

**COMPANIES ACT 2006**  
**A PRIVATE COMPANY LIMITED BY SHARES**

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**ARTICLES OF ASSOCIATION**  
**- of -**  
**FERTILITY FOCUS LIMITED**  
**(Company Number 05546719)**

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(Adopted by written resolution on 16 August 2021)

**SHAKESPEARE**

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**THE COMPANIES ACT 2006**  
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(adopted by Written Resolution  
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**FERTILITY FOCUS LIMITED**

**1. INTRODUCTION**

1.1 The articles contained in the Model Articles apart from Articles 5 (Directors may delegate), 6 (Committees), 7 (Directors to take decisions collectively), 8 (Unanimous decisions), 10(1) and (2) (Participation in directors' meetings), 11(2) and (3) (Quorum for directors' meeting), 12 (Chairing of directors' meetings), 13 (Casting vote), 14 (Conflicts of interest), 17 (Methods of appointing directors), 19 (Directors Remuneration), 21 (All shares to be fully paid up), 22 (Powers to issue different classes of shares), 26(5) (Share transfers), 41 (Adjournment), 42 (Voting), 44(4) (Poll Votes), 49(3) and (4) (Company Seal), 50 (No right to inspect accounts and other records), 52 (Indemnity) and 53 (Insurance) shall apply to the Company except insofar as they are inconsistent with the following Articles.

1.2 In these Articles and the Model Articles any reference to any statutory provision shall be deemed to include a reference to each and every statutory amendment, modification, re-enactment and extension thereof for the time being in force.

**2. DEFINITIONS**

2.1 In these Articles the following words and expressions shall have the following meanings:

**"A Ordinary Shares"** the A ordinary shares of £2,000.00 each in the capital of the Company and having the rights ascribed thereto as set out in these Articles and **"A Ordinary Share"** shall be construed accordingly;

**"A Ordinary Shareholders"** the holders for the time being of the issued A Ordinary Shares and **"A Ordinary Shareholder"** shall be construed accordingly;

**"Acceptance Period"** the period during which an offer made under Article 11.7 is open for acceptance;

**"Asset Sale"** means the disposal by the Company of all or substantially all of its undertaking and assets;

**"Associated Companies"** means any holding company or parent undertaking from time to time of the company, or any subsidiary or subsidiary undertaking from time to time of the company or of such other company or undertaking, or any other company which, in relation to the company or such a company or undertaking, is from time to time an "associated company" (as defined in section 25 of the Corporation Tax Act 2010);

<b>“Beneficial Owner”</b>	as defined in Article 10.4;
<b>“Board”</b>	means the board of Directors of the Company;
<b>“B Class Lower EV Return”</b>	the aggregate amount derived from the application of the following formula:  $\left( \frac{\text{Lower EV} - \text{Distributable Assets}}{\text{Lower EV} - \text{Minimum EV}} \times \text{£15.00} \right);$
<b>“B Class Minimum Return”</b>	as defined in Article 4.2.1.3;
<b>“B Ordinary Shares”</b>	the B ordinary shares of £0.01 each in the capital of the Company and having the rights ascribed thereto as set out in these Articles and <b>“B Ordinary Share”</b> shall be construed accordingly;
<b>“B Ordinary Shareholders”</b>	the holders for the time being of the issued B Ordinary Shares and <b>“B Ordinary Shareholder”</b> shall be construed accordingly;
<b>“Business Day”</b>	means a day (other than a Saturday or Sunday or bank holiday) on which the clearing banks in the city of London are open for business;
<b>“CA 2006”</b>	the Companies Act 2006 and every statutory modification or re-enactment thereof for the time being in force;
<b>“Chairman”</b>	such person as is appointed by a Relevant Majority as a director and chairman of the Company pursuant to Article 21.1.2;
<b>“company”</b>	includes any body corporate;
<b>“Company”</b>	means Fertility Focus Limited, a private limited company incorporated in England with registered number 05546719;
<b>“Conflict Situation”</b>	means any situation or matter (other than one which cannot reasonably be regarded as likely to give rise to a conflict of interest) in which any director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict with the interests of the Company including (without limitation) any such situation or matter which relates to the exploitation of any property, information or opportunity (irrespective of whether the Company could take advantage of the property, information or opportunity);
<b>“Connected”</b>	as defined by Section 1122 of the Corporation Tax Act 2010; provided however that any determination of fact as to whether two or more persons are acting together shall, in the absence of any ruling by HM Revenue & Customs, be made by the tax advisers appointed by the Foresight Investors acting as experts and not as arbitrators and whose certificate or certificates from time to time shall be final and binding on the Company and all shareholders;
<b>“C Class Higher EV Return”</b>	the aggregate amount derived from the application of the following formula:  $\left( \frac{\text{Higher EV} - \text{Distributable Assets}}{\text{Higher EV} - \text{Lower EV}} \times \text{£12.50} \right);$

<b>“C Class Lower EV Return”</b>	the aggregate amount derived from the application of the following formula:  $£12.50 + \left( \frac{\text{Lower EV} - \text{Distributable Assets}}{\text{Lower EV} - \text{Minimum EV}} \times £12.50 \right);$
<b>“C Class Minimum Return”</b>	as defined in Article 4.2.1.2
<b>“C Ordinary Shares”</b>	the C ordinary shares of £0.01 each in the capital of the Company and having the rights ascribed thereto as set out in these Articles;
<b>“C Ordinary Shareholders”</b>	the holders for the time being of the issued C Ordinary Shares;
<b>“D Class Return”</b>	as defined in Article 4.2.1.1;
<b>“D Ordinary Shares”</b>	the D ordinary shares of £0.01 each in the capital of the Company and having the rights ascribed thereto as set out in these Articles;
<b>“D Ordinary Shareholders”</b>	the holders for the time being of the issued D Ordinary Shares;
<b>“DD Ordinary Shares”</b>	the DD ordinary shares of £0.0001 each in the capital of the Company (if any) and having the rights ascribed thereto as set out in these Articles and <b>“DD Ordinary Share”</b> shall be construed accordingly;
<b>“DD Ordinary Shareholders”</b>	the holders for the time being of the issued DD Ordinary Shares (if any) and <b>“DD Ordinary Shareholder”</b> shall be construed accordingly;
<b>“Deed of Adherence”</b>	a deed of adherence to the terms of the Investment Agreement in such form as may be reasonably approved by a Relevant Majority;
<b>“the Directors”</b>	the directors for the time being of the Company or (as the context shall require) any of them (each a <b>“Director”</b> ) acting as the Board of the Company;
<b>“Distributable Assets”</b>	as defined in Article 4.3.1;
<b>“the Drag Along Price”</b>	as defined in Article 16.1;
<b>“the Drag Along Right”</b>	as defined in Article 16.1;
<b>“Eligible Shareholders”</b>	as defined in Article 15.1.1;
<b>“Employee Options”</b>	options granted over Ordinary Shares conferring in aggregate no more than 15% of the Company's economic and voting rights to the Company's employees from time to time under the Employee Option Scheme
<b>“Employee Option Scheme”</b>	the Fertility Focus Ltd EMI Share Option Scheme 2013;

<b>“Employee Trust”</b>	a trust approved by the Board with the approval of the Relevant Majority and whose beneficiaries are bona fide employees of the Company;
<b>“Equity Shareholders”</b>	the holders for the time being of issued Equity Shares and <b>“Equity Shareholder”</b> shall be construed accordingly;
<b>“Equity Shares”</b>	the Ordinary Shares, A Ordinary Shares, the B Ordinary Shares, the C Ordinary Shares, the D Ordinary Shares and (if any) the DD Ordinary Shares, in issue from time to time;
<b>“equity share capital”</b>	shall have the meaning set out in sections 548 of the CA 2006;
<b>“Excess Securities”</b>	as defined in Article 5.1.3;
<b>“Excess Shares”</b>	as defined in Article 11.9.1;
<b>“Excluded Person”</b>	<ul style="list-style-type: none"> <li>(i) any Member (or other person entitled to a Share in the manner set out in Article 12.1) whom the Directors are entitled under Article 10.6, Article 12.1 or Article 14 to require to give a Transfer Notice (but only throughout such time as the Directors are entitled to require him to give a Transfer Notice);</li> <li>(ii) any Member or other person who has been required to give a Transfer Notice under Article 10.6, Article 12.1 or Article 14 (whether or not that requirement has been complied with);</li> </ul>
<b>“Exit”</b>	means a Sale, Listing or disposal by the Foresight Investors and/or a majority (by number of B Ordinary Shares) of the B Ordinary Shareholders of their respective Equity Shares;
<b>“Family Member”</b>	in relation to any person or deceased person, such person’s spouse or civil partner and parents and every child and remoter descendant of such person (including stepchildren and adopted children);
<b>“Family Trusts”</b>	in relation to any person or deceased person means trusts under which no immediate beneficial interest in any of the Equity Shares in question is for the time being vested in any person other than that person and/or a Family Member of that person. For these purposes a person shall be deemed to be beneficially interested in an Equity Share if that Share or the income derived from it is or may become liable to be transferred or paid or applied or appointed to or for the benefit of that person;
<b>“Foresight Investor Director”</b>	such person as is appointed by the Foresight Investors as a director of the Company pursuant to Article 21.1.1;
<b>“Foresight Investor Group”</b>	means in relation to any corporate Foresight Investor, that Foresight Investor and its Associated Companies from time to time;
<b>“Foresight Investor Majority”</b>	a person or persons together holding at least 50% of the C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares (as if such classes constituted a single class of share) for the time being in issue;

<b>“Foresight Investors”</b>	shall have the meaning given in the Investment Agreement and <b>“Foresight Investor”</b> shall be construed accordingly;
<b>“Group”</b>	the Company and its subsidiaries from time to time and “Group Company” shall be construed accordingly;
<b>“Higher EV”</b>	<p>the aggregate amount derived from the application of the following formula:</p> $(NoS \times £30.00) + (NoC \times £5) + (NoD \times 23.35)$ <p>where NoS is the total number of Equity Shares in issue at the relevant time including for the avoidance of doubt any Equity Shares to be issued pursuant to the Employee Option Scheme and to the holders of Unapproved Options and NoC is the total number of C Ordinary Shares and NoD is the total number of D Ordinary Shares and (if any) DD Ordinary Shares in issue at the relevant time;</p>
<b>“Investment Agreement”</b>	the investment agreement between (1) the Investors (2) the Executives (3) the Other Shareholders and (4) the Company (in each case as defined therein) entered into on 21 December 2018 (as supplemented, amended, restated and adhered to (as relevant) from time to time);
<b>“ITEPA”</b>	means Income Tax (Earnings and Pensions) Act 2003;
<b>“Listed or Listing”</b>	<p>the admission of all or any of the equity share capital of the Company to trading on:</p> <ul style="list-style-type: none"> <li>(i) the main market of the London Stock Exchange plc; or</li> <li>(ii) the Alternative Investment Market of the London Stock Exchange plc; or</li> <li>(iii) any other recognised investment exchange (as defined by Section 285, Financial Services and Markets Act 2000) (as amended) as approved by a Relevant Majority and such admission becoming effective in accordance with the rules of the relevant investment exchange;</li> </ul>
<b>“Lower EV”</b>	<p>the aggregate amount derived from the application of the following formula:</p> $NoS \times £20.00$ <p>where NoS is the total number of Equity Shares in issue at the relevant time including for the avoidance of doubt Equity Shares to be issued pursuant to the Employee Option Scheme and to the holders of Unapproved Options;</p>
<b>“Member”</b>	a holder of Equity Shares;
<b>“a Member of the same Group”</b>	as regards any company, a company which is for the time being a holding company or a subsidiary of that company or of any such holding company;
<b>“Minimum EV”</b>	the amount derived from the application of the following formula:

