


**WRITTEN RESOLUTION**  
**Of the sole member of**  
**5D HOLDINGS LTD**  
**(Company Number 5878379)**

The undersigned, being the sole member of the Company, HEREBY RESOLVES THAT:

- (a) 58,800 ordinary shares of £0.01 proposed to be issued to Cabot Square Capital Nominee Ltd, be re-designated "A" Shares, within the meaning of the articles of association to be adopted pursuant to paragraph (d) below (the "New Articles"), of £0.01 each, immediately upon issue and at the same time the one ordinary share of £0.01 in issue at the date hereof be re-designated as an "A" Share within the meaning of the New Articles.
- (b) 40,000 ordinary shares of £0.01 proposed to be issued to the following shareholders in the following proportions be re-designated "B" Shares within the meaning of the New Articles, immediately upon issue.
- |                                      |                                      |
|--------------------------------------|--------------------------------------|
| (i) Cabot Square Capital Nominee Ltd | 9,627 ordinary shares of £0.01 each  |
| (ii) Ronald Keith Howard             | 20,613 ordinary shares of £0.01 each |
| (iii) Douglas Andrew Howard          | 3,600 ordinary shares of £0.01 each  |
| (iv) William Hodson                  | 2,560 ordinary shares of £0.01 each  |
| (v) Saira Shamim                     | 3,600 ordinary shares of £0.01 each  |
- (c) 1,199 ordinary shares of £0.01 proposed to be issued to the following shareholders in the following proportions be re-designated "C" Shares, within the meaning of the New Articles, immediately upon issue.
- |                            |                                   |
|----------------------------|-----------------------------------|
| (i) Ronald Keith Howard    | 530 ordinary shares of £0.01 each |
| (ii) Douglas Andrew Howard | 669 ordinary shares of £0.01 each |
- (d) The regulations contained in the document attached to this resolution, namely the New Articles, be adopted as the Articles of Association of the Company in substitution for and to the entire exclusion of the existing Articles of Association once the issue of the last of the shares referred to in paragraphs (b) and (c) takes place.
- (e) The directors are generally and unconditionally authorised pursuant to section 80 of the Companies Act 1985 to allot and issue up to 99,999 ordinary shares within one month of the date of this resolution (on the expiration of which this authority shall expire) and the directors shall have the power to exercise the authority hereby conferred upon them to allot such shares to such persons and on such conditions as they may in their discretion determine as if section 89(1) of the Companies Act 1985 did not apply thereto.
- (f) the proposed acquisition by 5D Finance Ltd (a member of the Company's group) of the business, assets and undertaking of Bayonet Ventures LLP on the terms, and subject to the condition(s) of the agreement to be entered into between 5D Finance Ltd, Bayonet Ventures LLP and Ronald Keith Howard (a copy of which is attached) (the "Acquisition Agreement") be and is hereby approved for the purposes of section 320 of the Companies Act 1985.

DATED: 23 October 2006  
NAME: CABOT SQUARE CAPITAL NOMINEE LIMITED  
SIGNATURE: 



**THE COMPANIES ACTS 1985 AND 1989**

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**PRIVATE COMPANY LIMITED BY SHARES  
ARTICLES OF ASSOCIATION  
OF  
5D HOLDINGS LTD  
(REGISTERED NO. 5878379)  
(ADOPTED BY SPECIAL RESOLUTION PASSED  
ON 23 OCTOBER 2006)**

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**THE COMPANIES ACTS 1985 AND 1989**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**

**of**

**5D HOLDINGS LTD**

**(Registered No. 5878379)**

**(adopted by Special resolution passed on 23 October 2006)**

**1. INTERPRETATION**

1.1 In these Articles unless the context otherwise requires:

- (a) words denoting the singular number shall include the plural number and vice-versa;
- (b) words denoting the masculine gender shall include the feminine and neuter genders and vice versa;
- (c) references to persons shall include bodies corporate, unincorporated associations, trusts and partnerships;
- (d) a reference to any statute or provision of a statute includes a reference to any statutory modification or re-enactment of it and to any subordinate legislation made under it in each case for the time being in force; and
- (e) expressions referring to writing include any mode of representing or reproducing words.

**2. DEFINITIONS**

2.1 In these Articles the following words shall bear the following meanings if not inconsistent with the subject or context:

<b>"Act"</b>	the Companies Act 1985 including any statutory modification or re-enactment of that Act for the time being in force;
<b>"Articles"</b>	these Articles of Association as now formed and at any time altered;
<b>""A" Shares"</b>	the "A" ordinary shares of £0.01 each in the capital of the Company;
<b>""A" Shareholders"</b>	the holders of "A" Shares from time to time;
<b>""A" Shareholders Consent"</b>	the written consent of the Majority of the "A" Shareholders;
<b>"Auditors"</b>	the auditors of the Company from time to time;

<b>""B" Shareholders"</b>	the holders of "B" Shares from time to time;
<b>""B" Shares"</b>	the "B" ordinary shares of £0.01 each in the capital of the Company;
<b>"Board"</b>	the board of directors of the Company from time to time;
<b>"Business Day"</b>	Monday to Friday except any day which is generally recognised as a public holiday in England;
<b>"Cash Receipts"</b>	the actual interest on the loans and other advances (if any) received in cash by the "A" Shareholders and the "C" Shareholders, the amount of capital supporting guarantees given by the "A" Shareholders and the "C" Shareholders which are released (as at the date of release), any dividends or other distributions received in cash by the "A" Shareholders and the "C" Shareholders, the proceeds of any share buy backs or other returns of capital received in cash by the "A" Shareholders and the "C" Shareholders, the repayment in cash of any of the loans and other advances (if any) but shall exclude any fees received from the Group for the provision of services, including monitoring and reviewing the business of the Group;
<b>"Company"</b>	5D Holdings Ltd (Registered No. 5878379);
<b>"Completion Date"</b>	the date of adoption of these Articles;
<b>"Controlling Interest"</b>	an interest (within the meaning of Section 324 of and Schedule 13 Part 1 to the Act) in Shares conferring in the aggregate more than half of the total voting rights conferred by all the Shares in the equity share capital of the Company for the time being in issue and conferring the right to vote at general meetings;
<b>""C" Shareholders"</b>	the holders of "C" Shares from time to time;
<b>""C" Shares"</b>	the "C" ordinary shares of £0.01 each in the capital of the Company;
<b>"Departure Event"</b>	<p>in respect of a Member (other than the Fund or a Fund Associate) or a Member's Designated Executive shall mean:</p> <ul style="list-style-type: none"> <li>(i) retirement on reaching retirement age in accordance with his terms of employment; or</li> <li>(ii) death; or</li> <li>(iii) ill health or permanent disability which, in the reasonable opinion of a Majority of "A" Shareholders, is sufficiently serious to prevent the relevant person from following his normal employment; or</li> <li>(iv) unfair dismissal (disregarding the one year qualifying period for being able to make a complaint of unfair dismissal), wrongful dismissal or wrongful constructive dismissal as proven in a court of law or tribunal of competent jurisdiction or as agreed in writing between the</li> </ul>

Member or the Member's Designated Executive, as applicable, and the relevant Group Company (with the consent of the Special Director) of which such person is an Employee; or

- (v) termination of employment on the basis that the relevant Group Company of which the Member or Member's Designated Executive is then employed has dismissed such person by stated reason of redundancy (within the meaning of section 139 of the Employment Rights Act 1996); or
- (vi) where the Board resolves with an "A" Shareholders consent that such person is to be treated as having been subject to a Departure Event in circumstances where such person would not, but for such resolution, be so treated.

**"Designated Executive"**

in respect of a Member means the person designated as such in any Relevant Agreement;

**"Director"**

a director or an alternate director (as appropriate);

**"Discount Notes"**

the unsecured deep discount loan notes and the loan notes 2013 issued by 5D Financial Ltd (Registered No. 5878146) to "A" Shareholders and "C" Shareholders pursuant to a note issuance facility agreement between them and a related deed poll both entered into on or about the date of adoption of these Articles;

**"Employee"**

means a person (other than a Special Director) who at any time is a Director and/or an employee of any Group Company or whose services are made available to any Group Company under the terms of a written agreement between any Group Company on the one hand and such individual or any other person on the other hand (and **"employment"** shall be construed accordingly to include such an agreement);

**"executed"**

includes any mode of execution;

**"Fair Value"**

with respect to (a) any Shares for Sale and (b) any "B" Shares or "C" Shares to be transferred pursuant to Article 13.2, such price as the transferor and the Board shall agree within 14 days after the date of the relevant Transfer Notice or, in the case of any sale pursuant to Article 13.2, within 14 days after the date of the Qualifying Offer (as defined in Article 13.2) or, failing such agreement, such price as shall be determined as follows:

- (i) the Company shall instruct the Auditors to determine the Fair Value on the basis which, in their opinion, represents a fair open market price for such Shares on the assumption of a sale of the entire issued equity share capital of the Company as between a willing seller and a willing buyer with the sale taking place on the date of the relevant Qualifying Offer or Transfer Notice (as the case may be) and, in making such determination, the Auditors shall apportion the value attributable to the "A" Shares and "B" Shares and "C" Shares between them on a basis which properly reflects their respective entitlements to amounts payable pursuant to

