group shall be taken into account to the extent of a proportion thereof equal to the relevant proportion; for the purposes of this paragraph relevant proportion shall mean the proportion of the issued equity share capital of such partly-owned subsidiary undertaking which is not attributable (directly or indirectly) to the Company.
- 112.5 A report or certificate of the Auditors as to the amount of the gross assets of the Company or the amount of moneys borrowed falling to be taken into account for the purposes of this Article 112 or to the effect that the limit imposed by this Article 112 has not been or will not be exceeded at any particular time or times or as a result of any particular transaction or transactions shall be conclusive evidence of the amount or of that fact. Nevertheless, the Board may at any time act in reliance on a bona fide estimate of the amount of the gross assets of the Company; and if in consequence the limit on borrowings set out in this Article is inadvertently exceeded, an amount borrowed equal to the excess may be disregarded until the expiration of three months after the date on which (by reason of a determination of the Auditors or otherwise) the Board became

aware that such a situation has or may have arisen.

- 112.6 No debt incurred or security given in respect of moneys borrowed in excess of the limit imposed by this Article 112 shall be invalid or ineffectual, except in the case of express notice to the lender or recipient of the security at the time when the debt was incurred or security given that the limit had been or would thereby be exceeded, but no lender or other person dealing with the Company shall be concerned to see or enquire whether such limit is observed.

## **PROCEEDINGS OF DIRECTORS AND COMMITTEES**

### **113 Board meetings**

Subject to the provisions of these Articles, the Board may meet for the despatch of business, adjourn and otherwise regulate its proceedings as it thinks fit.

### **114 Notice of Board meetings**

One Director may, and the Secretary at the request of a Director shall, summon a Board meeting at any time. A Director may waive the requirement that notice be given to him of any Board meeting, either prospectively or retrospectively. It shall not be necessary to give notice of a Board meeting to a Director who is absent from the United Kingdom unless he has requested the Board in writing that notices of Board meetings shall during his absence be given to him at any address in the United Kingdom notified to the Company for this purpose, but he shall not, in such event, be entitled to a longer period of notice than if he had been present in the United Kingdom at that address.

### **115 Quorum**

The quorum necessary for the transaction of business may be determined by the Board and until otherwise determined shall be two persons, each being a Director or an alternate Director. A duly convened meeting of the Board at which a quorum is present shall be competent to exercise all or any of the authorities, powers, and discretions for the time being vested in or exercisable by the Board.

### **116 Chairman of Board**

The Board may appoint one or more of its body Chairman or Joint Chairman and one or more of its body Deputy Chairman of its meetings and may determine the period for which he is or they are to hold office and may at any time remove him or them from office. If no such Chairman or Deputy Chairman is elected, or if at any meeting neither a Chairman nor a Deputy Chairman is present within five minutes of the time appointed for holding the same, the Directors present shall choose one of their number to be Chairman of such meeting. In the event of two or more Joint Chairmen or, in the absence of a Chairman, two or more Deputy Chairmen being present, the person to act as Chairman of the meeting shall be decided by those Directors present. Any Chairman or Deputy Chairman may also hold executive office.

### **117 Voting**

Questions arising at any meeting shall be determined by a majority of votes. In the case of an equality of votes the Chairman of that meeting shall have a second or casting vote.

### **118 Participation by telephone**

Any Director or his alternate may validly participate in a meeting of the Board or a committee of the Board through the medium of conference telephone or similar form of communication equipment, provided that all persons participating in the meeting are able to hear and speak to each other throughout such meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a

quorum and be entitled to vote. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no group which is larger than any other group, where the Chairman of the meeting then is.

## **119 Resolution in writing**

A resolution in writing executed by all the Directors for the time being entitled to receive notice of a Board meeting and not being less than a quorum, or by all the members of a committee of the Board for the time being entitled to receive notice of such committee meeting and not being less than a quorum of that committee, shall be as valid and effective for all purposes as a resolution duly passed at a meeting of the Board (or committee, as the case may be). Such a resolution:

- 119.1.1 may consist of several documents in the same form each executed by one or more of the Directors or members of the relevant committee, including executions evidenced by means of facsimile transmission;
- 119.1.2 need not be signed by an alternate Director if it is signed by the Director who appointed him;
- 119.1.3 if signed by an alternate Director, need not also be signed by his appointor; and
- 119.1.4 to be effective, need not be signed by a Director who is prohibited by these Articles from voting thereon, or by his alternate Director.

## **120 Proceedings of committees**

All committees of the Board shall, in the exercise of the powers delegated to them and in the transaction of business, conform to any mode of proceedings and regulations which the Board may prescribe and subject thereto shall be governed by such of these Articles as regulate the proceedings of the Board as are capable of applying.

## **121 Minutes of proceedings**

- 121.1 The Board shall cause minutes to be made in books kept for the purpose of recording:
  - 121.1.1 all appointments of officers and committees made by the Board; and
  - 121.1.2 the names of Directors present at every meeting of the Board, of a committee of the Board, of the Company or of the holders of any class of shares or debentures of the Company, and all orders, resolutions and proceedings of such meetings.
- 121.2 Any such minutes, if purporting to be signed by the Chairman of the meeting at which the proceedings were held or by the Chairman of the next succeeding meeting or the Secretary, shall be receivable as prima facie evidence of the matters stated in such minutes without any further proof.