$(\text{NoD} \times \text{£}23.25) + (\text{NoC} \times \text{£}25.00) + (\text{NoB} \times \text{£}15.00)$

where NoD is the total number of D Ordinary Shares in issue at the relevant time and (if any) DD Ordinary Shares in issue at the relevant time, NoC is the total number of C Ordinary Shares and NoB is the total number of B Ordinary Shares in issue at the relevant time;

**“Model Articles”**

the model articles for private companies limited by shares contained in Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229);

**“Net Realisation Proceeds”**

in relation to a Sale, the proceeds available for distribution (after deduction of reasonable costs in relation to such Sale);

**“Offer”**

either:

- (i) an offer to purchase all the Equity Shares other than those already held by the Offeror and/or any persons acting in concert with him (as defined in the City Code on Take-overs and Mergers); or
- (ii) the entering into of one or more agreements which will result in any persons who are acting in concert (as defined above) acquiring all the Equity Shares, which agreements are unconditional or subject only to conditions in the sole control of any or all of the persons who are acting in concert;

in each case being an offer or agreement which is approved by a Relevant Majority as being an offer or an agreement to which Articles 15 and 16 do not apply;

**“the Offeror”**

as defined in Article 16.1;

**“Ordinary Shares”**

the ordinary shares of £0.01 each in the capital of the Company and having the rights ascribed thereto as set out in these Articles;

**“Ordinary Shareholders”**

the holders for the time being of the issued Ordinary Shares;

**“Other Shareholders”**

as defined in the Investment Agreement;

**“Pre-Emption Offer”**

as defined in Article 5.1.1;

**“the Prescribed Price”**

the price per Sale Share agreed or determined pursuant to Article 11.4 or determined pursuant to Article 11.5;

**“Privileged Relation”**

in relation to a Member who is an individual member or deceased or former member means a spouse, Civil Partner, child or grandchild (including step or adopted child and their issue);

**“Proposing Transferee”**

as defined in Article 15.1;

**“Proposing Transferor”**

a Member proposing to transfer or dispose of Equity Shares or any interest therein;



<b>“Purchase of Own Shares Option”</b>	has the meaning given in Article 11.8.4.1;
<b>“Purchaser”</b>	a Member willing to purchase Equity Shares comprised in a Transfer Notice;
<b>“Remuneration Committee”</b>	as defined in the Investment Agreement;
<b>“Relevant Date”</b>	21 December 2018;
<b>“Relevant Interest”</b>	as defined in Article 15.3.1;
<b>“Relevant Majority”</b>	a person or persons together holding more than 50% of the consent rights (as prescribed by Article 24.1) of the B Ordinary Shares, C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares (as if such B Ordinary Shares, C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares constituted a single class of share) for the time being in issue;
<b>“Relevant Securities”</b>	as defined in Article 5.1.3.1;
<b>“the Relevant Transaction”</b>	as defined in Article 15.1;
<b>“Sale”</b>	completion of the transaction(s) by which an Offer has arisen;
<b>“the Sale Shares”</b>	all Equity Shares comprised in a Transfer Notice;
<b>“subsidiary” and “holding company”</b>	shall have the meanings set out in Sections 1159 to 1162 of the CA 2006;
<b>“Tag Notice”</b>	a written notice served by a Member of the Company in accordance with Article 15.1 and Article 15.2;
<b>“Tax Act”</b>	the Income Tax Act 2007, as amended;
<b>“Transfer Notice”</b>	a written notice served by a Member on the Company, in accordance with Article 11 or deemed to have been served pursuant to Article 13;
<b>“Transferee Company”</b>	a company for the time being holding shares in consequence of a transfer or series of transfers of shares between Members of the same Group (the relevant Transferor Company in the case of a series of transfers being the first transferor in that series);
<b>“Transferor Company”</b>	a company (other than a company which is also a Transferee Company in respect of the same shares) which has transferred shares to a Member of the same Group;
<b>“Unapproved Options ”</b>	as defined in the Investment Agreement;
<b>“VCT Legislation”</b>	section 450 of the Corporation Tax Act 2010 and Part 6 of the Tax Act; and
<b>“VCT Qualification Breach”</b>	as defined in the Investment Agreement.

### 3. **SHARE CAPITAL**

3.1 The issued share capital of the Company at the date of adoption of these Articles shall, following the issue of shares pursuant to the Investment Agreement, comprise Ordinary Shares, A Ordinary Shares, B Ordinary Shares, C Ordinary Shares and D Ordinary Shares.

3.2 In these Articles, unless the context requires otherwise, references to Equity Shares shall include shares of those respective classes created and/or issued after the date of adoption of these Articles.

### 4. **SHARE RIGHTS**

The Equity Shares shall have, and be subject to, the following rights and restrictions:

#### 4.1 **Income**

4.1.1 No dividend shall be payable or distribution made by the Company without the consent of a Relevant Majority. Any dividend shall be distributed amongst the holders of the Equity Shares (as if they were one and the same class) in proportion to the number of Equity Shares held by each of them.

4.1.2 Model Article 30 to Model Article 35 (inclusive) shall be subject to this Article 4.1 and, in the event of any inconsistency, the provisions of this Article 4.1 shall prevail.

4.1.3 In order to comply with the VCT Legislation no single company which is a holder of Equity Shares shall (together with any Connected person) be entitled (otherwise than by reason of that holder's possession of, or entitlement to acquire relevant fixed-rate preference shares) to receive more than 50% of the amount of any dividend available for payment to all members. For those purposes the expression "relevant fixed-rate preference shares" shall bear the meaning given by Chapter 4, Part 6 of the Tax Act

#### 4.2 **Proceeds of Sale**

Immediately following the exercise of any Employee Options (as relevant) and the Unapproved Options, the proceeds of any Sale shall be distributed amongst the holders of Equity Shares as follows:

4.2.1 If the Net Realisation Proceeds are less than or equal to the Minimum EV:

4.2.1.1 first, each D Ordinary Shareholder and (if any) DD Ordinary Shareholder shall be entitled to receive an amount equal to £23.25 in respect of each D Ordinary Share and (if any) DD Ordinary Share held by them and, if the proceeds of Sale are insufficient to make such payments in full, then the proceeds of Sale shall be distributed amongst the D Ordinary Shareholders and (if any) DD Ordinary Shareholders in the proportion which the amount due to each of them under this Article 4.2.1.1 bears to the aggregate amount due to all D Ordinary Shareholders and (if any) DD Ordinary Shareholders under this Article 4.2.1.1 ("**D Class Return**");

4.2.1.2 second, each C Ordinary Shareholder shall be entitled to receive an amount equal to £25 in respect of each C Ordinary Share held by them and, if the proceeds of Sale are insufficient to make such payments in full, then the proceeds of Sale shall be distributed amongst the C Ordinary Shareholders in the proportion which the amount due to each of them under this Article 4.2.1.2 bears to the aggregate amount due to all C Ordinary Shareholders under this Article 4.2.1.2 ("**C Class Minimum Return**"); and

4.2.1.3 third, each B Ordinary Shareholder shall be entitled to receive an amount equal to £15 in respect of each B Ordinary Share held by them, and, if the proceeds of Sale are insufficient to make such payments in full, then the proceeds of Sale shall be distributed amongst the B Ordinary Shareholders in the proportion which the amount due to each of them under this Article 4.2.1.3 bears to the aggregate amount due to all B Ordinary Shareholders under this Article 4.2.1.3 ("**B Class Minimum Return**"),

4.2.2 If the Net Realisation Proceeds are above the Minimum EV but less than or equal to the Lower EV, such sale proceeds shall be distributed amongst the holders of the Equity Shares as follows:

4.2.2.1 first, each D Ordinary Shareholder and (if any) DD Ordinary Shareholder shall be entitled to receive an amount equal to their D Class Return;

4.2.2.2 second, each C Ordinary Shareholder shall be entitled to receive, in respect of each C Ordinary Share held by them, an amount to be calculated by reference to the following formula:

$$£12.50 + \left( \frac{\text{Lower EV} - \text{Net Realisation Proceeds}}{\text{Lower EV} - \text{Minimum EV}} \times £12.50 \right)$$

third, each B Ordinary Shareholder shall be entitled to receive, in respect of each B Ordinary Share held by them, an amount to be calculated by reference to the following formula:

$$\left( \frac{\text{Lower EV} - \text{Net Realisation Proceeds}}{\text{Lower EV} - \text{Minimum EV}} \times £15.00 \right)$$

and the remaining balance shall be distributed amongst the holders of the Equity Shares (as if they were one and the same class) in proportion to the number of Equity Shares held by each of them;

4.2.3 If the Net Realisation Proceeds are above the Lower EV but less than or equal to the Higher EV, such sale proceeds shall be distributed amongst the holders of the Equity Shares according to the amount paid up or credited as paid up in relation to aggregate nominal value of Equity Shares held, provided always that:

4.2.3.1 first, each D Ordinary Shareholder and (if any) DD Ordinary Shareholder shall be entitled to receive an amount equal to their D Class Return;

4.2.3.2 second, each C Ordinary Shareholder shall be entitled to receive, in respect of each C Ordinary Share held by them, an amount to be calculated by the following formula:

$$£5.00 + \left( \frac{\text{Higher EV} - \text{Net Realisation Proceeds}}{\text{Higher EV} - \text{Lower EV}} \times £7.50 \right)$$

4.2.3.3 and the remaining balance shall be distributed amongst the holders of the Equity Shares (as if they were one and the same class) in proportion to the number of Equity Shares held by each of them.

4.2.4 If the Net Realisation Proceeds are greater than the Higher EV, such sale proceeds shall be distributed as follows:

4.2.4.1 first, each D Ordinary Shareholder and (if any) DD Ordinary Shareholder shall be entitled to receive an amount equal to their D Class Return;

4.2.4.2 second, each C Ordinary Shareholder shall be entitled to receive a sum of £5 in respect of each C Ordinary Share held by them; and

4.2.4.3 thereafter the sale proceeds shall be distributed amongst the holders of the Equity Shares (as if they were one and the same class) in proportion to the number of Equity Shares held by each of them.