Article 5 and, in respect of the holders of "B" Shares and "C" Shares, which reflects the contractual terms upon which the relevant "B" Shares and "C" Shares are to be sold, provided that in all circumstances the value attributable to all Worthless Deferred Shares (if any) then in issue shall, in aggregate, be 1p;

- (ii) where the Auditors are unwilling to act for any reason or the Fair Value determined by the Auditors is disputed by the person whose Shares are to be valued and/or the Company, the Company shall instruct an Independent Expert to determine the Fair Value on the same assumptions set out in paragraph (i) of this definition wherein references to the 'Auditors' shall be construed as being references to the 'Independent Expert' appointed;
- (iii) the Auditors or Independent Expert (as the case may be) shall certify to the members in writing the Fair Value as soon as possible after being instructed by the Company and in so certifying the Auditors or Independent Expert shall be deemed to be acting as experts and not as arbitrators;
- (iv) the certificate of the Auditors or Independent Expert (as the case may be) shall, in the absence of manifest error, be final and binding; and
- (v) the Company shall procure that any certificate required hereunder is obtained with due expedition and the cost of obtaining such certificate shall be borne by the Company or, in the case of a certificate from an Independent Expert, the party who originally requested determination by the same and where both the person whose Shares are to be valued and the Company require a determination by an Independent Expert, each shall bear one half of the costs of the Independent Expert;

**"Fund"**

CS Capital Partners II L.P., whose General Partner is Cabot Square Capital GP Ltd, with offices at 7 St James's Street, London SW1A 1EE;

**"Fund Associate"**

any partner from time to time of the Fund, any person to whom any such partner may have assigned all or any part of its interest in the Fund, any parent undertaking or subsidiary undertaking, or any subsidiary undertaking of any parent undertaking, of the Fund, any person acting from time to time as nominee or custodian for the Fund, any person who is from time to time a manager of or adviser to the Fund, or any partnership, unit trust, investment trust, unincorporated association or other fund or corporation which is managed or advised by any person who is from time to time a manager of or adviser to the Fund;

**"General Transfer Event"**

four Individual Transfer Events having occurred (whether at the same time or at different times);



<b>"Group"</b>	the Company, its subsidiaries and subsidiary undertakings from time to time, and references to the <b>"Group Companies"</b> <b>"member(s) of the Group"</b> , and a <b>"Group Company"</b> shall be construed accordingly;
<b>"holder"</b>	in relation to Shares, the Member whose name is entered in the Register as the holder of the Shares;
<b>"Indebtedness"</b>	an obligation (whether present or future, actual or contingent) of any member of the Group for the payment or repayment of money which has been borrowed or raised (including raised by acceptances, guarantees and leasing);
<b>"Independent Expert"</b>	an umpire (acting as an expert and not as an arbitrator) nominated by the parties concerned or, in the event of disagreement as to nomination, appointed by the President of the Institute of Chartered Accountants in England and Wales on request of any of the parties concerned;
<b>"Individual Transfer Event"</b>	has the meaning in Article 14.4;
<b>"Investment Amounts"</b>	all sums actually paid in cash from time to time by the "A" Shareholders and the "C" Shareholders to the Group in subscribing for Shares and making loans plus the amount (at the date of the relevant guarantee) of any guarantees given by the "A" Shareholders and the "C" Shareholders in respect of obligations of the Group plus the costs and expenses incurred by the "A" Shareholders and the "C" Shareholders in relation to their investment in the Group, including, without limitation, the costs of monitoring and reviewing the business of the Group;
<b>"IRR"</b>	the annual percentage rate by which the Investment Amounts (or in the case of the proviso to the definition of the Return Target, the amount stated therein) (expressed as negative numbers) and the aggregate Cash Receipts by the "A" Shareholders and the "C" Shareholders from the Group (expressed as positive numbers) are discounted back (based on a daily computation) from the date of the payment, expense, guarantee or receipt to the Completion Date to arrive at an aggregate net present value at the Completion Date of nil;
<b>"Liquidator"</b>	liquidators and joint liquidators;
<b>"Listing"</b>	unconditional admission of the Shares in the capital of the Company to the Official List of the UK Listing Authority or to any other recognised investment exchange (as defined in section 285(1) of the Financial Services and Markets Act 2000);
<b>"Majority"</b>	when applied to a class of Share or Shares shall mean a majority by reference to nominal value;
<b>"Member"</b>	the registered holder of a Share;
<b>"Memorandum"</b>	the Memorandum of Association of the Company;

<b>"Named Executives"</b>	for so long as they remain Employees, Ronald Keith Howard, Douglas Andrew Howard, Saira Shamim and William Hodson;
<b>"Office"</b>	the registered office at any time of the Company;
<b>"Outside Purchaser"</b>	a third party purchaser of Shares referred to in clause 13.2(a);
<b>"Realisation"</b>	a Sale, Listing or disposal of the majority of the assets of the Company;
<b>"Register"</b>	the Register of Members kept pursuant to the Act;
<b>"Relevant Agreement"</b>	any agreement to which the Members (in their capacity as shareholders in the Company) are party relating to the business and affairs of the Company or the Group including, without limitation, any agreement pursuant to which any Member or Members provide Indebtedness to any member of the Group;
<b>"Reporting Date "</b>	the Completion Date and every 12 months thereafter (or if such date is not a Business Day, the next Business Day thereafter), representing the dates upon which a Statement of Ownership is due to be presented to the Board;
<b>"Return Target"</b>	<p>an amount equal to the higher of:</p> <p>(i) an IRR of 25%; and</p> <p>(ii) 200% of the total Investment Amounts,</p> <p>Provided that for the purposes of Article 5.5 in relation to any Investment Amounts paid, given or incurred at any time in the period commencing 12 months prior to any Realisation and ending on the date of any Realisation such Investments Amounts shall not be taken into account in the foregoing calculation and the Return Target in respect of such amounts shall instead be taken to be:</p> <p>(a) an IRR of 25% in respect of any Investment Amounts paid, given or incurred in the time period commencing six months prior to such Realisation (the "Six Month Date") and ending on the date of such Realisation; and</p> <p>(b) an IRR of 50% in respect of any Investment Amounts paid, given or incurred in the period commencing twelve months prior to such Realisation and ending on the date immediately preceding the Six Month Date.</p>
<b>"Sale"</b>	the acquisition of a Controlling Interest by any person or group not being the Fund or a Fund Associate (whether in one transaction or a series of transactions) whether alone or together with persons acting in concert with such person or group (as defined by The City Code on Takeovers and Mergers);
<b>"Seal"</b>	the common seal of the Company;
<b>"Secretary"</b>	the secretary of the Company, including a temporary or assistant secretary and any person appointed by the Board to perform any of

the duties of secretary;

<b>"Service Agreements"</b>	the service agreements between Group Companies and Ronald Keith Howard, Douglas Andrew Howard, Saira Shamim and William Hodson;
<b>"Shares"</b>	means the "A" Shares, the "B" Shares, the "C" Shares, the Worthless Deferred Shares and/or any share of any other class in the capital of the Company, as the context so requires;
<b>"Shares for Sale"</b>	means the Shares specified in a Transfer Notice under Articles 14 and 15;
<b>"Special Director"</b>	a Director of the Company (or, as the context may require, a Director of any other Group Company) appointed and designated as such pursuant to Articles 21 and 23;
<b>"Statement of Ownership"</b>	a written statement in a form approved by the Board containing details of the legal and beneficial ownership of all Shares held by Members (other than the Fund or a Fund Associate) who are not individuals or who hold Shares as nominees for other persons, which shall be delivered to the Board on each Reporting Date and shall state the position as of the Business Day immediately preceding the Reporting Date;
<b>"subsidiary"</b>	has the meaning in Section 736 of the Act;
<b>"Transfer Notice"</b>	a notice in writing deemed to be given by a Member under Article 14;
<b>"Worthless Deferred Shares"</b>	shares with the rights set out in Article 5.6(d).

- 2.2 Unless the context otherwise requires, words or expressions contained in these Articles bear the same meanings as in the Act.
- 2.3 Where an ordinary resolution is expressed to be required for any purpose, a special or extraordinary resolution is also effective for that purpose, and where an extraordinary resolution is expressed to be required for any purpose, a special resolution is also effective for that purpose.
- 2.4 No regulations contained in any statute or subordinate legislation, including but not limited to the regulations contained in Table A in the Schedule to the Companies (Table A-F) Regulations 1985 (as amended), apply as the regulations or articles of association of the Company.
- 2.5 Any reference in these Articles to "the Board" or the "Directors" shall be taken to mean the board of directors of the Company or the directors of the Company acting with the prior written approval of the Special Director, unless the Special Director confirms in writing that his prior approval is not required, and no decision, determination or other action of the Board shall be made or taken without such approval or confirmation, and the provisions of these Articles relating to the conduct of the business of the Company and the holding of meetings of the Directors shall be deemed to apply mutatis mutandis to such Group Companies for which a special director has been designated.

### **3. PRIVATE COMPANY**

The Company is a private company limited by shares and accordingly any invitation to the public to subscribe for any Shares or debentures of the Company is prohibited.