## **122 Validity of proceedings**

All acts done by a meeting of the Board, or of a committee of the Board, or by any person acting as a Director, alternate Director or member of a committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any person or persons acting as aforesaid, or that they or any of them were or was disqualified from holding office or not entitled to vote, or had in any way vacated their or his office, be as valid as if every such person had been duly appointed, and was duly qualified and had continued to be a Director, alternate Director or member.

## **DIRECTORS' INTERESTS**

### **123 Directors may have interests**

Subject to the provisions of the Act and provided that Articles 124 and 125 are complied with, a Director, notwithstanding his office:

- 123.1.1 may enter into or otherwise be interested in any contract, arrangement, transaction or proposal with the Company or in which the Company is otherwise interested, either in regard to his tenure of any office or place of profit or as vendor, purchaser or otherwise;
- 123.1.2 may hold any other office or place of profit under the Company (except that of Auditor or of auditor of a subsidiary of the Company) in conjunction with the office of Director and may act by himself or through his firm in a professional capacity for the Company, and in any such case on such terms as to remuneration and otherwise as the Board may arrange, either in addition to or in lieu of any remuneration provided for by any other Article;
- 123.1.3 may be a director or other officer, or employed by, or a party to any transaction or arrangement with or otherwise interested in, any company promoted by the Company or in which the Company is otherwise interested or as regards which the Company has any powers of appointment; and
- 123.1.4 shall not be liable to account to the Company for any profit, remuneration or other benefit realised by any such office, employment, contract, arrangement, transaction or proposal and no such contract, arrangement, transaction or proposal shall be avoided on the grounds of any such interest or benefit.

### **124 Disclosure of interests to Board**

A Director who, to his knowledge, is in any way (directly or indirectly) interested in any contract, arrangement, transaction or proposal with the Company shall declare the nature of his interest at the meeting of the Board at which the question of entering into the contract, arrangement, transaction or proposal is first considered, if he knows his interest then exists or, in any other case, at the first meeting of the Board after he knows that he is or has become so interested. For the purposes of this Article:

- 124.1.1 a general notice given to the Board by a Director that he is to be regarded as having an interest (of the nature and extent specified in the notice) in any contract, transaction, arrangement or proposal in which a specified person or class of persons is interested shall be deemed to be a sufficient disclosure under this Article in relation to such contract, transaction, arrangement or proposal; and
- 124.1.2 an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

### **125 Interested Director not to vote or count for quorum**

Save as provided in this Article, a Director shall not vote on, or be counted in the quorum in relation to, any resolution of the Board or of a committee of the Board concerning any contract, arrangement, transaction or any proposal whatsoever to which the Company is or is to be a party and in which he is to his knowledge alone or together with any person connected with him materially interested unless the resolution concerns any of the following matters:

- 125.1.1 the giving to him of any guarantee, security or indemnity in respect of money lent or obligations incurred by him or by any other person at the request of or for the benefit of the Company or any of its subsidiaries;
- 125.1.2 a debt or obligation of the Company or any of its subsidiaries for which he himself has

assumed responsibility in whole or in part, either alone or jointly with others, under a guarantee or indemnity or by the giving of security;

125.1.3 any proposal concerning an offer of shares, debentures or other securities of the Company or any of its subsidiaries in which offer he is or may be entitled to participate as a holder of securities or in the underwriting or sub-underwriting of which he is to participate;

125.1.4 any contract, arrangement, transaction or proposal to which the Company is or is to be a party concerning any other body corporate (a "relevant company") in which he (together with persons connected with him), directly or indirectly (and whether as an officer or shareholder, creditor or otherwise), does not hold or have a beneficial interest in one per cent. or more of any class of the equity share capital of either a relevant company or an intermediate company (any such interest being deemed for the purposes of this Article to be a material interest in all circumstances); for the purposes of this Article 125.1.4:

(a) an intermediate company means a company having an interest in a relevant company which would be material if held by a Director;

(b) a Director shall be deemed to have an interest in one per cent. or more of a relevant company or an intermediate company if directly or indirectly he is the holder of or beneficially interested in one per cent. or more of any class of equity share capital or of the voting rights available to members of either such company; and

(c) there shall be disregarded any shares held by a Director as bare or custodian trustee and in which he has no beneficial interest, any shares comprised in a trust in which the Director's interest is in reversion or is in remainder (if and so long as some other person is entitled to receive the income from the trust) and any shares comprised in any authorised unit trust scheme in which the Director is interested only as a unit holder;

125.1.5 any contract, arrangement, transaction or proposal relating to an arrangement for the benefit of the employees of the Company or its Subsidiaries which does not award him any privilege or benefit not generally awarded to the employees to which such arrangement relates, and concerning the adoption, modification or operation of a pension, superannuation or similar scheme or retirement, death or disability benefits scheme or employees' share scheme under which he may benefit and which either has been approved by or is subject to and conditional on approval by the Board of Inland Revenue for taxation purposes or relates to both employees and Directors of the Company (or any of its subsidiaries) and does not accord to any Director as such any privilege or advantage not accorded to the employees to which such scheme or fund relates;

125.1.6 any contract, arrangement, transaction or proposal concerning the purchase and/or maintenance of any insurance policy for the benefit of Directors or for the benefit of persons including Directors pursuant to Article 162.