#### 4.3 Return of Capital

4.3.1 Subject to Article 4.3.2 on a return of assets on a liquidation or capital reduction or similar, the assets of the Company remaining after the payment of its liabilities ("**Distributable Assets**") shall be distributed amongst the holders of Equity Shares *pari passu* as if all classes constituted one and the same class of share in proportion to the amount paid up or credited

as paid up in relation to the nominal value only of the Shares held by them respectively, provided that:

- 4.3.1.1 if the value of the Distributable Assets is less than or equal to the Minimum EV the nominal value of each of the Ordinary Shares, A Ordinary Shares, B Ordinary Shares and C Ordinary Shares shall be deemed to be £0.0000001 until such time as each D Ordinary Shareholder and (if any) DD Ordinary Shareholder has received an amount equal to the D Class Return in respect of each D Ordinary Share and (if any) DD Ordinary Share held by him, whereafter the nominal value of each of the Ordinary Shares, A Ordinary Shares, B Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares shall be deemed to be £0.0000001 until such time as each C Ordinary Shareholder has received an amount equal to the C Class Minimum Return in respect of each C Ordinary Share held by him, whereafter the nominal value of each of the Ordinary Shares, A Ordinary Shares, C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares shall be deemed to be £0.0000001 until such time as each B Ordinary Shareholder has received an amount equal to the B Class Minimum Return in respect of each B Ordinary Share held by him, whereafter any remaining proceeds available for distribution shall be distributed amongst the holders of the Equity Shares (as if they were one and the same class) in proportion to the amount paid up or credited as paid up in relation to aggregate nominal value of Equity Shares held (provided that the nominal value in respect of each A Ordinary Share shall for such purposes be deemed to be £0.01); or
- 4.3.1.2 if the value of the Distributable Assets is above the Minimum EV but less than or equal to the Lower EV the nominal value of each of the Ordinary Shares, A Ordinary Shares, B Ordinary Shares and C Ordinary Shares shall be deemed to be £0.0000001 until such time as each D Ordinary Shareholder and (if any) DD Ordinary Shareholder has received an amount equal to the D Class Return in respect of each D Ordinary Share and (if any) DD Ordinary Share held by him, whereafter the nominal value of each of the Ordinary Shares, A Ordinary Shares, B Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares shall be deemed to be £0.0000001 until such time as each C Ordinary Shareholder has received an amount equal to the C Class Lower EV Return in respect of each C Ordinary Share held by him, whereafter the nominal value of each of the Ordinary Shares, A Ordinary Shares, C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares shall be deemed to be £0.0000001 until such time as each B Ordinary Shareholder has received an amount equal to the B Class Lower EV Return in respect of each B Ordinary Share held by him, whereafter any remaining proceeds available for distribution shall be distributed amongst the holders of the Equity Shares (as if they were one and the same class) in proportion to the amount paid up or credited as paid up in relation to aggregate nominal value of Equity Shares held (provided that the nominal value in respect of each A Ordinary Share shall for such purposes be deemed to be £0.01); or
- 4.3.1.3 if the value of the Distributable Assets is above the Lower EV but less than or equal to the Higher EV, the nominal value of each of the Ordinary Shares, A Ordinary Shares, B Ordinary Shares and C Ordinary Shares shall be deemed to be £0.0000001 until such time as each D Ordinary Shareholder and (if any) DD Ordinary Shareholder has received an amount equal to the D Class Return in respect of each D Ordinary Share and (if any) DD Ordinary Share held by him, whereafter the nominal value of each of the Ordinary Shares, A Ordinary Shares, B Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares shall be deemed to be £0.0000001 until such time as each C Ordinary Shareholder has received an amount equal to the C Class Higher EV Return in respect of each C Ordinary Share held by him, whereafter any remaining proceeds available for distribution shall be distributed amongst the holders of the Equity Shares (as if they were one and the same class) in proportion to the amount paid up or credited as paid up in relation to aggregate nominal value of Equity Shares held (provided that the nominal value in respect of each A Ordinary Share shall for such purposes be deemed to be £0.01); or
- 4.3.1.4 if the value of the Distributable Assets is greater than the Higher EV, the nominal value of each of the Ordinary Shares, A Ordinary Shares, B Ordinary Shares and C Ordinary Shares shall be deemed to be £0.0000001 until such time as each D Ordinary Shareholder and (if any) DD Ordinary Shareholder has received an amount equal to the D Class Return in respect of each D Ordinary Share and (if any) DD Ordinary Share held by him, whereafter the nominal value of each of the Ordinary Shares, A Ordinary Shares, B Ordinary Shares, D Ordinary Shares

and (if any) DD Ordinary Shares shall be deemed to be £0.0000001 until such time as each C Ordinary Shareholder has received an amount equal to £5 per Share in respect of each C Ordinary Share held by him, whereafter the Distributable Assets shall be distributed amongst the holders of Equity Shares pari passu (as if they were one and the same class) in proportion to the amount paid up or credited as paid up in relation to the nominal value only of the Equity Shares held by them respectively (provided that the nominal value in respect of each A Ordinary Share shall for such purposes be deemed to be £0.01).

4.3.2 In order to comply with the VCT Legislation no single company which is a holder of Equity Shares shall (together with any Connected person) be entitled (otherwise than by reason of that holder's possession of, or entitlement to acquire relevant fixed-rate preference shares) on a return of assets on liquidation or capital reduction or otherwise to receive more than 50% of the capital available for payment to all members. For those purposes the expression "relevant fixed-rate preference shares" shall bear the meaning given by Chapter 4, Part 6 of the Tax Act.

#### 4.4 **Voting**

4.4.1 On a show of hands every holder of Equity Shares who (being an individual) is present in person or (being a corporation) is present by a representative shall have one vote.

4.4.2 On a poll every holder of Equity Shares who is present in person or by a proxy or (being a corporation) by a representative shall have one vote for every Equity Share of which he is the holder.

4.4.3 Notwithstanding the provisions of this Article 4.4 in order to comply with the VCT Legislation no single company which is a holder of Equity Shares shall (together with any Connected person) be entitled to exercise more than 50% of the voting rights attaching to the equity share capital of the Company.

### 5. **ISSUE OF NEW SHARES: PRE-EMPTION**

5.1 Subject to Articles 5.3 and 6.3, the following pre-emption process shall apply before any new Equity Shares are issued:

5.1.1 any new Equity Shares from time to time created shall before they are issued to any third party be offered to the holders of Ordinary Shares, B Ordinary Shares, C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares pro-rata in proportion to the number Ordinary Shares, B Ordinary Shares, C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares (and for the purposes of this Article 5.1, Ordinary Shares, B Ordinary Shares, C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares shall be treated as if they were the same class of Share) save that under this pre-emption process, each C Ordinary Shareholder will only ever be offered C Ordinary Shares, each D Ordinary Shareholder and (if any) D Ordinary Shareholder will only ever be offered D Ordinary Shares and/or DD Ordinary Shares (at such shareholder's discretion), each Ordinary Shareholder will only ever be offered Ordinary Shares, and each B Ordinary Shareholder will only ever be offered B Ordinary Shares ("**Pre-Emption Offer**"). By way of illustrated example, if the Company wishes to issue 100,000 new Equity Shares and the following shares are in issue:

- 10,000 Ordinary Shares
- 30,000 B Ordinary Shares
- 20,000 C Ordinary Shares
- 20,000 D Ordinary Shares
- 20,000 DD Ordinary Shares

- 5.1.2 the C Ordinary Shareholders would be offered 20,000 new C Ordinary Shares, the D Ordinary Shareholders and DD Ordinary Shareholders would be together be offered 40,000 new D Ordinary Shares and/or DD Ordinary Shares (pro rata to the number of D Ordinary Shares and DD Ordinary Shares they hold as if such shares constituted a single class) the Ordinary Shareholders would be offered 10,000 new Ordinary Shares (pro rata to the number of Ordinary Shares they hold), and the B Ordinary Shareholders would be offered 30,000 new B Ordinary Shares (pro rata to the number of B Ordinary Shares they hold).
- 5.1.3 The Pre-Emption Offer shall be made by notice in writing specifying:
- 5.1.3.1 the number and class of shares offered ("**Relevant Securities**");
- 5.1.3.2 the price per share (which shall be the same price per share), and
- stating a time (not being less than thirty days or greater than forty-two days) within which the offer, if not accepted, will be deemed to be declined and stipulate that any offeree who wishes to subscribe for a number of Relevant Securities in excess of the number to which he is entitled under Article 5.1 shall, in his acceptance, state the number of excess Relevant Securities ("**Excess Securities**") for which he wishes to subscribe.
- 5.1.4 Any Relevant Securities not accepted by offerees pursuant to an offer made in accordance with Article 5.1 and Article 5.1.3 shall be used to satisfy any requests for Excess Securities. If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants in the respective proportions that the number of Equity Shares held by each such applicant bears to the total number of Equity Shares held by all applicants (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any Equity Shareholder beyond that applied for by him).
- 5.2 The provisions of Article 5.1 shall not apply to the issue of shares pursuant to the exercise of Employee Options and/or Unapproved Options and/or the Investment Agreement, save that the consent of a Relevant Majority shall be required in relation to the proposed issue of additional Unapproved Options and/or Employee Options after the Relevant Date.
- 5.3 **Emergency Fundraising**
- 5.3.1 If any of the events occur as set out in Articles 23.1.2 to 23.1.4 (inclusive) or if in the reasonable opinion of the Board (acting with the consent of a Relevant Majority), the Company resolves that it needs to raise emergency funds by way of subscription for shares (having regard to the financial position of the Group for the next three months) ("**Emergency Funding Requirement**"), the provisions of this Article 5.3 shall apply unless a special resolution has been passed to the contrary.
- 5.3.2 Where the Board has resolved that there is an Emergency Funding Requirement in accordance with Article 5.3.1, prior to allotting any shares to any person, the Company shall first make an offer to its Members in accordance with Article 5.1, save that the time period in Article 5.1 of thirty days shall be replaced with ten days and if Members do not accept the offer and take up their pro-rata share within ten days, the issue of Equity Shares (and in the case of the Foresight Investors, such shares being either D Ordinary Shares or DD Ordinary Shares as nominated by that Foresight Investor) to the Members who have accepted or any willing third party shall proceed regardless ("**Emergency Funding Shares**") without the consent of a Relevant Majority ("**Initial Emergency Funding Round**").
- 5.3.3 Following the completion of the Initial Emergency Funding Round, all Members who did not take up their pro-rata entitlement to the Initial Emergency Funding Round pursuant to Article 5.3.2 shall have the right to subscribe for such number of Equity Shares that would maintain their percentage shareholding in the Company at the level it was immediately prior to the issue of the Emergency Funding Shares and shall be entitled to a further twenty-one days (or such longer period agreed by the Board with the consent of a Relevant Majority) in which to complete such subscription following the close of the Initial Emergency Funding Round ("**Emergency Funding Catch-up Right**").