### **4. SHARE CAPITAL**

- 4.1 The authorised share capital of the Company at the date of the adoption of these Articles is £1000 divided into 58,801 "A" Shares with par value of £0.01 each and 40,000 "B" Shares with par value of £0.01 each and 1,199 "C" Shares with par value of £0.01 each.
- 4.2 The "A" Shares and the "B" Shares and the "C" Shares shall each constitute a separate class of Shares and shall, except where otherwise provided herein, confer upon the holders thereof the same rights.
- 4.3 Subject to the Act and without prejudice to any rights attached to existing Shares of any class, any Share may be issued with such rights or restrictions as the Company may direct by ordinary resolution (or, if the Company has not so determined, as the Directors may determine).
- 4.4 Subject to the Act, these Articles and any resolution by the Company in general meeting to the contrary, any unissued Shares shall be at the disposal of the Board which may allot, grant options over, or otherwise dispose of them to such persons and such terms and conditions and at such times as the Board determines but so that no Share shall be issued at a discount except in accordance with the Act.
- 4.5 The Company may issue fractions of Shares of any class and any such fractional Shares shall rank *pari passu* in all respect with the other Shares of the same class issued by the Company.
- 4.6 Subject to the provisions of the Act, Shares may be issued which are to be redeemed or are liable to be redeemed at the option of the Company on such terms and in such manner as may be provided by these Articles.
- 4.7 Subject to the provisions of the Act, any preference shares may be issued with the sanction of an "A" Shareholders Consent on terms that they are or at the option of the Company or the holder are liable to be redeemed on such terms and in such manner as the Company may by ordinary resolution determine.
- 4.8 Subject to the provisions of the Act, the Company may purchase its own Shares (including any redeemable Shares) and make a payment in respect of the redemption or purchase of its own Shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of Shares.
- 4.9 The provisions of Sections 89 and 90 of the Act do not apply to the Company.
- 4.10 The Company shall not be obliged to enter the name of more than four joint holders of a Share in the Register.
- 4.11 Except as required by law, no person shall be recognised by the Company as holding any Share upon any trust and (except as otherwise provided by these Articles or by law) the Company shall not be bound by or recognise any interest in any Share except an absolute right to the entirety of that Share in the holder.
- 4.12 The Company may exercise the powers of paying commissions conferred by the Act. Subject to the provisions of the Act, any such commission may be satisfied by the payment

of cash or by the allotment of fully or partly paid Shares or partly in cash and partly in Shares.

- 4.13 The rights and restrictions attaching to the respective classes of Shares shall be as set out in Article 5.

## **5. INCOME, CAPITAL AND VOTING**

### **Income**

- 5.1 Until the "A" Shareholders and the "C" Shareholders have received the Return Target, and taking into account all Cash Receipts, the "B" Shareholders shall not be entitled to any dividend on the "B" Shares and the profits which the Company may determine to distribute shall be distributed amongst the "A" Shareholders and the "C" Shareholders in the proportion which the amount paid up or credited as paid up (including any premium paid) on the "A" Shares bears to the amount paid up or credited as paid up (including any premium paid) on the "C" Shares.
- 5.2 Once the "A" Shareholders and the "C" Shareholders have received the Return Target, and taking into account all Cash Receipts, the profits which the Company may determine to distribute shall be distributed as follows:
- 5.2.1 40% to the "B" Shareholders; and
- 5.2.2 the remainder to the "A" Shareholders and the "C" Shareholders in the proportion which the amount paid up or credited as paid up (including any premium paid) on the "A" Shares bears to the amount paid up or credited as paid up (including any premium paid) on the "C" Shares.

### **Capital**

- 5.3 In the event of a reduction or return of capital of the Company, or a buy back of Shares by the Company, after payment of the costs, charges and expenses of such reduction, return or buy back, once the "A" Shareholders and the "C" Shareholders have received the Return Target, and taking into account all Cash Receipts, (in the proportion which the amount paid up or credited as paid up (including any premium paid) on the A Shares bears to the amount paid up or credited as paid up (including any premium) on the "C" Shares), any further sums which the Company may determine to pay to Members in respect of such event shall be distributed as to 40% to the "B" Shareholders and as to the remainder to "A" Shareholders and the "C" Shareholders in the proportion as aforesaid.

### **Winding Up**

- 5.4 In the event of a winding up of the Company, the assets of the Company remaining after payment of its debts and liabilities and of the costs, charges and expenses of such winding up are to be applied in the manner and order of priority set out in sub-clauses (a) to (c) below:
- 5.4.1 first, the "A" Shareholders and the "C" Shareholders shall receive a sum equal to all unpaid arrears or accruals of any dividend calculated down to and including the date of repayment followed by the amount paid up or credited as paid up on each such share (including the premium (if any)); and
- 5.4.2 second, the "A" Shareholders and the "C" Shareholders shall receive the Return Target, and taking into account all Cash Receipts, distributed between the "A" Shareholders and the "C" Shareholders in the proportion which the amount paid up or credited as paid up (including any premium paid) on the "A" Shares bears

to the amount paid up or credited as paid up (including any premium paid) on the "C" Shares.

provided that, in the event that the "A" Shareholders and the "C" Shareholders receive an amount which is less than the Return Target, and taking into account all Cash Receipts, the "B" Shares shall automatically convert into Worthless Deferred Shares and the holders of such Worthless Deferred Shares shall have the right to receive, in priority to the payments to the "A" Shareholders and the "C" Shareholders referred to in Article 5.4(b) above, an aggregate sum of 1p, but shall have no further right to participate in distributions from the Company.

5.4.3 Once the "A" Shareholders and the "C" Shareholders have received the Return Target, and taking into account all Cash Receipts, the balance (if any) of the assets of the Company shall be distributed as follows:

- (A) first, in paying the "B" Shareholders the amount paid up or credited as paid up on each such share (including the premium (if any)); and
- (B) second, in distributing the balance as follows:
  - (1) 40% to the "B" Shareholders; and
  - (2) the remainder to the "A" Shareholders and the "C" Shareholders in the proportion which the amount paid up or credited as paid up (including any premium paid) on the "A" Shares bears to the amount paid up or credited as paid up (including any premium paid) on the "C" Shares.

#### **Realisation**

5.5 In the event of a Realisation, the proceeds of the Realisation are to be applied as follows:

- 5.5.1 first in repaying all Indebtedness owed to the "A" Shareholders and the "C" Shareholders;
- 5.5.2 second, in making payments to the "A" Shareholders and the "C" Shareholders until they shall have received the Return Target (taking into account the payments made in Article 5.5.1 above and all Cash Receipts) distributed between the "A" Shareholders and the "C" Shareholders in the proportion which the amount paid up or credited as paid up (including any premium paid) on the "A" Shares bears to the amount paid up or credited as paid up (including any premium paid) on the "C" Shares; and
- 5.5.3 third, once the "A" Shareholders and the "C" Shareholders have received the Return Target, and taking into account all Cash Receipts, the balance (if any) of the proceeds of the Realisation shall be distributed as follows:
  - (A) 40% to the "B" Shareholders; and
  - (B) the remainder to the "A" Shareholders and the "C" Shareholders in the proportion which the amount paid up or credited as paid up (including any premium paid) on the "A" Shares bears to the amount paid up or credited as paid up (including any premium paid) on the "C" Shares.

In the event that the "A" Shareholders and the "C" Shareholders receive an amount which is less than the Return Target, and taking into account all Cash Receipts, the "B" Shares shall automatically convert into Worthless Deferred Shares and shall have no further right to distributions of the proceeds of the Realisation.

## **Voting**

### **5.6 As regards voting in general meetings:**

- 5.6.1 Each holder of "A" Shares shall be entitled to receive notice of, and to attend and vote at, general meetings of the Company.
- 5.6.2 Each holder of "B" Shares or "C" Shares shall be entitled to receive notice of and to attend any general meetings of the Company but shall not be entitled to vote on any resolution.
- 5.6.3 No general meeting shall be quorate unless there is or are present thereat, in person or by proxy or by corporate representative, a Majority of the "A" Shareholders. A quorum must be present throughout the whole meeting.
- 5.6.4 Worthless Deferred Shares shall have no right to receive notice of, or to attend and vote at, general meetings of the Company, or, except as set out in Article 5.4, to participate in the profits and assets of the Company.

## **Payments**

- 5.7 To the extent that any Member receives a payment in respect of Shares held by that Member, all or part of which is required by this Article 5 to be paid to another Member, the first Member shall ensure that such payment (or part thereof) is immediately paid to the second Member free of any deduction, set off or counter claim.
- 5.8 Where any payment to be made pursuant to this Article 5 would result in any Member or Members being entitled to a fraction of a penny, such fraction shall be dealt with in the manner determined by the Special Director.
- 5.9 Any payment to a "B" Shareholder or a "C" Shareholder pursuant to this Article 5 shall be subject to such Shareholder having delivered to the "A" Shareholders a statement of the beneficial and legal ownership of such "B" Shares or "C" Shares held by that "B" Shareholder or "C" Shareholder (as applicable) which shows no change from the previous Statement of Ownership, or only such changes as shall have been approved by the Fund.
- 5.10 All amounts paid to the holders of "A" Shares, "B" Shares and "C" Shares pursuant to this Article 5 shall be paid among the holders of the Shares of the particular class pro rata according to the amount paid up or credited as paid up on such Shares (including any premium paid).
- 5.11 For the purposes of this Article 5, the "A" Shareholders shall not be considered to have received the Return Target while any amounts remain outstanding or there is a contingent liability capable of arising with respect to Indebtedness to the Fund or any Fund Associate.