## **126 Director's interest in own appointment**

A Director shall not vote or be counted in the quorum on any resolution of the Board or committee of the Board concerning his own appointment (including fixing or varying the terms of his appointment or its termination) as the holder of any office or place of profit with the Company or any company in which the Company is interested. Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment or its termination) of two or more Directors to offices or places of profit with the Company or any company in which the Company is interested, such proposals may be divided and a separate resolution considered in relation to each Director. In such case each of the Directors concerned (if not otherwise debarred from voting under these Articles) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.

## **127 Chairman's ruling conclusive on Director's interest**

If any question arises at any meeting as to the materiality of a Director's interest (other than the Chairman's interest) or as to the entitlement of any Director (other than the Chairman) to vote or be counted in a quorum, and such question is not resolved by his voluntarily agreeing to abstain from voting or being counted in the quorum, such question shall be referred to the Chairman of the meeting. The Chairman's ruling in relation to the Director concerned shall be final and conclusive.

## **128 Directors' resolution conclusive on Chairman's interest**

If any question arises at any meeting as to the materiality of the Chairman's interest or as to the entitlement of the Chairman to vote or be counted in a quorum, and such question is not resolved by his voluntarily agreeing to abstain from voting or being counted in the quorum, such question shall be decided by resolution of the Directors or committee members present at the meeting (excluding the Chairman), whose majority vote shall be final and conclusive.

## **129 Definitions and suspension or relaxation of provisions**

129.1 For the purposes of Articles 123 to 128:

129.1.1 an interest of a person who is for the purposes of the Act connected (which word shall have the meaning given to it by section 346 of the Act) with a Director shall be treated as an interest of the Director; and

129.1.2 in relation to an alternate Director, an interest of his appointor shall be treated as an interest of the alternate Director in addition to any interest which the alternate Director otherwise has.

129.2 Subject to the provisions of the Act, the Company may by ordinary resolution suspend or relax the provision of Articles 123 to 128, either generally or in respect of any particular matter, or ratify any transaction not duly authorised by reason of a contravention of these Articles.

## **SEALS**

### **130 Safe custody**

The Board shall provide for the safe custody of the Seal and of any other seal of the Company.

### **131 Application of seals**

131.1 The Seal shall be used only by the authority of a resolution of the Board or of a committee of the Board so authorised. The Board may determine whether any instrument to which the Seal is affixed shall be signed and, if it is to be signed, who shall sign it and by what means. The Board may also determine, either generally or in a particular case, that a signature may be dispensed with or affixed by mechanical or other means. Unless otherwise so determined:

131.1.1 share certificates and, subject to the provisions of any instrument constituting the same, certificates issued under the Seal in respect of any debentures or other securities need not be signed and any signature may be affixed to or printed on any such certificate by any means approved by the Board; and

131.1.2 every other instrument to which the Seal is affixed shall be signed by one Director and by the Secretary or by two Directors.

131.2 Every certificate or share warrant shall be issued either under the Seal (which may be affixed to it or printed on it by mechanical or other means) or in such other manner as the Board, having regard to the terms of issue, the Act and the regulations of the UK Listing Authority, may authorise; all references in these Articles to the Seal shall be construed accordingly.

131.3 A document signed by the Director and by the Secretary or by two Directors and expressed (in whatever form of words) to be executed by the Company as a deed shall have the same effect as if it were executed under the Seal, provided that no instrument shall be so signed which makes it clear on its face that it is intended by the person or persons making it to have effect as a deed without the authority of a resolution of the Board or of a committee of the Board authorised in that behalf. An instrument or document which is executed by the Company as a deed shall not be deemed to be delivered by the Company solely as a result of it having been executed by the Company.

## **132 Official seal for use abroad**

Subject to the provisions of the Act, the Company may have an official seal for use in any place abroad.

## **THE SECRETARY**

### **133 The Secretary**

133.1 Subject to the provisions of the Act, the Board shall appoint a Secretary or Joint Secretaries and shall have power to appoint one or more persons to be an Assistant or Deputy Secretary at such remuneration and on such terms and conditions as it thinks fit.

133.2 Any provision of the Act or of these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Secretary.

## **DIVIDENDS AND OTHER PAYMENTS**

### **134 Declaration of dividends**

Subject to the provisions of the Act and of these Articles, the Company may by ordinary resolution declare dividends to be paid to members according to their respective rights and interests in the profits of the Company. However, subject to any special rights for the time being attached to any shares, no dividend shall exceed the amount recommended by the Board.

### **135 Interim dividends**

Subject to the provisions of the Act and of these Articles, the Board may declare and pay such interim dividends (including any dividend payable at a fixed rate) as appear to the Board to be justified by the profits of the Company available for distribution. If at any time the share capital of the Company is divided into different classes, the Board may pay such interim dividends on shares which rank after shares conferring preferential rights with regard to dividend as well as on shares conferring preferential rights, unless at the time of payment any preferential dividend is in arrears. Provided that the Board acts in good faith, it shall not incur any liability to the holders of shares conferring preferential rights for any loss that they may suffer by the lawful payment of any interim dividend on any shares ranking after those with preferential rights.