- 5.3.4 Where some but not all shareholders participate in the Initial Emergency Funding Round (“**Emergency Funding Round Participants**”) and some shareholders who do not participate in the Initial Emergency Funding Round exercise their Emergency Funding Catch-up Right under Article 5.3.3, all Emergency Funding Round Participants will have the right to subscribe for such additional number of Equity Shares that would maintain their percentage shareholding in the Company at the level it was immediately prior to the issue of the Emergency Funding Shares and shall be entitled to a further twenty-one days (or such longer period agreed by the Board with the consent of a Relevant Majority) in which to complete such subscription from the close of the last subscription pursuant to the Emergency Funding Catch-up Right. For the avoidance of doubt, the valuation of such shares shall be the same as those offered as part of the Initial Emergency Funding Round.
- 5.3.5 It is a principle of these Articles that unless a special resolution is passed to the contrary, no shareholder shall be diluted by the operation of an Initial Emergency Funding Round without having had the opportunity to avoid such dilution whether by participating in the Initial Emergency Funding Round itself, exercising their Emergency Funding Catch-up Right or exercising their further catch-up right pursuant to Article 5.3.4 provided that such subscription rights are exercised within the requisite timeframes.
- 5.4 Subject to this Article 5.4 and Articles 5.1, 5.2 and 5.3, for the purposes of sections 549 and 551 of the CA 2006, the shares in the capital of the Company shall be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper, provided that:
- 5.4.1 no shares shall be issued at a discount to their nominal value;
- 5.4.2 the allotment or grant to that person must be approved in writing by a Relevant Majority;
- 5.4.3 no shares to which Articles 5.1 applies shall be issued more than three months after the expiry of the period for acceptance of the last offer of such shares made under Article 5.1 unless the procedure set out in Article 5.1 is repeated in respect of such shares (and so that the time limit set out in this Article 5.4.3 shall apply equally to any repetition of that procedure);
- 5.4.4 no shares shall be issued at a price less than that at which they were offered to the Members in accordance with Article 5.1 and if the Directors are proposing to issue such shares wholly or partly for a non-cash consideration the cash equivalent of such consideration for the purposes of this sub-paragraph shall be as reasonably determined by the Auditors who shall act as experts and not as arbitrators and whose determination shall be final and binding on the Company and each of its members. For the avoidance of doubt this Article 5.4.4 shall not apply to the issue of any shares pursuant to Employee Options and pursuant to the Investment Agreement;
- 5.4.5 no Equity Shares shall be allotted to any person who is not already a party to the Investment Agreement unless that person has first executed and delivered to the Company a Deed of Adherence or unless it is otherwise agreed by a Relevant Majority that a Deed of Adherence is not required;
- 5.4.6 no Equity Shares shall be allotted to any employee, director, prospective employee or prospective director unless such person has entered into a joint section 431 ITEPA election with the Company or unless this requirement is waived by the Board acting with the consent of a Relevant Majority.
- 5.5 The provisions of Section 561(1) and 562(1) to (6) inclusive and 568(3) CA 2006 shall not apply to the allotment of equity securities made by the Company.
- 5.6 Any D Ordinary Shareholder and (if any) DD Ordinary Shareholder, C Ordinary Shareholder and/or B Ordinary Shareholder shall be entitled to offer any right (in whole or in part) under this Article 5 to subscribe for Equity Shares to any venture capital trust, venture capitalist, investment trust, investment company, limited partnership, EIS fund (approved or unapproved) or other such like entity advised or managed by the same investment adviser/manager of the

relevant D Ordinary Shareholder, DD Ordinary Shareholder (if any), C Ordinary Shareholder and/or B Ordinary Shareholder.

- 5.7 Any Member, being a company, shall be entitled to offer any right (in whole or in part) under this Article 5 to subscribe for Equity Shares to a Member of the same Group as such Member, save that such subscriber may only hold the Equity Shares for so long as it is a member of the same Group as that Member and on the subscriber ceasing to be a member of that Group the transferee shall, if such Shares are not transferred to another Member of the same Group pursuant to Article 10 the Shares shall be subject to transfer pursuant to Article 11.

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

- 6.1 Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding-up:
- 6.1.1 in the case of the D Ordinary Shareholders with a special resolution passed at a separate meeting of the holders of the D Ordinary Shares;
- 6.1.2 in the case of the DD Ordinary Shareholders (if any) with a special resolution passed at a separate meeting of the holders of the DD Ordinary Shares;
- 6.1.3 in the case of the C Ordinary Shareholders with a special resolution passed at a separate meeting of the holders of the C Ordinary Shares;
- 6.1.4 in the case of the B Ordinary Shareholders with a special resolution passed at a separate meeting of the holders of the B Ordinary Shares; or
- 6.1.5 in the case of any class of Equity Shares other than the B Ordinary Shares, C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares with an ordinary resolution passed at a separate meeting of the holders of the applicable class of Equity Shares.
- 6.2 To every such separate meeting all the provisions of these Articles relating to general meetings of the Company shall apply (*mutatis mutandis*) except that:
- 6.2.1 the necessary quorum shall be at least two persons holding or representing by proxy at least one-third in nominal amount of the issued shares of the class, but so that at any adjourned meeting of such holders at which such a quorum is not present the holder or holders present shall be a quorum; and
- 6.2.2 the holders of shares of the class in question shall on a poll have one vote in respect of every share of the class held by them respectively
- 6.3 Without prejudice to the generality of this Article, it is a term of issue of the B Ordinary Shares, C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares that the following events shall be deemed to be an attempted variation of the rights attaching to such shares and shall therefore require class consent in accordance with Article 6.1:
- 6.3.1 any resolution to wind-up the Company or any subsidiary of the Company;
- 6.3.2 any reduction or sub-division or consolidation of the issued share capital of the Company;
- 6.3.3 the redemption of any of the Company's shares or the entering into of a contract by the Company to purchase any of its shares; or
- 6.3.4 registration as a public company.
- 6.4 Without prejudice to the generality of this Article, it is a term of issue of the C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares that the following events shall be exclusively deemed to be an attempted variation of the rights attaching to such shares and shall therefore require class consent in accordance with Article 6.1:



- 6.4.1 any alteration or variation of any of the rights attached to any of the shares for the time being in the capital of the Company which is likely, in the opinion of the Foresight Investors (acting in good faith), to result in a VCT Qualification Breach;
- 6.4.2 any alteration of the Company's memorandum or articles of association which is likely, in the opinion of the Foresight Investors (acting in good faith), to result in a VCT Qualification Breach; or
- 6.4.3 the subscription for or other acquisition of shares in any company, the acquisition of all or substantially all of the assets of any other company or of any unincorporated business, the disposal of any share in any other company, the disposal of the Company's undertaking and assets or any substantial part thereof or the making of any capital investment in any partnership or the disposal of any such interest, in each instance, which is likely, in the opinion of the Foresight Investors (acting in good faith), to result in a VCT Qualification Breach.

## 7. **LIEN**

- 7.1 The Company shall have a first and paramount lien on every share, which is not fully paid, for all and any indebtedness of any holder thereof to the Company (whether a sole holder or one of two or more joint holders) in respect of the shares concerned.
- 7.2 The Company's lien over a share takes priority over any third party's interest in that share and extends to any dividend or other money payable by the Company in respect of that share, and (if the lien is enforced and the share is sold by the Company) the proceeds of sale of that share.
- 7.3 The Directors (with the consent of a Relevant Majority) may at any time decide that a Share, which is or would otherwise be subject to the Company's lien will not be subject to it, either wholly or in part.

## 8. **REGISTRATION OF TRANSFERS**

- 8.1 Subject to Article 8.2, the Directors shall be required to register promptly any transfer of Equity Shares made in accordance with the provisions of these Articles provided in all cases where the transferee is not already a party to the Investment Agreement, a Deed of Adherence duly executed by all relevant parties is laid before the meeting at which the transfer is to be approved (unless such requirement has been waived by a Relevant Majority), but shall not register any transfer of shares otherwise.
- 8.2 The Directors may refuse to register a transfer of an Equity Share:
  - 8.2.1 which is not fully paid up (as to nominal value or premium) and a transfer of a share on which the Company has a lien;
  - 8.2.2 if it is in favour of more than four transferees;
  - 8.2.3 unless it is lodged at the office or such other place as the Directors may determine and is accompanied by the certificate for the Equity Shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer; and
  - 8.2.4 unless it is in respect of one class of Equity Share only.
- 8.3 In addition the Directors may refuse to register a transfer of an Equity Share to a bankrupt, a minor or a person of unsound mind.

## 9. **TRANSFERS PURSUANT TO OFFERS MADE UPON A CHANGE OF CONTROL OR WITH RELEVANT MAJORITY CONSENT**

- 9.1 Subject to the provisions of Article 10, any Equity Shares may at any time be transferred by any Member:

- 9.1.1 pursuant to acceptance of any offer made to that Member under the requirements of Article 15 (Tag Along);
- 9.1.2 pursuant to Article 16 (Drag Along); or
- 9.1.3 with the consent of a Relevant Majority.

## 10. **PERMITTED TRANSFERS**

- 10.1 Subject to the provisions of Article 8, any Equity Share (other than any Equity Share in respect of which the holder shall have been required by the Directors under these Articles to give a Transfer Notice or shall be deemed to have given a Transfer Notice) may at any time but subject to the written consent of the Board and a Relevant Majority (such consent not to be unreasonably withheld in the case of transfers to Family Members or Family Trusts) be transferred:
  - 10.1.1 by an individual Member to trustees to be held on Family Trusts of such a Member, or to a Family Member of such Member and if any Equity Shares held by trustees cease to be held on a Family Trust of the Member, the provisions of Article 10.6 shall apply;
  - 10.1.2 in the event of the death of any Member by his personal representative to trustees to be held on Family Trusts of such Member, or to a Family Member of such Member.
  - 10.1.3 by any Member, being a company, to a Member of the same Group as such Member, save that the transferee can only hold the Equity Shares for so long as it is a member of the same Group as the original Member and on the transferee ceasing to be a member of that Group the provisions of Article 10.6 shall apply.
- 10.2 Any Foresight Investor or B Ordinary Shareholder may transfer any Equity Shares to another party who is:
  - 10.2.1 a person, body, firm or partnership whose business comprises to a material extent the holding for investment purposes of securities in and/or the provision of debt and other financial facilities to United Kingdom unlisted companies and includes any subsidiary, nominee, custodian or manager used by such person, firm or partnership to hold such investments or to make available such facilities;
  - 10.2.2 a venture capital trust, venture capitalist, investment trust, investment company, limited partnership, EIS Fund (approved or unapproved) or such like entity managed or advised by the same management company, investment manager or adviser (or by a holding company of such management company, investment manager or adviser or any subsidiary company of such holding company);
  - 10.2.3 where that Member (or their nominees) holds their Equity Shares in connection with an investment made through a limited partnership, to any partner of a limited partnership (or their nominees) acting in such capacity or to any person who becomes a general partner, nominee or trustee for such limited partnership (provided such transfer is made in accordance with the fund or partnership agreement governing such entity or partnership) or,
  - 10.2.4 where that Member (or their nominees) holds their Equity Shares in connection with an investment made through a unit trust, to the holders of units in a unit trust (or their nominees) on a distribution in kind or otherwise, or to any person who becomes a nominee or trustee for such unit trust (provided such distribution or transfer is made in accordance with the relevant trust instrument);
  - 10.2.5 where that Member (or their nominees) holds their Equity Shares in connection with an investment made through a collective investment scheme (within the meaning of section 235 of Financial Services and Markets Act 2000), to a participant in any such collective investment scheme or to any person who becomes a nominee or manager for such (provided such transfer is made in accordance with the relevant fund agreement or instrument);