## **6. CLASS RIGHTS**

- 6.1 Notwithstanding any provision of any Relevant Agreement or these Articles, whenever the capital of the Company is divided into different classes of Shares the special rights attached to any class of Shares may only be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding-up, with the consent in writing of the holders of not less than 75% in nominal value of the issued Shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the Shares of that class, and, in the case of a variation or abrogation of the class rights attaching to "B" Shares, "C" Shares or Worthless Deferred Shares only, together with an "A" Shareholder Consent. To every such separate meeting all the provisions of these Articles relating to general meetings of the Company or to the proceedings thereat shall, mutatis mutandis, apply, save that the necessary quorum shall be two persons holding or representing by

proxy at least one third in nominal amount of the issued Shares of the class (but so that if at any adjourned meeting of such holders a quorum as defined above is not present those Members who are present shall be a quorum and where there is only one person holding Shares of that class that sole shareholder shall be a quorum), and that the holders of shares of the class shall, on a poll, have one vote in respect of every Share of the class held by them respectively.

6.2 It is a term of issue of the "B" Shares, "C" Shares and the Worthless Deferred Shares that none of the following matters shall be treated as a variation or abrogation of any of the respective rights attached to such Shares:

- (a) the creation or issue of any further shares in the capital of any Group Company, whether ranking in priority to or *pari passu* with or subordinated to any such class of shares; or
- (b) the creation or issue or granting of any options or other rights over, or of securities convertible into, any of the shares for the time being in the capital of any Group Company; or
- (c) any increase in or alteration or variation or reduction or consolidation or subdivision of the authorised or issued capital of any Group Company, or any alteration or variation of the rights attached to or any redemption or purchase by any Group Company of any of the shares for the time being in the capital of any Group Company (provided however, that any alteration or variation of the express rights of the "B" Shares, "C" Shares or the Worthless Deferred Shares, respectively, in Articles 5 and 13.1, shall be considered such a variation or abrogation); or
- (d) any application by way of capitalisation of any sum in or towards paying up any share or loan capital of any Group Company; or
- (e) any resolution to reduce, or any reduction in, the issued share capital of any Group Company, or any uncalled liability in respect thereof, or the amount (if any) standing to the credit of the share premium account or capital redemption reserve of any Group Company; or
- (f) the grant of any right to acquire or call for the issue of any shares in any member of the Group by conversion, subscription or otherwise or any issue of shares in any member of the Group;
- (g) the implementation of any compromise or arrangement within the meaning of section 425 of the Act or any arrangement pursuant to which the Company is to make a distribution of the kind described in section 213 of the Income and Corporation Taxes Act 1988;
- (h) any substantial alteration in the nature of the business of any member of the Group;
- (i) any resolution to purchase, or any purchase of, a Group Company's own shares by such Group Company; or
- (j) any redemption of any of any Group Company's shares or the entering into of a contract by any Group Company to purchase any of its shares; or
- (k) any resolution (whether pursuant to Part II of the Act or otherwise) to change the classification or status of any Group Company; or
- (l) any alteration (other than an alteration to Article 5 or 13.1 of these Articles) to the Memorandum of Association or Articles of Association of any Group Company; or



- (m) any resolution to wind up any Group Company; or
- (n) any sale, transfer or other disposal by any Group Company of the whole or part of its undertaking, business or assets
- (o) the transfer by any Group Company of any profits to reserves or the taking of any other action (excluding the lawful payment of dividends) which will or may reduce the amount of its profits available for distribution; or
- (p) the capitalisation by any Group Company of any profits (whether or not available for distribution and including profits standing to any reserve) of any sum standing to the credit of its share premium account or capital redemption reserve; or
- (q) any suspension or relaxation by any Group Company of any provision of its articles of association which prohibits a Director from voting at a meeting of the Directors or of a committee of the Directors in certain circumstances; or
- (r) any sale, transfer or other disposal by any Group Company of all or any part of, or any interest in, the shares of any other Group Company; or
- (s) the giving, variation, revocation or renewal of an authority for allotment by any Group Company under section 80 of the Act; or
- (t) the appointment or removal of any Director of any Group Company; or
- (u) the appointment or removal of auditors to any Group Company; or
- (v) any alteration of any Group Company's accounting reference date; or
- (w) the calling of a meeting of any Group Company to effect or approve any matter set out above.

## **7. SEALS AND SHARE CERTIFICATES**

- 7.1 The Seal (if any) shall only be used with the authority of the Directors or of a committee of the Directors authorised by the Directors.
- 7.2 Subject to the provisions of the Act, the Directors may determine to have an official seal for use in any country, territory or place outside the United Kingdom, which shall be a facsimile of the Seal of the Company. Any such official seal shall in addition bear the name of every country, territory or place in which it is to be used.
- 7.3 The Directors may determine who shall sign any instrument to which the Seal or any official seal is affixed and, in respect of the Seal, unless otherwise so determined such instrument shall be signed by a Director and by the Secretary or another Director. A person affixing the Seal or any official seal to any instrument shall certify thereon the date upon which and the place at which it is affixed.
- 7.4 Every Member, upon becoming the holder of any Shares, shall be entitled:
  - (a) without payment to one certificate for all his Shares of each class and when part only of the Shares comprised in a certificate is sold or transferred to a balance certificate; or
  - (b) upon payment of such sum as the Board may determine to several certificates each for one or more Shares of any class.

Upon request, a certificate shall be issued within one month after allotment or lodgement of transfer (or within such other period as the conditions of issue shall provide), may be

under the Seal and shall specify the Shares to which it relates and the amount paid up and the distinguishing numbers (if any).

- 7.5 In respect of a Share held jointly, the Company shall not be bound to issue more than one certificate and delivery of a certificate for a Share to one of several joint holders shall be sufficient delivery to all such holders.
- 7.6 If a share certificate is defaced, lost or destroyed it may be renewed on payment of such fee and on such terms (if any) as to evidence and indemnity and the payment of expenses as the Board thinks fit.

## **8. LIEN**

- 8.1 The Company shall have a first and paramount lien (extending to all dividends payable) on all Shares (not being fully paid) for all monies whether presently payable or not called or payable at a fixed time in respect of those Shares and for all the debts and liabilities of the holder or his estate to the Company whether the same have been incurred before or after notice to the Company of any equitable or other interest of any person (other than such holder) and whether the time for payment or discharge shall have arrived or not and notwithstanding that the same are joint debts or liabilities of such holder and any other person (whether a Member or not).
- 8.2 The Company may sell, in such manner and at such price as the Directors determine, any Share on which the Company has a lien if an amount in respect of which the lien exists is presently payable and is not paid within fourteen clear days after notice has been given to the holder of the Share, or the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the Shares may be sold.
- 8.3 To give effect to any sale the Board may authorise any person to execute an instrument of transfer for the Shares to be sold to or in accordance with the directions of the purchaser who shall be registered as the holder of the Shares comprised in any such transfer and who shall not be bound to see to the application of the purchase money nor shall his title to the Shares be affected by any irregularity or invalidity in the proceedings.
- 8.4 The net proceeds of the sale under this Article 8, after payment of the costs, shall be applied in payment of so much of the amount for which the lien exists as is presently payable, and any residue shall (upon surrender to the Company for cancellation of the certificate for the share sold, and subject to a like lien for any amount not presently payable as existed upon the Share before the sale) be paid to the person entitled to the Share at the date of the sale.

## **9. CALLS ON SHARES**

- 9.1 The Board may at any time make calls upon the Members in respect of any monies unpaid on their Shares (whether on account of the nominal value of the Shares or by way of premium and not by the conditions of allotment made payable at fixed times) and each Member shall pay to the Company at the time and place appointed the amount called on his Shares. A call may be required to be paid by instalments. A call may be revoked or postponed. A person upon whom a call is made shall remain liable for calls upon him notwithstanding the subsequent transfer of the Shares in respect of which the call was made.
- 9.2 Joint holders shall be jointly and severally liable to pay all calls.

- 9.3 If a call or an instalment of a call remains unpaid after it has become due and payable the person from whom it is due shall pay interest on the amount unpaid, from the day it became due and payable until it is paid at the rate fixed by the Board or in the notice of the call or, if no rate is fixed, at the appropriate rate (as defined by the Act) but the Directors may waive payment of the interest wholly or in part.
- 9.4 Any sum which by the terms of issue of a Share becomes payable on allotment or at any fixed date shall for the purposes of these Articles be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable and in the case of non-payment all the relevant provisions of these Articles as to payment of interest and expenses forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.
- 9.5 The Board may on an issue of Shares differentiate between the holders as to the amount of calls and the times of payment.
- 9.6 A call shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed.