### **136 Entitlement to dividends**

Except as otherwise provided by the rights attached to shares, all dividends shall be declared and paid according to the amounts paid up (otherwise than in advance of calls) on the shares on which the dividend is paid. Subject as aforesaid, all dividends shall be

apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for dividend as from a particular date, it shall rank for dividend accordingly.

### **137 Calls or debts may be deducted from dividends**

The Board may deduct from any dividend or other money payable to any person on or in respect of a share all such sums as may be due from him to the Company on account of calls or otherwise in relation to the shares of the Company.

### **138 Distribution in specie**

138.1 Subject to any special rights for the time being attached to any shares, the Board may, with the authority of an ordinary resolution of the Company, direct that payment of any dividend declared may be satisfied wholly or partly by the distribution of assets, and in particular of paid up shares or debentures of any other company, or in any one or more of such ways. Where any difficulty arises in regard to such distribution, the Board may settle it as it thinks fit. In particular, the Board may:

138.1.1 issue fractional certificates (or ignore fractions);

138.1.2 fix the value for distribution of such assets or any part thereof and determine that cash payments may be made to any members on the footing of the value so fixed, in order to adjust the rights of members; and

138.1.3 vest any such assets in trustees on trust for the persons entitled to the dividend.

### **139 Dividends not to bear interest**

Unless otherwise provided by the rights attached to the share, no dividend or other moneys payable by the Company or in respect of a share shall bear interest as against the Company.

### **140 Method of payment**

140.1 Subject to any special rights for the time being attached to any shares, the Company may pay any dividend, interest or other sum payable in respect of a share in cash or by cheque, direct debit, bank transfer, dividend warrant, or money order and may send the same by post or other delivery service to the registered address (or in the case of a Depositary, subject to the approval of the Board, such persons and addresses) of the member or person entitled to it (or, if two or more persons are holders of the share or are jointly entitled to it by reason of the death or bankruptcy of the member or otherwise by operation of law, to the registered address of such of those persons as is first named in the Register) or to such person and such address as such member or person or persons may direct in writing. Every cheque, warrant or order is sent at the risk of the person entitled to the money represented by it and shall be made payable to the order of the person or persons entitled, or to such other person as the person or persons entitled may direct in writing. Payment of the cheque, warrant or order shall be a good discharge to the Company. If any such cheque, warrant or order has or shall be alleged to have been lost, stolen or destroyed, the Board may, at the request of the person entitled thereto, issue a replacement cheque or warrant or order subject to compliance with such conditions as to evidence and indemnity and the payment of out of pocket expenses of the Company in connection with the request as the Board may think fit. Any joint holder or other person jointly entitled to a share may give an effective receipt for any dividend or other moneys payable in respect of such share. Any such dividend, interest or other sum may also be paid by any other method as the Board considers appropriate.

140.2 Subject to any special rights for the time being attached to any shares, the Board may, at its discretion, make provisions to enable such Depositary and/or member as the Board



shall from time to time determine to receive dividends duly declared in a currency or currencies other than sterling. For the purposes of the calculation of the amount receivable in respect of any dividend, the rate of exchange to be used to determine the foreign currency equivalent of any sum payable as a dividend shall be such market rate selected by the Board as it shall consider appropriate ruling at the close of business in London on the date which is the business day last preceding:

- 140.2.1 in the case of a dividend to be declared by the Company in general meeting, the date on which the Board publicly announces its intention to recommend that specific dividend; and
- 140.2.2 in the case of any other dividend, the date on which the Board publicly announces its intention to pay that specific dividend,

Provided that where the Board considers the circumstances to be appropriate it shall determine such foreign currency equivalent by reference to such market rate or rates or the mean of such market rates prevailing at such time or times or on such other date or dates, in each case falling before the time of the relevant announcement, as the Board may select.

- 140.3 The Board may, with the prior authority of an ordinary resolution of the Company and subject to such conditions as the Board may determine, offer to any holders of Ordinary Shares the right to elect to receive Ordinary Shares, credited as fully paid, instead of the whole (or some part, to be determined by the Board) of any dividend specified by the ordinary resolution. The following provisions shall apply:

- 140.3.1 the said resolution may specify a particular dividend, or may specify all or any dividends declared within a specified period or periods;
- 140.3.2 the entitlement of each holder of Ordinary Shares to Ordinary Shares shall be such that the relevant value of the entitlement shall be as nearly as possible equal to (but not greater than) the cash amount (disregarding any tax credit) of the dividend that such holder would have received by way of dividend. For this purpose "relevant value" shall be calculated by reference to the average of the middle market quotations for the Ordinary Shares on the London Stock Exchange, as derived from the Daily Official List, for the day on which the Ordinary Shares are first quoted "ex" the relevant dividend and the four subsequent dealing days, or in such other manner as the Board may determine on such basis as it considers to be fair and reasonable. A certificate or report by the Auditors as to the amount of the relevant value in respect of any dividend shall be conclusive evidence of that amount;
- 140.3.3 no fractions of a share shall be allotted;
- 140.3.4 the Board shall, after determining the basis of allotment, notify the holders of Ordinary Shares in writing of the right of election offered to them, and specify the procedure to be followed and place at which, and the latest time by which, elections must be lodged in order to be effective;
- 140.3.5 the Board may exclude from any offer any holders of Ordinary Shares or any Ordinary Shares held by a Depositary or any Ordinary Shares on which dividends are payable in foreign currency where the Board considers that the making of the offer to them or in respect of such shares would or might involve the contravention of the laws of any territory or that for any other reason the offer should not be made to them or in respect of such shares;
- 140.3.6 the Board may determine that every duly effected election in respect of any Ordinary Shares shall be binding on every successor in title to the holder thereof;
- 140.3.7 the dividend (or that part of the dividend in respect of which a right of election has been offered) shall not be payable on Ordinary Shares in respect of which an election has been duly made ("the elected Ordinary Shares") and instead additional Ordinary Shares shall

be allotted to the holders of the elected Ordinary Shares on the basis of allotment determined as aforesaid. For such purpose the Board may capitalise, out of any amount for the time being standing to the credit of any reserve or fund (including any share premium account or capital redemption reserve) or of any of the profits which could otherwise have been applied in paying dividends in cash as the Board may determine, a sum equal to the aggregate nominal amount of the additional Ordinary Shares to be allotted on that basis and apply it in paying up in full the appropriate number of unissued Ordinary Shares for allotment and distribution to the holders of the elected Ordinary Shares on that basis. A Board resolution capitalising any part of such reserve or fund or profits shall have the same effect as if such capitalisation had been declared by ordinary resolution of the Company in accordance with Article 144 and in relation to any such capitalisation the Board may exercise all the powers conferred on them by Article 144 without need of such ordinary resolution;

- 140.3.8 the additional Ordinary Shares so allotted shall rank *pari passu* in all respects with each other and with the fully paid Ordinary Shares in issue on the record date for the dividend in respect of which the right of election has been offered, except that they will not rank for any dividend or other distribution or other entitlement which has been declared, paid or made by reference to such record date; and
- 140.3.9 the Board may terminate, suspend or amend any offer of the right to elect to receive Ordinary Shares in lieu of any cash dividend at any time.

#### **141 Uncashed dividends**

If cheques, warrants or orders for dividends or other sums payable in respect of a share sent by the Company to the person entitled thereto are returned undelivered to the Company or left uncashed on two consecutive occasions, the Company shall not be obliged to send any dividends or other moneys payable in respect of that share due to that person until he notifies the Company of an address to be used for the purpose.

#### **142 Unclaimed dividends**

All dividends, interest or other sum payable and unclaimed for 12 months after having become payable may be invested or otherwise made use of by the Board for the benefit of the Company until claimed and the Company shall not be constituted a trustee in respect thereof. All dividends, interest or other sum payable unclaimed for a period of 12 years after having become due for payment shall (if the Board so resolves) be forfeited and shall cease to remain owing by the Company.

#### **143 Reserves**

Subject to these Articles, the Board may, before recommending any dividend (whether preferential or otherwise) but having regard to section 842 of the Income and Corporation Taxes Act 1988, carry to reserve out of the profits of the Company such sums as it thinks fit. All sums standing to reserve may be applied from time to time, at the discretion of the Board, for any purpose to which the profits of the Company may properly be applied and, pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments as the Board thinks fit. The Board may divide the reserve into such special funds as it thinks fit, and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided as it thinks fit. Any sum which the Board may carry to reserve out of the unrealised profits of the Company shall not be mixed with any reserve to which profits available for distribution have been carried. The Board may also, without placing the same to reserve, carry forward any profits which it may think prudent not to distribute.

#### **144 Capitalisation of reserves**

- 144.1 The Board may, with the authority of an ordinary resolution of the Company but subject to any special rights attaching to any shares:

- 144.1.1 subject as provided in this Article, resolve to capitalise any undivided profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of any reserve or fund of the Company which is available for distribution or standing to the credit of share premium account or capital redemption reserve or other undistributable reserve;
- 144.1.2 appropriate the sum resolved to be capitalised to the holders of shares in proportion to the nominal amounts of the shares (whether or not fully paid) held by them respectively which would entitle them to participate in a distribution of that sum if the shares were fully paid and the sum were then distributable and were distributed by way of dividend and apply such sum on their behalf either in or towards paying up the amounts, if any, for the time being unpaid on any shares held by them respectively, or in paying up in full unissued shares or debentures of the Company of a nominal amount equal to that sum, and allot the shares or debentures credited as fully paid to those holders of shares or as they may direct, in those proportions, or partly in one way and partly in the other, provided that
- (a) the share premium account, the capital redemption reserve, any other undistributable reserve and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued shares to be allotted to holders of shares credited as fully paid; and
  - (b) in a case where any sum is applied in paying amounts for the time being unpaid on any shares of the Company or in paying up in full debentures of the Company, the amount of the net assets of the Company at that time is not less than the aggregate of the called up share capital of the Company and its undistributable reserves as shown in the latest audited accounts of the Company or such other accounts as may be relevant and would not be reduced below that aggregate by the payment thereof;
- 144.1.3 resolve that any shares so allotted to any member in respect of a holding by him of any partly paid shares shall, so long as such shares remain partly paid, rank for dividends only to the extent that such partly paid shares rank for dividends;
- 144.1.4 make such provision by the issue of fractional certificates (or by ignoring fractions or by accruing the benefit thereof to the Company rather than to the holders of shares concerned) or by payment in cash or otherwise as it thinks fit in the case of shares or debentures becoming distributable in fractions;
- 144.1.5 authorise any person to enter on behalf of all the holders of shares concerned into an agreement with the Company providing for either (i) the allotment to them respectively, credited as fully paid up, of any shares or debentures to which they may be entitled on such capitalisation or (ii) the payment up by the Company on behalf of such holders by the application thereto of their respective proportions of the reserves or profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares (any agreement made under such authority being effective and binding on all such holders); and
- 144.1.6 generally do all acts and things required to give effect to such resolution.