- 10.3 where that Member is a Foresight Investor, to (i) another Foresight Investor or (ii) an acquirer of a Foresight Investor or (iii) the fund manager/adviser to a Foresight Investor or (iv) an employee, member or partner of the fund manager/adviser to a Foresight Investor;
- 10.3.1 where that Member is a B Ordinary Shareholder, to (i) an acquirer of that B Ordinary Shareholder, (ii) the fund manager/adviser to a B Ordinary Shareholder or (iii) an employee, member or partner of the fund manager/adviser to a B Ordinary Shareholder.
- 10.4 Any Equity Shares held by a nominee for their beneficial owner ("**the Beneficial Owner**") may be transferred by the nominee to the Beneficial Owner or to another person shown to the reasonable satisfaction of the Directors to be a nominee for the Beneficial Owner only. Any Equity Shares may be transferred by the Beneficial Owner to a person shown to the reasonable satisfaction of the Directors to be a nominee for the Beneficial Owner only. Where any person to whom any Equity Shares have been transferred as a nominee ceases to hold such Equity Shares as nominee for the Beneficial Owner only he shall forthwith transfer such Equity Shares to the Beneficial Owner or to another person shown to the reasonable satisfaction of the Directors to be a nominee for the Beneficial Owner only and in default of doing so the provisions of Article 10.6 shall apply mutatis mutandis.
- 10.5 Where Equity Shares have been transferred to trustees under Article 10.1.1 or 10.1.2, on any change of trustees, the Relevant Shares (as defined below) may be transferred to the trustees for the time being of the trust concerned.
- 10.6 In the event that:
- 10.6.1 a Transferee Company holding Relevant Shares ceases to be a Member of the same Group as the Transferor Company from which (whether directly or by a series of transfers under Article 10.1.3) the Relevant Shares were derived; or
- 10.6.2 any Relevant Shares held by trustees cease to be held on a Family Trust of the Member,
- the Member holding the Relevant Shares shall notify the Directors in writing that such an event has occurred and such Member shall be bound, if and when required in writing by the Directors to do so, to give a Transfer Notice in respect of the Relevant Shares (but without specifying a proposed Prescribed Price (so that the Prescribed Price shall be determined pursuant to Article 11.4 and Article 11.5) and so that the right of revocation conferred by Article 11.10 shall not apply).
- For this purpose the expression "the Relevant Shares" means (so far as the same remain held by the trustees of a Family Trust or by any Transferee Company) the shares originally transferred to the trustees or to the Transferee Company and any additional shares issued to such trustees or Transferee Company by way of a capitalisation or acquired by such trustees or Transferee Company in exercise of any right or option granted or arising by virtue of the holding of the Relevant Shares or any of them or the membership thereby conferred.

## 11. **PRE-EMPTION RIGHTS**

- 11.1 The right to transfer Equity Shares or any interest therein shall, subject to and without prejudice to the provisions of Article 9 (Change of Control) and Article 10 (Permitted Transfers)) be subject to the following restrictions, save that such restrictions shall not apply to any transfer of Equity Shares pursuant to Article 9.1, the acceptance of an offer made pursuant to Article 15 (Tag Along) or to the proposed sale pursuant to Article 16.1 of the Equity Shares for the time being in issue where the Vendors (as defined in Article 16 (Drag Along) comply with their obligations under Article 16).
- 11.2 Before transferring or disposing of any Equity Shares (or any interest in Equity Shares) the Proposing Transferor shall serve a notice on the Company specifying the number and class of Equity Shares in question and the proposed price for such Equity Shares, and the Transfer Notice shall constitute the Company his agent for the sale of those Equity Shares at the Prescribed Price to any Member or Members. A Transfer Notice shall not be served without the consent of a Relevant Majority. Except as provided in this Article, a Transfer Notice once

given or deemed to be given shall not be revocable except with the consent of the Directors (which shall include the consent of the Foresight Investor Director (if appointed) and/or the Chairman (if appointed)).

- 11.3 A Transfer Notice may comprise Equity Shares of more than one class and shall, if the Proposing Transferor has received any offer to purchase Equity Shares (whether or not an offer capable of becoming legally binding upon acceptance) within the period of three months prior to service of the Transfer Notice, give the name of the offeror, the number and class of Equity Shares concerned and the price offered in respect of each such Equity Share. A Transfer Notice may not be given by an Excluded Person unless required by the Directors under Article 10.6, or Article 16.
- 11.4 The Directors will endeavour to agree the Prescribed Price with the Proposing Transferor. If the Directors fail to agree the Prescribed Price with the Proposing Transferor within 14 days of receipt of the Transfer Notice by the Company or, as applicable, a Transfer Notice having been deemed to have been served, the Directors shall request the Auditors (or if they are unable or decline to act, an independent firm of chartered accountants appointed by the Directors or, in the event of disagreement appointed on the application of the Proposing Transferor or by the Directors by the President of the Institute of Chartered Accountants in England & Wales and the provisions relating to Auditors in this Article 11 shall apply to such independent firm of chartered accountants (acting as experts and not as arbitrators)) to certify the Prescribed Price.
- 11.5 The Auditors shall (acting as experts and not arbitrators) within 14 days of such a request certify to the Company the Prescribed Price, being the value of each Sale Share (or, where appropriate of each Sale Share of each class) calculated on the following basis:
- 11.5.1 by determining the sum which a willing purchaser would offer to a willing vendor for all the issued Equity Shares;
- 11.5.2 if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
- 11.5.3 that the Sale Shares are capable of being transferred without restriction;
- 11.5.4 valuing the Sale Shares as a rateable proportion of the total value of all the issued Equity Shares without any premium or discount being attributable to the percentage of the issued Equity Shares which they represent;
- 11.5.5 reflect any other factors which the Auditors reasonably believe should be taken into account provided that such factors shall not override the above assumption and bases; and
- 11.5.6 by dividing the resultant figure between the holders of Equity Shares by applying the provisions of Article 4.3.1 as if that sum were the proceeds of a Sale.
- 11.6 The Auditors' certificate as to the Prescribed Price shall be final and binding, save in the event of manifest error.
- 11.7 Within 21 days following receipt of the Transfer Notice or (where relevant) the date on which the Transfer Notice is deemed to have been given or where the Prescribed Price is certified by the Auditors the date of certification of the Prescribed Price, the Company shall offer the Sale Shares to each Member (other than the Proposing Transferor and any Excluded Person) in accordance with the provisions of Articles 11.9 for purchase at the Prescribed Price. All offers shall be made by notice in writing and state a time (being between 30 and 42 days inclusive following the date of such notice) within which the offer must be accepted or, in default, will be deemed to have been declined ("**Acceptance Period**"). A copy of such offer shall at the same time be sent by the Company to the Proposing Transferor.
- 11.8 If the Sale Shares are:

- 11.8.1 D Ordinary Shares and/or (if any) DD Ordinary Shares, the Company shall offer such Sale Shares:
  - 11.8.1.1 firstly to the D Ordinary Shareholders and/or (if any) DD Ordinary Shareholders (as if the D Ordinary Shares and (if any) DD Ordinary Shares constituted one and the same class) in proportion to the number of D Ordinary Shares and (if any) DD Ordinary Shares held, and in the case of each D Ordinary Shareholders' and/or (if any) DD Ordinary Shareholders' allocation it shall be entitled to nominate any other entity which is managed by the same fund manager or investment adviser as the D Ordinary Shareholders and/or (if any) DD Ordinary Shareholders;
  - 11.8.1.2 secondly to the C Ordinary Shareholders in proportion to the number of C Ordinary Shares held, and in the case of each C Ordinary Shareholders' allocation it shall be entitled to nominate any other entity which is managed by the same fund manager or investment adviser as the C Ordinary Shareholders;
  - 11.8.1.3 thirdly to the A Ordinary Shareholders and B Ordinary Shareholders pari passu (as if the A Ordinary Shares and B Ordinary Shares constituted one and the same class) in proportion to the number of A Ordinary Shares and B Ordinary Shares held, and in the case of each B Ordinary Shareholders' allocation it shall be entitled to nominate any other entity which is managed by the same fund manager or investment adviser as the B Ordinary Shareholder; and
  - 11.8.1.4 fourthly to the Ordinary Shareholders pari passu in proportion to the number of Ordinary Shares held;
- 11.8.2 C Ordinary Shares, the Company shall offer such Sale Shares:
  - 11.8.2.1 firstly to the C Ordinary in proportion to the number of C Ordinary Shares held, and in the case of each C Ordinary Shareholders' allocation it shall be entitled to nominate any other entity which is managed by the same fund manager or investment adviser as the C Ordinary Shareholders;
  - 11.8.2.2 secondly to the D Ordinary Shareholders and/or (if any) DD Ordinary Shareholders (as if the D Ordinary Shares and (if any) DD Ordinary Shares constituted one and the same class) in proportion to the number of D Ordinary Shares and (if any) DD Ordinary Shares held, and in the case of each D Ordinary Shareholders' and/or (if any) DD Ordinary Shareholders' allocation it shall be entitled to nominate any other entity which is managed by the same fund manager or investment adviser as the D Ordinary Shareholders and/or (if any) DD Ordinary Shareholders;
  - 11.8.2.3 thirdly to the A Ordinary Shareholders and B Ordinary Shareholders pari passu (as if the A Ordinary Shares and B Ordinary Shares constituted one and the same class) in proportion to the number of A Ordinary Shares and B Ordinary Shares held, and in the case of each B Ordinary Shareholders' allocation it shall be entitled to nominate any other entity which is managed by the same fund manager or investment adviser as the B Ordinary Shareholder; and
  - 11.8.2.4 fourthly to the Ordinary Shareholders pari passu in proportion to the number of Ordinary Shares held;
- 11.8.3 A Ordinary Shares or B Ordinary Shares, the Company shall offer such Sale Shares:
  - 11.8.3.1 firstly to the A Ordinary Shareholders and B Ordinary Shareholders pari passu (as if the A Ordinary Shares and B Ordinary Shares constituted one and the same class) in proportion to the number of A Ordinary Shares and B Ordinary Shares held, and in the case of each B Ordinary Shareholders' allocation it shall be entitled to nominate any other entity which is managed by the same fund manager or investment adviser as the B Ordinary Shareholder;
  - 11.8.3.2 secondly to the D Ordinary Shareholders and/or (if any) DD Ordinary Shareholders (as if the D Ordinary Shares and (if any) DD Ordinary Shares constituted one and the same class) in

proportion to the number of D Ordinary Shares and (if any) DD Ordinary Shares held, and in the case of each D Ordinary Shareholders' and/or (if any) DD Ordinary Shareholders' allocation it shall be entitled to nominate any other entity which is managed by the same fund manager or investment adviser as the D Ordinary Shareholders and/or (if any) DD Ordinary Shareholders;