## **10. FORFEITURE AND SURRENDER OF SHARES**

- 10.1 If a Member fails to pay any call or instalment on the day appointed the Board may at any time during such period as any part remains unpaid serve notice requiring payment of so much of the call or instalment as is unpaid together with any interest which may have accrued and any expenses which may have been incurred by the Company by reason of non-payment.
- 10.2 The notice shall state a further day on or before which the payment required by the notice is to be made and the place where payment is to be made and that in the event of non-payment the Shares in respect of which the call was made or instalment is payable will be liable to be forfeited. If the requirements of any such notice are not complied with any Share in respect of which the notice has been given may at any time before payment has been made be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited Share and not actually paid before the forfeiture.
- 10.3 Notice of forfeiture shall forthwith be given to the former holder and an entry of such notice and forfeiture shall forthwith be made and dated in the Register opposite the entry of the Share; but no forfeiture shall be in any manner invalidated by any omission or neglect to give notice or to make entry.
- 10.4 A forfeited Share shall be deemed to be the property of the Company and may, subject to the provisions of the Act, be sold, re-allotted or otherwise disposed of on such terms as the Board shall think fit with or without all or any part of the amount previously paid on the Share being credited as paid and at any time before a sale or disposition the forfeiture may be cancelled.
- 10.5 A person whose Shares have been forfeited shall cease to be a Member in respect of those Shares but shall notwithstanding remain liable to pay to the Company all moneys which at the date of forfeiture were payable in respect of the Shares together with interest at such rate as the Board may determine. The Board may enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal.
- 10.6 The forfeiture of a Share shall extinguish all interest in and all claims and demands against the Company in respect of the Share and all other rights and liabilities incidental to the Share as between the holder and the Company.

- 10.7 The Board may accept from any Member on such terms as shall be agreed a surrender of any Shares in respect of which there is a liability for calls. Any surrendered Share may be disposed of in the same manner as a forfeited Share.
- 10.8 A declaration in writing by a Director or the Secretary that a Share has been duly forfeited or surrendered on the date stated in the declaration shall be conclusive evidence of the facts therein as against all persons claiming to be entitled to the Share.
- 10.9 The Company may receive the consideration given for any Share on any sale or disposition and may execute a transfer of the Share in favour of the person to whom the same is sold or disposed of and he shall thereupon be registered as the holder and shall not be bound to see to the application of the purchase money nor shall his title be affected by any irregularity or invalidity in forfeiture, sale, re-allotment or disposal.

## **11. TRANSFER AND TRANSMISSION OF SHARES**

- 11.1 Notwithstanding any other provision of these Articles, no Member shall transfer either the legal or the beneficial interest in his Shares except in the circumstances described in Clauses 12, 13, or 14 and no such transfer shall be made where the consent of the Financial Services Authority or any successor thereto shall be required until such consent has been obtained.
- 11.2 Save as permitted pursuant to these Articles, no transfer, disposal, charge, mortgage, assignment or other dealing in any Shares or any interest or right therein shall occur other than the transfer of the whole legal and equitable title to such Shares free from all liens, charges and Encumbrances and with all rights, title and interest in existence at the date of transfer together with all rights which may arise in respect thereof thereafter.
- 11.3 No transfer of any Share may be registered otherwise than in accordance with or as permitted by these Articles. The Board may withhold approval to a transfer of any Share if (but only if) either the Share is not fully paid up or the Company has a lien thereon or the transfer has not been effected in accordance with these Articles or the Board is otherwise entitled to withhold such approval under these Articles.
- 11.4 The provisions of these Articles shall apply mutatis mutandis to the sale or other disposal of any Shares allotted to a Member by means of a renounceable letter of allotment or other renounceable document of title.
- 11.5 The Board shall not recognise a renunciation of the allotment of any Share by the allottee in favour of some other person except and to the extent that the renunciation is in favour of a person to whom they may be transferred pursuant to Article 13 and in all cases other than this a Transfer Notice shall be deemed to have been given the day before the date of such renunciation.
- 11.6 The Directors may also refuse to register a transfer unless:
- (a) it is lodged at the Office or at such other place as the Directors may appoint and is accompanied by the certificate for the Shares to which it relates, or in the event of a lost or destroyed or stolen certificate it is accompanied by an indemnity in lieu of such certificate in a form and content satisfactory to the Board, and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer; and
  - (b) it is in favour of not more than four transferees.

- 11.7 If the Directors refuse to register a transfer of a Share, they shall within 14 days after the date on which the transfer was lodged with the Company send to the transferor notice of the refusal.
- 11.8 All instruments of transfer which are registered shall be retained by the Company, but any instrument of transfer which the Directors refuse to register shall be returned to the person lodging it when notice of the refusal is given.
- 11.9 If requested, a new certificate shall be delivered to the transferee after the transfer is completed and registered on his application and if necessary a balance certificate shall be delivered to the transferor if required by him in writing. A fee determined by the Board may be charged for each transfer and also for the registration of every probate, notice, power of attorney or document tendered for registration and shall be paid before registration.
- 11.10 The Company shall keep the Register in accordance with the Act.
- 11.11 On the death of a Member the survivors where the deceased was a joint holder and the personal representatives of the deceased where he was a sole holder shall be the only persons recognised by the Company as having any title to or interest in his Shares; but nothing herein shall release the estate of a deceased joint holder from any liability in respect of any Share jointly held.
- 11.12 A person entitled to Shares in consequence of the death, disability or insolvency of a Member shall not be entitled to receive notice of or to attend or to vote at any meeting or (save as regards the receipt of such dividends as the Board shall not elect to retain) to exercise any of the rights of a holder unless and until he shall have been registered as the holder.

## **12. PERMITTED TRANSFERS**

No Member shall transfer or agree to transfer the legal or beneficial ownership of any Share registered in its name or allotted to it, provided, however, that any of the following transfers shall be freely permitted:

- (a) transfers in accordance with Articles 13 to 15;
- (b) transfers on a Sale or Listing;
- (c) transfers of Shares by or to the Fund, any Fund Associate or any trustee or nominee thereof; and
- (d) transfers of Shares made with an "A" Shareholders Consent.

## **13. TAG ALONG AND DRAG ALONG RIGHTS**

### **13.1 Tag-Along**

- (a) Subject to Article 13.1(d), if at any time one or more "A" Shareholders (the "**Proposed Sellers**") propose to sell "A" Shares registered in their names as would give rise to a Sale (the "**Majority Holding**") to any person (not being a Fund Associate), the Proposed Sellers may only sell the Majority Holding if they comply with this Article 13.1.
- (b) The Proposed Sellers shall give written notice (the "**Proposed Sale Notice**") to the other holders of the equity share capital in the Company of such intended sale at least 15 days prior to the date of the proposed sale. The Proposed Sale Notice shall

set out, to the extent not described in any accompanying documents, the identity of the proposed buyer (the "Proposed Buyer"), the purchase price and other terms and conditions of payment for the Majority Holding, the proposed date of sale (the "Proposed Sale Date") and the number of Shares proposed to be purchased by the Proposed Buyer (the "Proposed Sale Shares").

- (c) Any other holder of equity share capital in the Company shall be entitled, by written notice given to the Proposed Sellers within 7 days of receipt of the Proposed Sale Notice, to sell a pro-rata proportion (equal to the proportion which the total nominal value of issued "A" Shares being sold pursuant to the Proposed Sale Notice bears to the total nominal value of "A" Shares in issue) of his Shares to the Proposed Buyer at Fair Value (or, in the case of Worthless Deferred Shares, for the aggregate sum of 1p for all such Worthless Deferred Shares sold to the Proposed Buyer) on the basis that the sale of the pro rata proportion of such other holder's Shares shall complete at the same time as completion of the sale of the Proposed Sale Shares.
- (d) The terms of this Article 13.1 shall not apply to any transfers made on a Listing or pursuant to Article 13.2.

### 13.2 Drag-along

- (a) In this Article 13.2 "Qualifying Offer" shall mean an offer in writing by or on behalf of any person approved in writing by a Majority of the "A" Shareholders, or his nominee or agent (an "Outside Purchaser"), to the holders of the "A" Shares which, if accepted, will result in the Outside Purchaser owning a Majority of the "A" Shares.
- (b) If a Majority of the "A" Shareholders (the "Accepting Shareholders") wishes to accept a Qualifying Offer the Outside Purchaser shall give written notice to the non-accepting "A" Shareholders (if any) and all the "B" Shareholders, "C" Shareholders and holders of Worthless Deferred Shares (if any) (together the "Other Shareholders") requiring them to sell a pro rata proportion (equal to the proportion which the total nominal value of issued "A" Shares being sold by the Accepting Shareholders bears to the total nominal value of "A" Shares in issue) of their Shares at the offer price (in the case of any "A" Shares) or (in the case of the "B" Shares and the "C" Shares) at Fair Value or (in the case of Worthless Deferred Shares) for an aggregate sum of 1p for all such Worthless Deferred Shares.
- (c) On receipt by an Other Shareholder of such notice, he shall become bound to accept the Qualifying Offer.
- (d) If any Other Shareholder does not, within 14 days of being required to do so (and not earlier than determination of the Fair Value of the "B" Shares and the "C" Shares), execute and deliver transfers in respect of the Shares required to be transferred by him to the Outside Purchaser and deliver the certificate(s) in respect of the same (or a suitable indemnity in lieu thereof), then any Accepting Shareholder shall be entitled, and shall be entitled to authorise and instruct such person as he thinks fit, to execute the necessary transfer(s) and indemnities in lieu of the share or other certificate on the Other Shareholder's behalf and, against receipt by the Company (on trust for such Other Shareholder) of the consideration payable for the relevant Shares deliver such transfer(s) and certificate(s) or indemnities in lieu of the share or other certificate to the Outside Purchaser (or his nominee) and register the Outside Purchaser (or his nominee) as the holder thereof and, after such registration, the validity of such proceedings shall not be questioned by any person.