## **145 Distribution of realised capital profits**

- 145.1 The Board shall establish a reserve to be called the Capital Reserve. All surpluses arising from the realisation or revaluation of investments and all other monies realised on or derived from the realisation, payment off of or other dealing with any capital asset in excess of the book value thereof and all other monies which are considered by the Board to be in the nature of accretion to capital reserves shall be credited to the Capital Reserve. Subject to the Act, the Board may determine whether any amount received by the Company is to be dealt with in the income account or Capital Reserve or partly one way and partly the other. Any loss realised on the realisation or payment off of or other dealing with any investments or other capital assets and, subject to the Act, any

expenses, loss or liability (or provision therefor) which the Board considers to relate to a capital reserve item or which the Board otherwise considers appropriate to be debited to the Capital Reserve shall be carried to the debit of the Capital Reserve. Subject as provided in Article 145.2, all sums carried and standing to the credit of the Capital Reserve may be applied for any of the purposes to which sums standing to any revenue reserve are applicable except and provided that notwithstanding any provision of these Articles no part of the Capital Reserve or any other money in the nature of accretion to capital reserves shall be available for distribution as dividend.

- 145.2 In this Article 145.2, Relevant Period means any time when the Company has given notice in the prescribed form (which has not been revoked) to the Registrar of Companies of its intention to carry on business as an investment company. During a Relevant Period, distribution of the Company's capital profits (within the meaning of section 266(2)(c) of the Act) is prohibited, except to the extent that the requirements for investment company status under section 266 of the Act do not require a company to prohibit the distribution of its capital profits in its memorandum or articles of association.

#### **146 Record dates**

Notwithstanding any other provision of these Articles, but without prejudice to the rights attached to any shares, the Company or the Board may fix any date as the record date for any dividend, distribution, allotment or issue. Such record date may be on or at any time before any date on which such dividend, distribution, allotment or issue is paid or made and on or at any time before or after any date on which such dividend, distribution, allotment or issue is declared.

### **ACCOUNTS**

#### **147 Accounting records**

The Board shall cause accounting records to be kept in accordance with the Act.

#### **148 Inspection of records**

No member (other than a Director) shall have any right to inspect any accounting record or other document of the Company unless he is authorised to do so by statute, by order of the court, by the Board or by ordinary resolution of the Company.

#### **149 Accounts to be sent to members**

Except as provided in Article 150, a printed copy of the annual accounts, Directors' and Auditors' reports accompanied by printed copies of the balance sheet and every document required by the Act to be annexed to the balance sheet and of the profit and loss account or income and expenditure account shall, not less than 21 clear days before the annual general meeting before which they are to be laid, be delivered or sent by post to every member and holder of debentures of the Company and to the Auditors and to every other person who is entitled to receive notice of general meetings. However, this Article shall not require a copy of those documents to be sent to any person who under the provisions of these Articles is not entitled to receive notices from the Company or of whose address the Company is unaware or to any holder of debentures of whose address the Company is unaware or to more than one of the joint holders of any shares or debentures. If all or any of the shares in or debentures of the Company are listed or dealt in on any stock exchange, there shall at the same time be forwarded to the secretary of that stock exchange such number of copies of each of those documents as the regulations of that stock exchange may require.

#### **150 Summary financial statements**

The Company may, in accordance with section 251 of the Act and any regulations made under it, send a summary financial statement to any member instead of or in addition to

the documents referred to in Article 149. Where it does so, the statement shall be delivered or sent by post to the member not less than 21 clear days before the annual general meeting before which those documents are to be laid.