- 11.8.3.3 thirdly to the C Ordinary Shareholders in proportion to the number of C Ordinary Shares held, and in the case of each C Ordinary Shareholders' allocation it shall be entitled to nominate any other entity which is managed by the same fund manager or investment adviser as the C Ordinary Shareholders; and
- 11.8.3.4 fourthly to the Ordinary Shareholders *pari passu* in proportion to the number of Ordinary Shares held;
- 11.8.4 Ordinary Shares, the Company shall offer such Sale Shares:
  - 11.8.4.1 firstly, to the Company to buy back under chapter VII of Part V of the CA 2006 to the extent that it is lawfully able to do so ("**Purchase of Own Share Option**");
  - 11.8.4.2 secondly, to either:
    - (a) an Employee Trust or such other trust as approved by the Remuneration Committee to hold the Sale Shares until an incoming employee or director joins the Company, and the Remuneration Committee resolves such Sale Shares shall be transferred to that person; or
    - (b) to an incoming or current employee or director where the Remuneration Committee resolves that such Sale Shares shall be transferred to that person; and
  - 11.8.4.3 thirdly, to the holders of Equity Shares *pari passu* (as if the Equity Shares constituted one class of shares) in proportion to the number of Equity Shares held by them respectively.
- 11.9 The Sale Shares shall be offered on the following basis:
  - 11.9.1 any Member to whom the Sale Shares are offered may accept all or some only of the Sale Shares offered to him, and shall be invited to indicate whether, if he accepts all such Sale Shares, he wishes to purchase any Sale Shares which other Members decline to accept ("**Excess Shares**") and, if so, the maximum number of Excess Shares which he wishes to purchase;
  - 11.9.2 any Excess Shares shall be allocated between the Members who have indicated that they wish to purchase Excess Shares *pro rata* to the proportion of the total number of Equity Shares held by those Members but so that no Member shall be required or entitled to receive more than the maximum number indicated by him pursuant to Article 11.9.1;
  - 11.9.3 subject to the provisions of Article 11.7, the Purchasers shall be bound to purchase the Sale Shares properly allocated to them at the Prescribed Price in accordance with the provisions of Article 11.
- 11.10 Not later than 7 days following the expiration of the Acceptance Period the Company shall give written notice to the Proposing Transferor stating:
  - 11.10.1 if it is the case, that no Member has sought to purchase any of the Sale Shares; or, otherwise
  - 11.10.2 the number of Sale Shares which Members have sought to purchase, giving the name and address of each Purchaser and the number of Sale Shares to be purchased by him.
- 11.11 If within the Acceptance Period, Purchasers have been found for only some of the Sale Shares or if no Purchaser has been found for any of the Sale Shares, the Proposing Transferor may within 7 days of service on him of notice under this Article revoke his Transfer Notice by written notice to the Company.

- 11.12 If the Proposing Transferor is given notice under Article 11.10 (and subject to his not revoking his Transfer Notice in accordance with Article 11.11) he shall be bound on payment of the Prescribed Price to transfer the Sale Shares in question to the respective Purchasers. The sales and purchases shall be completed at the registered office of the Company during normal business hours on the first Business Day after the expiry of 14 days following the date of service of notice by the Company under Article 11.10.
- 11.13 If a Proposing Transferor fails to transfer any Sale Shares to a Purchaser after becoming bound to do so, the Directors may authorise any person to execute on behalf of and as agent for the Proposing Transferor any necessary instruments of transfer and shall register the Purchaser as the holder of the relevant Sale Shares. The Company's receipt of the purchase money shall be a good discharge to the Purchaser and the Company shall thereafter hold the purchase money on trust for the Proposing Transferor. After the name of the Purchaser has been entered in the Register of Members in purported exercise of these powers, the validity of the proceedings shall not be questioned by any person.
- 11.14 If the Company fails before the end of the Acceptance Period to find a Purchaser or Purchasers for any of the Sale Shares, the Proposing Transferor may (subject to Articles 8 and 11.16) sell all or any of the Sale Shares to any third party/parties.
- 11.15 If before the end of the Acceptance Period the Company finds a Purchaser or Purchasers for some (but not all) of the Sale Shares and serves notice accordingly under Article 11.10 the Proposing Transferor may (subject to Articles 8 and 11.16) sell all or any of the Sale Shares for which no Purchaser has been found to any third party/parties unless he revokes his Transfer Notice pursuant to Article 11.10 in which case he may sell all (but not some only) of the Sale Shares to any third party/parties.
- 11.16 The right of the Proposing Transferor to sell Sale Shares pursuant to Article 11.14 or Article 11.15 shall be subject to the following restrictions:
- 11.16.1 Sale Shares may not be sold after the expiry of three months after the date on which notice is given by the Company under Article 11.10;
- 11.16.2 Sale Shares must be sold on a bona fide sale at a price not less than the Prescribed Price and without any deduction, rebate or allowance whatsoever to the Purchaser;
- 11.16.3 the provisions of Article 15 (if applicable); and
- 11.16.4 no Equity Shares may be transferred, or disposed of, pursuant to this Article 11.16 by any person who is an Excluded Person unless the Directors resolve to approve such transfer or disposal.
- 11.17 The costs of the Auditors shall be borne as the Foresight Investor Director may direct.
- 11.17.1 The restrictions imposed by this Article 11 may be waived in relation to any proposed transfer of Equity Shares with the passing of a special resolution.
- 11.18 For the purposes of Article 11.16.2 and calculating whether or not a price to be paid for the Sale Shares is more or less than the Prescribed Price, then the cash value of any non-cash consideration shall be that agreed between the Proposing Transferor and the Company, or if the Proposing Transferor and the Company fail to agree such cash value within 15 Business Days following the earlier of any request by the Proposing Transferor to so value any non-cash consideration and the submission to the Company of the relevant stock transfer form(s) relating to a transfer of the Sale Shares for non-cash consideration, the cash value shall be the amount certified as such as at the date of the earlier of the request for valuation and the purported transfer of the Sale Shares at the request of the Directors, by the Auditors (acting as experts and not arbitrators). Their certificate shall be final and binding.
- 11.19 Any Foresight Investor shall be entitled to offer any right (in whole or in part) under this Article 11 to subscribe for or acquire Equity Shares to any venture capital trust, venture capitalist, investment trust, investment company, limited partnership, EIS fund (approved or unapproved)

or other such like entity advised or managed by the same investment adviser/manager to the relevant Investor or to any company in which the Foresight Investor is a shareholder.

11.20 Angel CoFund shall be entitled to offer any right (in whole or in part) under this Article 11 to subscribe for or acquire Equity Shares to any venture capital trust, venture capitalist, investment trust, investment company, limited partnership, EIS fund (approved or unapproved) or other such like entity advised or managed by the same investment adviser/manager as its own investment adviser/manager.

11.21 If the Directors wish to take up the Purchase of Own Shares Option, the Directors shall proceed to convene as soon as practicable a general meeting or circulate a written resolution to approve the purchase of the Equity Shares in question on the terms specified in this Article 11 and, if required, to approve a payment in respect of the purchase otherwise than out of distributable profits or the proceeds of a fresh issue of Equity Shares, and the Directors shall ensure that the other formalities required by the CA 2006 are expeditiously complied with. If the Company fails to complete the purchase within 42 days after the date on which the Directors resolve to take up the purchase, or the Members fail to pass the relevant resolution to approve the Purchase of Own Shares Option within that period the Equity Shares in question shall be offered to each Member (other than the Employee Member who is deemed to have given the Transfer Notice and any Excluded Person) in accordance with the provisions of Article 11.8.4.2 and otherwise Article 11.8.4.3.

## 12. **MANDATORY TRANSFERS**

12.1 A person entitled to a share in consequence of the bankruptcy, receivership or liquidation of a Member shall be bound if required in writing to do so by the Directors (or a Relevant Majority, within 2 weeks of receipt of the relevant request, to transfer all the Equity Shares then registered in the name of the Member in bankruptcy, receivership, or liquidation.

12.2 A Director shall be entitled to give a Transfer Notice in respect of all the Equity Shares then registered in the name of the Member in bankruptcy.

12.3 If a Transfer Notice is deemed to have been given pursuant to Article 12.1 the Sale Shares shall be offered in accordance with the provisions of Article 11.8

## 13. **EVIDENCE OF COMPLIANCE**

In any case where the Directors require a Transfer Notice to be given and it is not duly given within a period of two weeks of notice being given requiring the Transfer Notice to be given, a Transfer Notice in respect of the Equity Shares in question shall be deemed to have been given at the expiration of that period. Any Transfer Notice deemed to have been given or required to be given under any provision of these Articles shall not be capable of revocation and (notwithstanding any of the provisions of these Articles) shall extend not just to the Equity Shares registered in the name of the Member concerned but to any person Connected to him and/or to whom he has directly or indirectly transferred Equity Shares pursuant to Article 10.1.

## 14. **EVIDENCE OF AUTHORISATION**

For the purpose of ensuring that a transfer of Equity Shares is duly authorised under these Articles or that no circumstances have arisen requiring a Transfer Notice to be given, the Directors may require any Member or the personal representatives or trustee in bankruptcy, receiver or liquidator of any Member or any person named as transferee in any instrument of transfer lodged for registration to provide to the Company such information as the Directors reasonably think fit regarding any matter which they consider relevant. If such information is not provided to the reasonable satisfaction of the Directors within a reasonable time after request, the Directors shall be entitled to refuse to register the transfer in question or (in case no transfer is in question) to require by notice in writing that a Transfer Notice be given in respect of the Equity Shares concerned. If the information discloses (in the reasonable opinion of the Directors) that a Transfer Notice ought to have been given in respect of any Equity Shares the Directors may by notice in writing require that a Transfer Notice be given in respect of the Equity Shares concerned.