- (e) As security for the obligations in this Article, each Member irrevocably appoints each Accepting Shareholder (and, where any such Accepting Shareholder is (a) a body corporate, any director or secretary thereof or (b) a limited partnership, any director or secretary of the general partner or manager thereof) as its attorney to execute and do all such deeds, documents and things in the name of and on behalf of such Member as may reasonably be required to give full effect to the provisions of this Article.

#### **14. COMPULSORY TRANSFERS**

14.1 At any time within 12 months of the Special Director becoming aware of:

- (a) a Departure Event occurring with respect to a Member,
- (b) a Member or its Designated Executive ceasing to be an Employee for any reason other than a Departure Event;
- (c) an Individual Transfer Event occurring with respect to a Member; or
- (d) "B" Shares converting into Worthless Deferred Shares,

then upon the request of a Majority of "A" Shareholders, the Special Director shall provide written notice to the relevant Member that a Transfer Notice is deemed to have been given in respect of all the Shares held by such Member.

14.2 At any time within 12 months of a General Transfer Event taking place, upon the request of a Majority of the A Shareholders, the Special Director shall provide written notice to the relevant Members that Transfer Notices are deemed to have been given by all holders of "B" Shares, "C" Shares and Worthless Deferred Shares (other than the Fund and the Fund Associates).

14.3 In the event that:

- (a) a Departure Event occurs with respect to any Member and the Member is deemed pursuant to Article 14.1 to have given a Transfer Notice, then the Sale Price of the Shares held by such Member shall be the Fair Value of such Shares;
- (b) a Member or its Designated Executive ceases to be an Employee for any reason other than a Departure Event and the relevant Member is deemed pursuant to Article 14.1 to have given a Transfer Notice, then the Sale Price of the Shares held by such Member shall be the nominal value of such Shares;
- (c) an Individual Transfer Event occurs with respect to any Member and the Member is deemed pursuant to Article 14.1 to have given a Transfer Notice, then the Sale Price of the Shares held by such Member shall be the nominal value of such Shares;
- (d) "B" Shares convert into Worthless Deferred Shares and the relevant Members are deemed pursuant to Article 14.1 to have given a Transfer Notice, then the Sale Price for all of the Worthless Deferred Shares then in issue shall, in aggregate, be 1p, such payment to be made to any registered holder of such Worthless Deferred Shares on behalf of the holders of all Worthless Deferred Shares, which payment shall constitute a full and final discharge of the obligation to make such payment; and
- (e) a General Transfer Event (other than in circumstances where all of the Named Executives are subject to Departure Events) occurs and Transfer Notices are

deemed pursuant to Article 14.2 to have been given, then the Sale Price of the Shares subject to such Transfer Notices shall be the nominal value of such Shares.

14.4 In these Articles, an "**Individual Transfer Event**" in respect of a Member (other than the Fund or a Fund Associate) shall mean:

- (a) the Member or its Designated Executive committing any matter defined as being an event of default under a Relevant Agreement;
- (b) the Special Director or the Fund becoming entitled to terminate any Relevant Agreement with respect to that Member; or
- (c) the Special Director becoming entitled to require that a Transfer Notice be deemed given by such Member (other than pursuant to Article 14.1(a));
- (d) the Member transferring or purporting to transfer the beneficial or legal interest in any Shares held by that Member otherwise than in accordance with these Articles or holding such Shares otherwise than for the direct or indirect benefit of a Member; or
- (e) the Member having an order made by a court of competent jurisdiction, or a resolution passed, for the liquidation or administration of the Member or having a notice of appointment of an administrator of the Member filed with a court of competent jurisdiction (otherwise than in the course of a reorganisation or restructuring previously approved in writing by the Fund); or
- (f) the Member having any step taken (otherwise than in the course of a reorganisation or restructuring previously approved in writing by the Fund) to appoint a manager, receiver, administrative receiver, administrator, trustee or other similar officer of the Member or in respect of the Member or any of its assets, which include the Shares held by that Member; or
- (g) the Member convening a meeting of its creditors or making or proposing any arrangements or compositions with, or any assignment for the benefits of, its creditors; or
- (h) the Member or its Designated Executive being unable to pay its debts as they fall due for the purposes of section 123 of the Insolvency Act 1986; or
- (i) the Member or its Designated Executive being disqualified from holding office in any company under these Articles or the Insolvency Act 1986 or the Company Directors Disqualification Act 1986 or under any provision of general law from time to time or being disqualified or disbarred from membership of, or being subject to any serious disciplinary sanction by, any professional or other body, which undermines the confidence of the Board in the continued employment of the Member or the Designated Executive with a Group Company;
- (j) the Member being required to deliver a Statement of Ownership and:
  - (i) providing a Statement of Ownership the contents of which are inaccurate;
  - (ii) not delivering the same to the Board within 14 days of the relevant Reporting Date; or
  - (iii) delivering a Statement of Ownership which shows that there has been a purported change in the legal or beneficial ownership of a Share without an "A" Shareholders Consent;



14.5 If a Member or any representative of a Member becomes aware of any event whereupon, on the determination of the Special Director, a Transfer Notice may be deemed to be given, he shall forthwith give notice thereof to the Directors.

14.6 Any Member which has been deemed to have served a Transfer Notice under this Article shall no longer be entitled to receive notices of or to attend and vote in respect of the Shares subject to the Transfer Notice at any general or class meeting.

## **15. TRANSFER NOTICE PROVISIONS**

15.1 This Article 15 applies to transfers of Shares pursuant to Article 14.

15.2

- (a) Any Transfer Notice which is deemed to have been given by a Member or a person (each, a "**Vendor**") pursuant to Article 14 shall specify the Shares for Sale but not the price per Share (the "Sale Price"), which shall be determined in accordance with Article 14.
- (b) The Transfer Notice once given or deemed to have been given may not be withdrawn. Upon receipt the Transfer Notice shall constitute the Company as the Vendor's agent for the sale in accordance with the following.
- (c) Within seven days of deemed receipt of the Transfer Notice (or, if later, of the determination of the Sale Price) the Company shall offer the Shares for Sale to the holders of the "A" Shares and will invite the holders of the "A" Shares to purchase any or all of the Shares for Sale. Every such offer shall be made in writing and shall specify the number of Shares for Sale and the Sale Price calculated in accordance with the provisions of Article 14. Each offer shall be accompanied by forms of application for use by the holders of the "A" Shares.
- (d) Within 7 days of receipt of the offer of Shares for Sale from the Company, the holders of "A" Shares shall inform the Company whether they wish to purchase any of the Shares for Sale at the Sale Price.
- (e) At the expiration of such 7 days period referred to in Article 15.2(d), the Directors of the Company shall notify the Vendor whether any of the Shares for Sale are to be sold to the holders of "A" Shares pursuant to the above.
- (f) The Vendor shall be bound, upon payment of the Sale Price and, where necessary, upon approval by the Financial Services Authority or any successor thereto, to transfer the Shares for Sale which have been allocated pursuant to this Article to the appropriate purchaser.
- (g) If any of Shares for Sale are unsold after the procedure in sub-clauses (a) to (f) has been followed, the Vendor shall be entitled to retain such Shares.

15.3 For the purpose of ensuring that a transfer of Shares is duly authorised or that no circumstances have arisen whereby a Transfer Notice is required to be given hereunder the Board may at the Company's expense request any Member or past Member or the personal representative or trustee in bankruptcy, administrative receiver or liquidator or administrator of any Member or any person named as transferee in any instrument of transfer lodged for registration to furnish to the Company such information and evidence as the Board may reasonably think fit regarding any matter which they may deem relevant to such purpose. Failing such information or evidence being furnished to the reasonable satisfaction of the Board within 14 days, a Majority of the "A" Shareholders or the Board

may by notice in writing determine that a Transfer Notice be deemed to be given forthwith in respect of the Shares concerned.

- 15.4 Where under these Articles, a Transfer Notice is deemed to have been given or a transfer is otherwise required pursuant to these Articles by any Member, that Member shall be deemed to have irrevocably appointed any officer of the Company to execute a Transfer Notice, and any related documents, on his behalf and the Company shall be constituted the agent of such Member for the sale of his Shares in accordance with the Transfer Notice (together with all rights then attached hereto) and the Directors may authorise any person to execute and deliver on behalf of such Member the necessary transfer(s), and any related documents, and the Company may receive the purchase money in trust for such Member and cause the purchaser of such Shares to be registered as the holder of such Shares. The receipt of the Company for the purchase money, pursuant to such transfers, shall constitute a good and valid discharge to such purchaser (who shall not be bound to see to the application thereof) and after such purchaser has been registered in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person. The Company shall not pay the purchase money due to such Member until he shall, in respect of the Shares being the subject of the Transfer Notice, have delivered his share certificates or a suitable indemnity and the necessary transfers to the Company.