## **FORM OF NOTICES**

### **151 Notices to be in writing**

- 151.1 Notwithstanding anything to the contrary in these Articles, any notice or document to be given, sent, issued, deposited, served or delivered (or the equivalent) to or by any person pursuant to these Articles (other than a notice calling a meeting of the Directors) shall be in writing and, if the Board in its absolute discretion considers appropriate for any purpose or purposes under these Articles, any such notice or document shall be deemed given, sent, issued, deposited, served or delivered (or the equivalent) where it is sent using electronic communications to an address for the time being notified for that purpose to the person giving the notice, but subject always to the provisions of Article 154. In the case of notices or other documents sent by means of electronic communication the Board may make this subject to such terms and conditions as they shall in their absolute discretion consider appropriate. Nothing in these Articles shall affect any requirement of the Act that any particular offer, notice or other document be served in any particular manner.
- 151.2 For the purposes of Article 151.1 notices or documents shall be treated as being sent using electronic communications by the Company to a person where (i) the Company and that person have agreed to his having access to the notice or document on a web site (instead of their being sent to him) (ii) the notice or document (as the case may be) is a notice or document to which that agreement applies and (iii) a notice is sent to the person, in a manner for the time being agreed for that purpose between him and the Company, of (a) the publication of that notice or document on the web site (b) the address of the web site and (c) the place on that web site where the notice or document may be accessed, and how it may be accessed, and in any such case the notification referred to above shall be treated as the relevant notice for the purposes of these Articles.

### **152 Service of notice on members**

- 152.1 The Company may give any notice or document (including a share certificate) to a member, either personally or by sending it by post or other delivery service in a prepaid envelope addressed to the member at his registered address or, in the circumstances referred to in Article 151, by sending it using electronic communications to an address for the time being notified to the Company by the member, or by leaving it at that address. In the case of a member registered on an overseas branch register any such notice or document may be posted either in the United Kingdom or in the territory in which such branch register is maintained.
- 152.2 In the case of joint holders of a share, all notices or documents shall be given to the joint holder whose name stands first in the Register in respect of the joint holding. Notice so given shall be sufficient notice to all the joint holders.
- 152.3 Where a member (or, in the case of joint holders, the person first named in the Register) has a registered address outside the United Kingdom but has notified the Company of an address within the United Kingdom at which notices or other documents may be given to him or, if the Board in its absolute discretion permits, an address to which notices may be sent using electronic communications, he shall be entitled to have notices or documents given or sent to him at that address; but otherwise no such member shall be entitled to receive any notice or document from the Company.
- 152.4 If on at least two consecutive occasions the Company has attempted to send notices or documents using electronic communications to an address for the time being notified to the Company by a member for that purpose but the Company is aware that there has been a failure of delivery to such notice or document in the manner described in Article 154.2, the Company shall thereafter send notices or documents through the post to such

members at his registered address or his address for the services of notices by post, in which case the provisions of Article 154.2 shall apply.

- 152.5 If on three consecutive occasions notices or other documents have been sent through the post to any member at his registered address or his address for the service of notices or documents but have been returned undelivered, such member shall not thereafter be entitled to receive notices or other documents from the Company until he shall have communicated with the Company and supplied in writing a new registered address or address within the United Kingdom for the service of notices or, if the Board in its absolute discretion permits, an address to which notices may be sent using electronic communications.

### **153 Notice in case of death, bankruptcy or mental disorder**

The Company may give notice to the person entitled to a share in consequence of the death or bankruptcy of a member or otherwise by operation of law, by sending or delivering it in any manner authorised by these Articles for the giving of notice to a member, addressed to that person by name, or by the title of representative of the deceased or trustee of the bankrupt or representative by operation of law or by any like description, at the address (if any) within the United Kingdom or to which notices may be sent using electronic communication supplied for the purpose by the person claiming to be so entitled. Until such an address has been so supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy or operation of law had not occurred.

### **154 Evidence of service**

- 154.1 Any member present, in person or by proxy, at any meeting of the Company or of the holders of any class of shares of the Company shall be deemed to have received due notice of such meeting, and, where requisite, of the purposes for which such meeting was called.
- 154.2 Any notice or other document addressed to a member shall, if sent using electronic communications, be deemed to have been served or delivered at the expiration of 24 hours after the time when it was first sent. In proving such service or delivery it shall be conclusive to prove that the address used for the electronic communication was the address supplied for that purpose and the electronic communication was properly dispatched, unless the Company is aware that there has been a failure of delivery of such notice or document following at least 2 attempts in which case such notice or document shall be sent to the member at his registered address for service in the United Kingdom provided that the date of deemed service or delivery shall be 24 hours from the dispatch of the original electronic communication in accordance with this Article.
- 154.3 Any notice, certificate or other document, addressed to a member at his registered address or address for service in the United Kingdom shall, if sent by post, be deemed to have been served or delivered on the day after the day when it was put in the post (or, where second-class mail is employed, on the second day after the day when it was put in the post). Proof that an envelope containing the notice or document was properly addressed and put into the post as a prepaid letter shall be conclusive evidence that the notice was given. Any notice, certificate or other document not sent by post but delivered or left at a registered address or address for service in the United Kingdom shall be deemed to have been served or delivered on the day on which it was so delivered or left.

### **155 Notice binding on transferees**

Every person who, by operation of law, transfers or by any other means becomes entitled to a share shall be bound by any notice in respect of that share (other than a notice given by the Company under section 212 of the Act) which, before his name is entered in the Register, has been duly given to a person from whom he derives his title.

## **156 Notice by advertisement**

Any notice to be given by the Company to the members or any of them, and not otherwise provided for by these Articles, shall be sufficiently given if given by advertisement in at least one leading national daily newspaper published in the United Kingdom and, where the Company keeps an overseas branch register, in at least one leading daily newspaper published in the territory in which such register is maintained. Any notice given by advertisement shall be deemed to have been served at noon on the day on which the advertisement first appears.