15. **TAG ALONG**

- 15.1 Notwithstanding the provisions of Article 10 no sale or transfer of the legal or beneficial interest in any Equity Shares ("**the Relevant Transaction**") (other than one made pursuant to Article 9) may be made or validly registered if as a result of such sale or transfer a Relevant Interest is obtained by a person (or persons acting in concert) where such person(s) did not have a Relevant Interest immediately prior to the Relevant Transaction, unless the Proposing Transferor:
- 15.1.1 shall have procured a written offer complying with the provisions of Article 15.4 to have been made by the proposed transferee (or any person or persons acting in concert with it) ("**the Proposing Transferee**") to the holders of all the other issued Equity Shares to acquire their entire holding of Equity Shares (the "**Eligible Shareholders**"); and
- 15.1.2 shall have served a notice on the Eligible Shareholders in respect of such proposed offer (the "**Tag Notice**").
- 15.2 The Tag Notice will specify:
- 15.2.1 that Eligible Shareholders are entitled to transfer all of their shareholdings to the Proposing Transferee;
- 15.2.2 the terms of sale to which the Eligible Shareholders are required to adhere and enclose copies of the tag along documents (if any) relating to the sale;
- 15.2.3 the identity of the proposed purchaser;
- 15.2.4 the Specified Price and/or type of consideration being offered (including non-cash consideration) for each class of Equity Shares held by the Eligible Shareholders; and
- 15.2.5 the proposed place, date and time of completion.
- 15.3 For the purpose of this Article 15:
- 15.3.1 the expression a "**Relevant Interest**" shall mean an interest in more than 50% of the Equity Shares in issue for the time being;
- 15.3.2 the expressions "transfer" and "transferee" shall include respectively the renunciation of a renounceable letter of allotment and the renouncement under any such letter of allotment; and
- 15.3.3 the expression "acting in concert" shall bear the meaning ascribed to it in the City Code on Take-overs and Mergers (as amended from time to time).
- 15.4 The offer referred to in Article 15.1 above shall be on terms that:
- 15.4.1 it will be open for acceptance in England and Wales for a period of at least 28 days following the making of the offer;
- 15.4.2 each Member to whom it is made shall be entitled to receive for each of the Equity Shares held by him a sum per Share equal to the Specified Price (or otherwise on the same terms for non-cash consideration where relevant);
- 15.4.3 the purchase of any Equity Shares in respect of which such offer is accepted shall be completed at the same time as the Relevant Transaction;
- 15.4.4 and otherwise on the same terms for all members (and for this purpose any offer which provides for any warranties or indemnities (other than warranties as to title and capacity) or restrictive covenants from some, but not all, Members shall be deemed to comply with this Article 15.4).
- 15.5 The expression "**the Specified Price**" shall mean:

- 15.5.1 a price per Share which shall be determined by valuing the entire issued share capital of the Company ("**the Sale Value**") by reference to the aggregate of:
- 15.5.2 the amount offered or paid or payable by the proposed transferee or transferees or his or their nominees respectively for each of the Equity Shares comprised in the Relevant Interest to the holder or holders thereof or, if higher, the highest amount paid or payable for an Equity Share in any related or previous transaction within the 12 months preceding the offer by the same purchaser or any person acting in concert with the Proposing Transferee; and
- 15.5.3 an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holder or holders of the Equity Shares comprised in the Relevant Interest which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Relevant Interest (and, for the avoidance of doubt and without prejudice to the generality of the foregoing, any additional consideration which is linked to future profits, turnover or some other measure of the future performance of the Company shall be regarded as consideration which is an addition to the price paid or payable for the Relevant Interest); and
- 15.5.4 the Specified Price which each Member shall be entitled to receive in respect of each Share held by him shall then be determined by applying the provisions of Article 4.2.1 as if the Sale Value were the proceeds of a Sale.
- 15.6 Any disagreement as to the calculation of the Specified Price which each Member is entitled to receive in respect of each Share held by him for the purposes of this Article shall be referred to the Auditors or if a Member objects or they are unable to act or decline to act, an independent firm of chartered accountants appointed by the Directors, or in the event of disagreement, appointed on the application of the Proposing Transferor or the Directors by the President of the Institute of Chartered Accountants in England and Wales and the provisions relating to the Auditors in this Article 15 shall apply to such independent firm of chartered accountants (acting as experts and not arbitrators) whose decision shall be final and binding (in the absence of manifest error) and the costs of the Auditors shall be borne by the Company.
16. **DRAG ALONG**
- 16.1 If:
- 16.1.1 at any time one or more Members holding between them more than 75% of the Company's voting rights for the time being in issue (and acting with the consent of a Relevant Majority) propose to sell the legal or beneficial interest in their entire holdings of Equity Shares and they have the consent of the Relevant Majority; or
- 16.1.2 on the fifth year anniversary of the Relevant Date, there has been no Exit, a Relevant Majority, propose to sell the legal and beneficial interest in their entire holdings of Equity Shares,
- (in each case the "**Vendors**") to a person with whom none of them is Connected or one or more such persons acting in concert (the "**Offeror**") then the Vendors acting pursuant to Article 16.1.1 or 16.1.2 shall have the right to require the holders of all other issued Equity Shares in the Company (the "**Called Shareholders**") to sell and transfer their entire holdings of Equity Shares (on the same consideration basis as the Vendors (whether this be cash or non-cash consideration)) to the Offeror (or as the Offeror shall direct) in accordance with this Article 16.1 (the "**Drag Along Right**") at a price (the "**Drag Along Price**") to be determined and apportioned on the basis set out in Article 15.5 (or if the cash is non-cash consideration having a value equal to the Drag Along Price) and otherwise on the terms specified in Article 16 (as if the Vendors' proposed sale was a Relevant Transaction).
- 16.2 The Drag Along Right may be exercised by the Vendors serving written notice to that effect (a "**Drag Along Notice**") on the Called Shareholders at any time before the transfer of the Vendors' Equity Shares to the Offeror.
- 16.3 A Drag Along Notice shall specify that the Called Shareholders are, or will in accordance with this Article 16 be, required to sell and transfer their Equity Shares to the Offeror on or about

the date specified in the Drag Along Notice (which shall be not less than 7 days after the date of the Drag Along Notice or (if no such date is specified in the Drag Along Notice) on or about such date as the Vendors may subsequently specify by notice in writing to the Called Shareholders (which shall be not less than 7 days after the date of the Drag Along Notice).

- 16.4 If a Called Shareholder fails to transfer any Equity Shares to the Offeror after becoming bound to do so, the Directors may authorise any person to execute on behalf of and as agent for the Called Shareholder any necessary instruments of transfer and shall register the Offeror as the holder of the relevant Equity Shares. The Company's receipt of the purchase money shall be a good discharge to the Offeror and the Company shall thereafter hold the purchase money on trust for the Called Shareholder. After the name of the Offeror has been entered in the Register of Members in purported exercise of these powers, the validity of the proceedings shall not be questioned by any person.
- 16.5 A Drag Along Notice once given shall be irrevocable but shall lapse (and the obligations thereunder shall lapse) in the event that for any reason the Vendors do not transfer their entire holdings of Equity Shares to the Offeror or the Offeror's nominee not later than the date specified as the date for completion of the sale and purchase of Equity Shares pursuant to exercise of the Drag Along Right.
- 16.6 Upon any person, following the giving of a Drag Along Notice, becoming a Member pursuant to the exercise of a pre-existing option to subscribe for or otherwise acquire Equity Shares in the Company (a "**New Member**"), a Drag Along Notice shall be deemed to have been given to the New Member forthwith on the same terms as the previous Drag Along Notice and the New Member shall thereupon be bound to sell and transfer all such Equity Shares acquired by him to the Offeror or as the Offeror may direct and the provisions of this Article shall apply mutatis mutandis to the New Member save that completion of the sale of such Equity Shares shall take place forthwith upon the Drag Along Notice being deemed to have been given to the New Member.
- 16.7 If the Vendors exercise the Drag Along Right, it shall not be necessary for them first to have given Transfer Notices pursuant to Article 11.

## 17. **PROCEEDINGS AT GENERAL MEETINGS**

- 17.1 Save as herein otherwise provided two Equity Shareholders present in person or by proxy (or, being a corporation, by representative), one of whom must be a proxy or duly authorised representative of the Foresight Investors holding C Ordinary Shares and/or D Ordinary Shares and/or (if any) DD Ordinary Shares, shall be a quorum.
- 17.2 If a quorum is not present within half an hour from the time appointed for a general meeting or ceases to be present the general 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 other time and place as the Directors may determine.
- 17.3 If at any adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the Members present shall form a quorum.
- 17.4 In the case of any equality of votes at a general meeting, whether on a show of hands or on a poll, the chairman of the meeting shall not be entitled to a second or casting vote.

## 18. **ALTERNATE DIRECTORS**

No meeting of the Directors shall be invalid because notice thereof or of any business to be transacted at that meeting was not given to any alternate director if his appointer attends such meeting.

## 19. **APPOINTMENT AND RETIREMENT OF DIRECTORS**

- 19.1 The Directors shall not be required to retire by rotation.

- 19.2 The Company may by ordinary resolution appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director.
- 19.3 The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with these Articles as the maximum number of directors.
- 19.4 Save as provided in Article 21, the appointment and removal of any Director (other than a Foresight Investor Director and/or Chairman) shall be subject to the prior written consent of a Relevant Majority.
20. **PROCEEDINGS OF THE DIRECTORS**
- 20.1 The number of Directors shall not be less than two or more than eight.
- 20.2 Subject to Article 20.5, the quorum necessary for the transaction of business of the Directors shall be two, at least one of whom shall be a Foresight Investor Director if at the time of the meeting a Foresight Investor Director has been appointed. If the Foresight Investor Director has been appointed but neither he (nor his alternate) are present at the time of the meeting, the meeting shall be adjourned for at least five days and notice of such adjournment specifying the proposed time and place of the adjourned meeting shall be sent to the Foresight Investor Director (and, if relevant, his appointed alternate). If a Foresight Investor Director (or his alternate) is not present at the time of the adjourned meeting, then the meeting may proceed if a quorum of two Directors is present.
- 20.3 At any meeting of the Directors each Director (or his alternate director) present at the meeting shall be entitled to one vote.
- 20.4 In the case of an equality of votes at any meeting of the Directors the chairman of such meeting shall not be entitled to a second or casting vote.
- 20.5 Any Director including an alternate Director may participate in a meeting of the Directors or a committee of the Directors of which he is a member by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the CA 2006, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- 20.6 Model Article 9(3) and 9(4) shall be deleted and replaced with:
- “Notice of every meeting of the directors shall be given to each director and his alternate, including directors and alternate directors who may for the time being be absent from the United Kingdom and have given the Company an address within the United Kingdom or an e-mail address or a facsimile number outside the United Kingdom for service”.
21. **FORESIGHT INVESTOR DIRECTOR AND RELEVANT MAJORITY CHAIRMAN**
- 21.1 Notwithstanding any other provisions of these Articles:
- 21.1.1 for so long as the Foresight Investors or any of them are holders(s) of any Equity Share(s) in the Company, they shall have the right (acting by a Foresight Investor Majority) to appoint one person as a Director of the Company (“**Foresight Investor Director**”) and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place; and
- 21.1.2 for so long as the B Ordinary Shareholders, C Ordinary Shareholders, D Ordinary Shareholders and (if any) DD Ordinary Shareholders or any of them are holders(s) of any of any Equity Share(s) in the Company, they shall have the right (acting by a Relevant Majority)

to appoint one person as a director and chairman of the Company (“**Chairman**”) and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place.