## **16. ALTERATION OF CAPITAL**

- 16.1 The Company may at any time by ordinary resolution increase the share capital of the Company by such sum to be divided into Shares of such amount as the resolution shall prescribe.
- 16.2 The Company may by ordinary resolution:
- (a) consolidate and divide all or any of its Share capital into Shares of larger amount than its existing Shares;
  - (b) convert all or any of its fully paid Shares into stock and reconvert that stock into paid up Shares of any denomination;
  - (c) subdivide all or any of its Shares into Shares of smaller amount than is fixed by the Memorandum;
  - (d) determine that as between the holders of the Shares resulting from such a subdivision one or more of the Shares may have such preferred, deferred or other rights over the others as the Company has power to attach to unissued or new Shares;
  - (e) cancel any Shares which have not been taken up or agreed to be taken up by any person and diminish the amount of its Share capital by the amount of the Shares so cancelled;
  - (f) issue Shares which entitle the holder either to no voting rights or to restricted voting rights; and
  - (g) convert all or any of its fully paid Shares the nominal amount of which is expressed in a particular currency into fully paid Shares of a nominal amount of a different currency, the conversion being effected at the rate of exchange (calculated to not less than three significant figures) current on the date of the resolution or on such other dates as may be specified therein.
- 16.3 The Board on any consolidation of Shares may deal with fractions of Shares in any manner.

- 16.4 Subject to the Act, the Company may by special resolution reduce its share capital or any capital redemption reserve fund or share premium account in any manner.

## **17. GENERAL MEETINGS**

- 17.1 All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 17.2 Any general meeting convened by the Board, unless its time has been fixed by the Company in general meeting or unless convened in pursuance of a requisition, may be postponed by the Board by notice in writing and the meeting shall subject to any further postponement or adjournment be held at the postponed date for the purpose of transacting the business covered by the original notice.
- 17.3 The Board may whenever it thinks fit and shall on the requisition in writing of one or more holders representing not less than one-tenth of the Shares carrying the right to vote at such a meeting upon which all calls or other sums then due have been paid, or at the requisition in writing of the Special Director, forthwith proceed to convene an extraordinary general meeting.
- 17.4 The requisition shall be dated and shall state the object of the meeting and shall be signed by the requisitionists and deposited at the Office and may consist of several documents in like form each signed by one or more of the requisitionists.
- 17.5 If the Board does not proceed to cause a meeting to be held within 21 days from the date of the requisition being so deposited the requisitionists or a majority of them in value may themselves convene the meeting.
- 17.6 Any meeting convened by requisitionists shall be convened in the same manner (as nearly as possible) as that in which meetings are convened by the Board.
- 17.7 A resolution in writing executed by all Members who would have been entitled to vote upon it had it been proposed at a general meeting at which they were present shall be as effective as if the resolution had been passed at a general meeting, duly convened and held, and the signatures need not be on a single document provided each is on a document that accurately states the terms of the written resolution which may be executed in counterparts (including facsimile counterparts).

## **18. NOTICE OF GENERAL MEETINGS**

- 18.1 An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or an elective resolution shall be called by at least 21 clear days' notice. All other extraordinary general meetings shall be called by at least 14 clear days' notice but a general meeting may be called by shorter notice if it is so agreed:
- (a) in the case of the annual general meeting or a meeting called for the passing of an elective resolution, by all the Members entitled to vote at that meeting; and
  - (b) in the case of any other meeting, by a majority in number of the Members having a right to vote, being (i) a majority together holding not less than such percentage in nominal value of the Shares giving that right as has been determined by elective resolution of the members in accordance with the Act, or (ii) if no such elective resolution is in force, a majority together holding not less than 95 per cent. in nominal value of the Shares giving that right.

- 18.2 The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such.
- 18.3 Subject to the provisions of the Articles and to any restrictions imposed on any Shares, the notice shall be given to all the Members, to all the persons entitled to a Share in consequence of the death or bankruptcy of a Member, to the Directors of the Company and to the Auditors.
- 18.4 The accidental omission to give notice of any meeting to or the non-receipt of such notice by any Member shall not invalidate any resolution passed or proceeding at any such meeting.

## **19. PROCEEDINGS AT GENERAL MEETINGS**

- 19.1 The quorum for a general meeting shall be a person or persons representing the holders of a Majority of the "A" Shares. No business shall be transacted at any meeting unless a quorum and, save with the prior written consent of the Special Director, the Special Director is present. A quorum must be present throughout the whole meeting.
- 19.2 If within half an hour after the time appointed for the meeting a quorum is not present the meeting (if convened by or upon a requisition) shall be dissolved. If otherwise convened it shall stand adjourned for two Business Days at the same time and place and no notice of such adjournment need be given. If at the adjourned meeting a quorum is not present within fifteen minutes after the time appointed for holding the meeting, the meeting shall be dissolved.
- 19.3 The "A" Shareholders present in person or by proxy and entitled to vote shall choose one of their own number to be the chairman of the meeting.
- 19.4 *The chairman may with the consent of the Special Director at any meeting at which a quorum is present and shall if so directed by the meeting adjourn the meeting at any time and to any place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give notice of an adjournment.*
- 19.5 At any general meeting a resolution put to the vote shall be decided by a show of hands or by a poll at the option of the chairman. Nevertheless before or on the declaration of the result a poll may be demanded:
- (a) by the chairman; or
  - (b) by any Member with the right to vote on that matter present in person or by proxy.
- 19.6 The demand for a poll may be withdrawn. Unless a poll be so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the minute book shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded.
- 19.7 A poll if demanded shall be taken as the Chairman directs either at the meeting at which the same is demanded or at such other time and place as the chairman shall direct and the result shall be deemed the resolution of the meeting.

- 19.8 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- 19.9 If a poll shall be duly demanded on the election of a chairman or on any question of adjournment it shall be taken at once.

## **20. VOTES OF MEMBERS**

- 20.1 Subject to any rights or restrictions attached to any Shares and to the provisions of the Act, on a show of hands every Member who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative who is not himself a Member entitled to vote, shall have one vote, and on a poll every Member shall have one vote for every share of which he is the holder.
- 20.2 Where there are joint registered holders of any Share such persons shall not have the right of voting individually in respect of such Share but shall elect one of their number to represent them and to vote whether in person or by proxy in their name. In default of such election the person whose name stands first on the Register shall alone be entitled to vote.
- 20.3 A member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, on a show of hands or on a poll, by any person authorised in that behalf by that court, who may on a poll vote by proxy. Evidence to the satisfaction of the Directors of the authority of the person claiming the right to vote shall be deposited at or sent to the Office, or such other place as is specified in accordance with these articles for the deposit or receipt of appointments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised (or within such other time as the Directors may determine), and in default the right to vote shall not be exercisable.
- 20.4 No member shall have the right to vote at any general meeting or at any separate meeting of the holders of any class of shares, either in person or by representative or proxy, in respect of any Share held by him unless all amounts presently payable by him in respect of that Share have been paid.
- 20.5 On a poll votes may be given either personally or by proxy and a Member entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way. A proxy need not be a Member. An instrument of proxy may be valid for one or more meetings.
- 20.6 No Member shall be entitled to be present or take part in any proceedings or vote either personally or by proxy at any meeting unless all calls due from him have been paid. No Member shall be entitled to vote in respect of any Shares that he has acquired by purchase for pecuniary consideration unless he has been registered as their holder.
- 20.7 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed shall be valid for all purposes. Any objection made in due time shall be referred to the Chairman whose decision shall be final and binding.
- 20.8 The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a corporation either under seal or under the hand of an officer or attorney duly authorised.
- 20.9 The appointment of a proxy and any authority under which it is executed or a copy of the authority certified notarially or in some other way approved by the Directors may:-

- (a) in the case of an appointment of proxy in writing be deposited at the Office or at such other place in the United Kingdom as is specified in the notice convening the meeting, or in any appointment of proxy sent by the Company in relation to the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the appointment of proxy proposes to vote; or
- (b) in the case of an appointment contained in an *electronic communication*, be received at the address specified in the notice convening the meeting, or in any appointment of proxy sent out by the Company in relation to the meeting, or in any invitation to appoint a proxy issued by the Company in relation to the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the appointment of proxy proposes to vote; or
- (c) in the case of a poll taken more than 48 hours after it was demanded, be deposited or received as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for taking the poll; or
- (d) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting to the chairman or to the secretary or any Director,
- (e) and an appointment of proxy which is not deposited, delivered or received in a manner so permitted, or in such other manner as the Directors may determine, shall be invalid.

- 20.10 The instrument appointing a proxy may be in any form which the Board may approve and may include an instruction by the appointor to the proxy either to vote for or to vote against any resolution or resolutions *to be put to the meeting*. Submission of a form of proxy shall not preclude a Member from attending and voting at the meeting or at any adjournment hereof.
- 20.11 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll and shall be as valid as well for any adjournment of the meeting as for the meeting to which it relates.
- 20.12 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or disability of the principal or revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such death, disability or revocation shall have been received by the Company at the Office before the commencement of the meeting or adjournment or the taking of the poll at which the proxy is used.
- 20.13 Any corporation which is a Member may by resolution of its Directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members of the Company and the person so authorised shall be entitled to exercise on behalf of the corporation which he represents the same powers (other than power to appoint a proxy) as that corporation could exercise if it were an individual Member of the Company.