## **157 Suspension of postal services**

If at any time by reason of the threat of or of the suspension, interruption or curtailment of postal services within the United Kingdom the Company is or would be unable effectively to convene a general meeting by notices sent through the post, a general meeting may be convened by a notice advertised in at least two leading daily newspapers with appropriate circulations (at least one of which shall be published in London) and, where the Company keeps an overseas branch register, in at least one leading daily newspaper published in the territory in which such register is maintained. Such notice shall be deemed to have been duly served on all members entitled thereto at noon on the day on which the first of such advertisements appears. In any such case the Company shall send confirmatory copies of the notice by post if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom again becomes practicable.

# **WINDING UP**

## **158 Life of the Company**

- 158.1 The Directors will procure that at the annual general meeting of the Company held in 2012 an ordinary resolution will be proposed that the Company should continue in being as a closed-ended investment company. If the resolution is not approved, the Directors shall, within 120 days of such meeting, give notice to shareholders of an extraordinary general meeting of the Company at which proposals shall be put to shareholders for the reorganisation or reconstruction of the Company.

## **159 Division of assets**

- 159.1 If the Company is wound up the liquidator may, with the sanction of an extraordinary resolution of the Company and any other sanction required by law, divide among the members in specie the whole or any part of the assets of the Company.
- 159.2 Not more than 60 and not less than 7 days before any extraordinary general meeting of the Company convened for the purpose of considering a resolution for a members voluntary liquidation of the Company, the Directors shall cause to be prepared an estimate of the net revenue profits of the Company (including accumulated revenue reserves) as at the proposed date of winding up (the "Winding Up Revenue Profits") which estimate shall then be binding on all holders of shares and conclusive for the purposes of these Articles.
- 159.3 Unless the Directors are satisfied that, on a winding up of the Company and following distribution of all amounts due to the holders of ZDP Shares, there will remain available for distribution to the holders of the Ordinary Shares an amount at least equal to the Directors' then best estimate of the Winding Up Revenue Profits (as defined in Article 159.2 above), then not later than the extraordinary general meeting convened for the purposes of such winding up, subject to the Company being legally entitled to do so, the Directors shall cause the Company to pay a final dividend which shall be paid to the holders of the Ordinary Shares and distributed among them rateably according to the amounts paid up or credited as paid up on the Ordinary Shares held by them respectively of an amount equal to the Directors' best estimate of the Winding Up Revenue Profits

less an amount equal to the Directors' best estimate of any excess of the Company's liabilities (including the costs of winding up but, for the avoidance of doubt, excluding any capital entitlement of holders of ZDP Shares) over its remaining assets after payment of such dividend.

- 159.4 If the Company is wound up the liquidator may, with the sanction of an extraordinary resolution of the Company and any other sanction required by law, divide among the members in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and determine how the division shall be carried out as between the members or different classes of members. Any such division may be otherwise than in accordance with the existing rights of the members, but if any division is resolved otherwise than in accordance with such rights, the members shall have the same right of dissent and consequential rights as if such resolution were a special resolution passed pursuant to section 110 of the Insolvency Act 1986. The liquidator may, with the like sanction, vest the whole or any part of the whole of the assets in trustees on such trusts for the benefit of the members as he with the like sanction shall determine, but no member shall be compelled to accept any assets on which there is a liability.

## **160 Transfer or sale under section 110 Insolvency Act**

A special resolution sanctioning a transfer or sale to another company duly passed pursuant to section 110 of the Insolvency Act 1986 may in the like manner authorise the distribution of any shares or other consideration receivable by the liquidator among the members otherwise than in accordance with their existing rights, and any such determination shall be binding on all the members, subject to the right of dissent and consequential rights conferred by the said section.

## **INDEMNITY**

### **161 Right to indemnity**

Subject to the provisions of the Act, but without prejudice to any indemnity to which he may be otherwise entitled, every Director, alternate Director, Auditor, Secretary or other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all costs, charges, losses, damages and liabilities incurred by him in the actual or purported execution or discharge of his duties or exercise of his powers or otherwise in relation thereto, including (without prejudice to the generality of the foregoing) any liability incurred defending any proceedings (whether civil or criminal) which relate to anything done or omitted or alleged to have been done or omitted by him as an officer, employee or Auditor of the Company and in which judgment is given in his favour or in which he is acquitted or which 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 relief is granted to him by any court of competent jurisdiction from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

### **162 Power to insure**

Subject to the provisions of the Act, the Board may purchase and maintain insurance at the expense of the Company for the benefit of any person who is or was at any time a Director or other officer or employee of the Company or of any other company which is a subsidiary or subsidiary undertaking of the Company or in which the Company has an interest whether direct or indirect or who is or was at any time a trustee of any pension fund or employee benefits trust in which any employee of the Company or of any such other company or subsidiary undertaking is or has been interested indemnifying such person against any liability which may attach to him or loss or expenditure which he may incur in relation to anything done or alleged to have been done or omitted to be done as a Director, officer, employee or trustee.