- 21.2 A Foresight Investor Director or Chairman shall not be required to hold any Equity Shares.
- 21.3 Any appointment or removal of a Foresight Investor Director and/or Chairman shall be by notice in writing to the Company which will take effect on delivery at the registered office of the Company or at any meeting of the Board.
- 21.4 For so long as the Foresight Investors are the holders of any Equity Shares, on any resolution to remove a Foresight Investor Director, the Equity Shares held by the Foresight Investors who appointed such director shall together carry at least one vote in excess of 75% of the votes exercisable in respect of that resolution at the general meeting at which such resolution is to be proposed and if any such director is removed pursuant to Section 168 of the CA 2006 Foresight Investors who appointed such director may (acting by Foresight Investor Majority) reappoint him or any other person as a Foresight Investor.
- 21.5 For so long as the B Ordinary Shareholders, C Ordinary Shareholders, D Ordinary Shareholders and (if any) DD Ordinary Shareholders or any of them are holders(s) of any of any Equity Share(s), on any resolution to remove a Chairman, the Equity Shares held by the B Ordinary Shareholders, C Ordinary Shareholders, D Ordinary Shareholders and (if any) DD Ordinary Shareholders who appointed such director shall together carry at least one vote in excess of 75% of the votes exercisable in respect of that resolution at the general meeting at which such resolution is to be proposed and if any such director is removed pursuant to Section 168 of the CA 2006 the B Ordinary Shareholders, C Ordinary Shareholders, D Ordinary Shareholders and (if any) DD Ordinary Shareholders who appointed such director may (acting by a Relevant Majority) reappoint him or any other person as a Chairman.
- 21.6 Notwithstanding any other provisions of these Articles, so long as the Foresight Investors or any of them are holders(s) of any Equity Share(s) in the Company, irrespective of whether or not the Foresight Investors have appointed a Foresight Investor Director, they shall have the right (acting by a Foresight Investor Majority) to appoint one person as an observer at board meetings of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place.
- 21.7 Notwithstanding any other provisions of these Articles, so long as the Other Shareholders or any of them are holders(s) of any Equity Share(s) in the Company, they shall each have the right to appoint one person as an observer at board meetings of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place, provided that, where one or more of the Other Shareholders is under the common management of the same investment manager/adviser (or investment management/advisory group) then the rights of such Other Shareholders pursuant to this Article 21.7 shall be limited to the appointment of one observer between them.
- 21.8 Such observers appointed pursuant to Article 21.6 and/or Article 21.7 shall be entitled to receive the same information concerning the business and affairs of the Company, as the Directors of the Company receive, and at the same time, but shall not be entitled to vote at meetings of the Directors and shall not be counted towards the quorum.
- 21.9 Any appointment or removal of such observer shall be by notice in writing to the Company which will take effect on delivery at the registered office of the Company or at any meeting of the Board.

## **22. DIRECTORS' CONFLICTS OF INTERESTS**

- 22.1 If a proposed decision of the Directors is concerned with an actual or proposed transaction or arrangement with the Company in which a Director is in any way directly or indirectly interested, that Director shall be counted as participating in the decision making process for quorum and voting purposes provided that the relevant interest either:

- 22.1.1 has been duly declared in accordance with section 177 or section 182 CA 2006, as the case may require, or
- 22.1.2 is not required by the terms of either of those sections to be declared.
- 22.2 So long as the relevant interest falls within Article 21.1 or 21.2, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction with the Company:
- 22.1.1 may be a party to, or otherwise interest in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
- 22.1.3 shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) or participate in any unanimous decision, in respect of any such matter or proposed matter in which he is interested;
- 22.1.4 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director; and
- 22.1.5 may be a Director, or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested.
- 22.3 The Directors are hereby empowered for the purposes of section 175 of the CA 2006 to authorise any Conflict Situation that may arise and to amend or vary any such authorisation so given. Any such authorisation, amendment or revocation shall be given by resolution of the directors made in accordance with these Articles and, in the case of such authorisation, that section. The Directors may give any such authorisation subject to such terms as they shall consider appropriate and reasonable in the circumstances.
- 22.4 For the purposes of sections 175 and 180(4) of the CA 2006 and for all other purposes, it is acknowledged that a Foresight Investor Director may be or become subject to a Conflict Situation or Conflict Situations as a result of his also being or having been or being party to an agreement or understanding or circumstances under which he may become an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or a director or indirect investor in and/or otherwise commercially involved with or economically interested in any of the following:
- 22.4.1 a Foresight Investor; and/or
- 22.4.2 any Foresight Investor affiliate, which for these purposes means any person who or which, as regards any Investor or any other Foresight Investor affiliate of that Foresight Investor:
- 22.4.3 a company or entity which is a member of the Foresight Investor Group; and/or
- 22.4.4 is an investment manager or investment adviser to or of it and/or another Foresight Investor affiliate; and/or
- 22.4.5 is a Person in which the Foresight Investor and/or any Foresight Investor affiliated may have or acquire a direct or indirect economic interest, including without limitation any portfolio company investee; and/or
- 22.4.6 controls or is controlled, managed, advised (in an investment adviser capacity) or promoted by the Foresight Investor and/or such Foresight Investor affiliate; and/or
- 22.4.7 a trustee, manager, beneficiary, shareholder, partner, unit holder or other financier or any participant in or of it and/or that Foresight Investor affiliate, and/or
- 22.4.8 any carried interest or similar incentive arrangement associated with any Person or arrangement referred to in paragraph 22.4.1 or 22.4.2 of this Article,

where for these purposes "Person" shall mean any individual, body corporate, fund, trust, partnership or other entity whether or not having separate legal status.

22.4.9 A Foresight Investor Director's duties to the Company arising from his holding office as director shall not be breached or infringed as a result of any Conflict Situation envisaged by Article 22.4 and he shall be entitled to:

- (a) receive notice (including any relevant board papers) of, attend, count in the quorum towards and vote at board meeting relating in any way to, and deal generally with, matters concerning, connected with or arising from the Conflict Situation concerned; and
- (b) keep confidential and not disclose to the Company any information which comes into his possession as a result of such Conflict Situation where such information is confidential as regards any third party.

## 23. **STEP IN RIGHTS**

23.1 If:

23.1.1 any one or a combination of the Directors (excluding the Foresight Investor Director), the Executives (as defined in the Investment Agreement) or the Company are in breach of any of their material obligations in the Investment Agreement, or, in the case of the Directors only, of their service agreements, (which in any case, if capable of remedy has not been remedied within 14 days of the Directors receiving notice to remedy the same from the Foresight Investor Director) the consequences of which may be (in the opinion of a Relevant Majority) to the material detriment of the Company or the interests of Foresight Investors as shareholders of and lenders to, the Company (including the status of their investments as qualifying holdings within Chapter 4, Part 6 of the Tax Act); or

23.1.2 there is a material breach of the Investment Agreement; or

23.1.3 there is a material breach of these articles of association of the Company in force from time to time; or

23.1.4 the cash assets of the Company fall to less than £100,000 and for the purposes of this Article 23 the cash assets of the Company shall mean the aggregate of all positive and negative balances which the Company has on any and all of the bank accounts in its sole name and under its control; and

23.1.5 the Foresight Investor Director has given written notice to the Directors that the provisions of this Article 23 should have effect until such times as written notice is given by the Foresight Investor Director that the provisions of this Article 23 shall cease to have effect in relation to the matter in question (which will be given as soon as the relevant circumstances(s) prompting the giving of the notice is/are no longer applicable),

the Foresight Investor Director alone shall count as a quorum at any meeting of Directors and shall be entitled at any meeting of Directors to cast such number of votes which exceeds the votes cast for a resolution to which the Foresight Investor Director is opposed or which exceeds the votes cast against a resolution which the Foresight Investor Director has proposed but provided always that the provisions of this Article 23.1 may only be exercised by the Foresight Investor Director with the prior written consent of a Relevant Majority.

## 24. **CONSENT MATTERS**

24.1 Subject to Article 24.2, where the consent of a Relevant Majority is required by these Articles, such consent shall be calculated as if the number of C Ordinary Shares, D Ordinary Shares and (if any) DD Ordinary Shares were multiplied by 1.5, such that, for the avoidance of doubt, if at the relevant time there were 75,000 B Ordinary Shares in issue, 50,000 C Ordinary Shares in issue and 50,000 D Ordinary Shares in issue, the 50,000 C Ordinary Shares and 50,000 D

Ordinary Shares would equate to 150,000 C Ordinary Shares and D Ordinary Shares (in aggregate) and would reflect 66.66% in relation to the Relevant Majority.

24.2 When calculating the consent rights under Article 24.1, if any person (including all persons Connected to such person) has more than 45% of such rights, the aggregate consent rights of all such persons (including all rights of persons Connected with such persons) shall be reduced to 45% and the rights of all other consent holders shall be increased proportionately.

24.3 Where the consent of a Foresight Investor Majority is required in these Articles, such consent may be given by the Foresight Investor Director or such other person as is nominated by a Foresight Investor Majority provided that such consent is given in writing.

24.4 Where the consent of the "Foresight Investor Director" is referred to in these Articles, if there is no Foresight Investor Director appointed, such consent may instead be given by a Foresight Investor Majority.

## **25. DIRECTORS' BORROWING POWERS**

25.1 Subject as hereinafter provided, and as set out in the Investment Agreement, the Directors may exercise all the powers of the Company (whether express or implied) of borrowing or securing the payment of money, of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts, and of mortgaging or charging the undertaking, property, assets and uncalled capital of the Company and (subject to Section 551 of the CA 2006) of issuing debentures.

25.2 Except with the prior sanction of a Relevant Majority no mortgage or charge shall be created on any part of the undertaking, property, assets or uncalled capital of the Company or any subsidiary of the Company except for the purpose of securing money borrowed from bankers together with interest thereon and costs and expenses relating thereto.

## **26. INDEMNITY**

26.1 Subject to the provisions of the CA 2006 every Director (including an alternate Director) or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the lawful execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court, and no Director (including an alternate Director) or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the lawful execution of the duties of his office or in relation thereto.

26.2 The Directors shall have power to purchase and maintain for any Director (including an alternate Director), officer or auditor of the Company, insurance 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 (including as an alternate Director), officer or auditor.

26.3 The Directors may authorise the directors of companies within the same group of companies as the Company to purchase and maintain insurance at the expense of the Company for the benefit of any director (including an alternate director), other officer or auditor of such company in respect of such liability, loss or expenditure as is referred to in Article 26.2.