## **21. NUMBER, APPOINTMENT AND REMUNERATION OF DIRECTORS**

- 21.1 Unless otherwise determined by special resolution, the number of Directors shall not be less than one nor more than eight.

- 21.2 A Director shall not require a Share qualification but shall be entitled to attend and speak at any general meeting of the Company and at any separate meeting of the holders of any class of Shares.
- 21.3 A Majority of the "A" Shareholders shall be entitled by notice in writing addressed to the Company from time to time to appoint up to eight persons as Directors of the Company (including a Special Director) and may remove from office any persons so appointed and appoint other persons in their place by such written notice.
- 21.4 The Company may by ordinary resolution remove any Director before the expiration of his period of office and may by ordinary resolution appoint another Director in his stead.
- 21.5 The Directors (other than Fund Associates) shall be paid out of the funds of the Company by way of fees such reasonable sums as shall be approved in writing by the Board. Directors' fees shall be deemed to accrue from day to day.
- 21.6 The Directors shall also be entitled to be repaid all reasonable out of pocket expenses properly incurred by them in or with a view to the performance of their duties or in attending meetings of the Board or committees or general meetings, provided however that expenses of professional advisers engaged by a Director without the prior authorisation of the Special Director shall not be reimbursable.
- 21.7 If any Director, having been requested by the Board, shall render or perform extra or special services or shall travel or go to or reside in any country which is not his usual place of residence for any business or purpose of the Company he shall be entitled to receive such sum as the Board may think fit for expenses and also such reasonable remuneration as the Board may think fit either as a fixed sum or as a percentage of profits or otherwise and such remuneration may as the Board shall determine be either in addition to or in substitution for any other remuneration which he may be entitled to receive.

## **22. ALTERNATE DIRECTORS**

- 22.1 Any Special Director (other than an alternate Special Director) may by notice in writing to the Company appoint any person (whether a Member of the Company or not) as an alternate Special Director to attend and vote in his place at any meeting of the Directors at which he is not personally present or to undertake and perform such duties and functions and to exercise such rights as he could personally and such appointment may be made generally or specifically or for any period or for any particular meeting and with and subject to any particular restrictions. Every such appointment shall be effective and the following provisions shall of this Article 22 apply. Save as aforesaid, no Director may appoint an alternate Director.
- 22.2 Every alternate Special Director while he holds office as such shall be entitled:
- (a) if his appointor so directs the Secretary, to notice of meetings of the Board or committees thereof; and
  - (b) to attend and exercise (subject to any restrictions) all the rights and privileges of his appointor at all such meetings at which his appointor is not personally present.
  - (c) An alternate Special Director may waive the requirement that notice be given to him of a meeting of Directors or committee of Directors, either prospectively or retrospectively.
- 22.3 Every alternate Special Director shall ipso facto vacate office if and when his appointment expires by effluxion of time or his appointor vacates office as a Special Director or

removes the alternate Special Director from office as such by notice in writing under his hand served upon the Company.

- 22.4 No alternate Special Director shall be entitled as such to receive any remuneration from the Company but every alternate Special Director shall be entitled to be paid all reasonable expenses incurred in exercise of his duties.

### **23. SPECIAL DIRECTOR**

- 23.1 A Majority of the "A" Shareholders shall be entitled by notice in writing addressed to the Company from time to time to designate a member of the Board as a special director (the "Special Director").
- 23.2 Any Special Director so designated shall be entitled to all notices and voting rights and in all respects shall be treated as one of the Directors of the Company.
- 23.3 If so required by a Majority of the "A" Shareholders, a Director of any or all of the Group Companies (who may, but need not, be the same person as the Special Director), shall be designated as a "special director" thereof and the provisions of these Articles relating to the conduct of the business of the Company and the holding of meetings of the Directors shall be deemed to apply mutatis mutandis to such Group Companies for which a special director has been designated and the Company shall procure such appointment, designation and observance pursuant to this Article 23 (including, where necessary by the amendment of the articles of association of the relevant Group Company)
- 23.4 A Special Director, and a special director of any Group Company, shall be entitled to report back to their appointors upon the affairs of the Company and the other Group Companies and to disclose such information to them as he shall consider appropriate.

### **24. BORROWING POWERS OF THE BOARD**

The Board may exercise all the powers of the Company to borrow money and to mortgage, hypothecate, pledge or charge all or part of its undertaking property and uncalled capital and to issue guarantees, debentures and other securities whether outright or as collateral security for any debt liability or obligation of the Company or of any other Group Company.

### **25. OTHER POWERS AND DUTIES OF THE BOARD**

- 25.1 The business of the Company shall be managed by the Board, which may exercise all such powers of the Company as are not required to be exercised by the Company in general meeting, subject nevertheless to these Articles, any Relevant Agreement and to the Act and to such regulations as may be prescribed by the Company in general meeting but no regulation so made shall invalidate any prior act of the Board. The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Board by any other Article.
- 25.2 The Board may arrange that any branch of the business carried on by the Company or any other business in which the Company may be interested shall be carried on by or through one or more Group Companies and the Board may on behalf of the Company make such arrangements as it thinks advisable for taking the profits or bearing the losses of any branch or business so carried on or for financing, assisting or subsidising any such subsidiary company or guaranteeing its contracts, obligations or liabilities.
- 25.3 (1) The Directors may delegate any of their powers:



- (a) to any managing director, any Director holding any other executive office or any other Director;
  - (b) to any committee consisting of one or more Directors and (if thought fit) one or more other persons, but a majority of the members of the committee shall be Directors and no resolution of the committee shall be effective unless a majority of those present when it is passed are Directors; and
  - (c) to any local board or agency for managing any of the affairs of the Company either in the United Kingdom or elsewhere.
- (2) Any such delegation (which may include authority to sub-delegate all or any of the powers delegated) may be subject to any conditions the Directors impose and either collaterally with or to the exclusion of their own powers and may be revoked or varied. The power to delegate under this Article, being without limitation, includes power to delegate the determination of any fee, remuneration or other benefit which may be paid or provided to any Director; and the scope of the power to delegate under sub-paragraph (a), (b) or (c) of paragraph (1) of this Article shall not be restricted by reference to or inference from any other of those sub-paragraphs. Subject as aforesaid, the proceedings of any committee, local board or agency with two or more members shall be governed by such of these articles as regulate the proceedings of Directors so far as they are capable of applying.

25.4 The Board may (with the written approval of the Special Director) at any time by power of attorney countersigned on behalf of the Company by any two Directors or one Director and the Secretary appoint any person or any fluctuating body of persons whether nominated directly or indirectly by the Board to be the attorney of the Company for such purposes and with such powers and discretions and for such periods and subject to such conditions as they may think fit and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board may think fit and may also authorise any attorney to sub-delegate all or any of his powers and discretions.

25.5

- (a) A Director who is in any way directly or indirectly interested in a contract or arrangement or proposed contract or arrangement with the Company shall disclose the nature of his interest at a meeting of the Board. In the case of a proposed contract such disclosure shall be made at the meeting of the Board at which the question of entering into the contract or arrangement is first taken into consideration or if the Director was not at the date of that meeting interested in the proposed contract or arrangement at the next meeting of the Board held after he became so interested. In a case where the Director becomes interested in a contract or arrangement after it is made the said disclosure shall be made at the first meeting of the Board held after the Director becomes so interested. For the purpose of the foregoing a general notice given to the Board by a Director to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract or arrangement which may after the date of the notice be made with that company or firm shall be deemed to be a sufficient disclosure of interest in relation to any contract or arrangement so made provided that no such notice shall be of effect unless either it is given at a meeting of the Board or the Director takes reasonable steps to ensure that it is raised and read at the next meeting of the Board after it is given. For the avoidance of doubt it is hereby acknowledged that the Special Director will be interested in all matters relating to the Fund or any Fund Associate and no further notice thereof is required for the purposes of this Article 25.

- (b) Subject to compliance with Article 25.5(a), any Director interested in any matter relating to the Fund, a Fund Associate or an "A" Shareholder, or, with the prior approval of the Board, any other matter, may vote in respect of any contract or arrangement in which he is interested and be counted in the quorum present at any meeting at which any such contract or arrangement is proposed or considered and if he shall so vote his vote shall be counted.
  - (c) In exercising his discretion in relation to any matter, the Special Director shall be entitled to take into account such interests of the "A" Shareholders and the rights attached thereto as he, in his absolute discretion, sees fit. Neither the existence of any class of Share (other than "A" Shares) nor the rights attached thereto shall in any way inhibit or restrict the Special Director in the exercise of his discretion or require the Special Director, in such exercise, to pay any greater, or as much, regard to the interests of the holders of Shares (other than "A" Shares) as to the interests of the holders of "A" Shares.
  - (d) A Director may hold any other office or place of profit in relation to the Group (other than Auditor) in conjunction with his office of Director for such period and on such terms (as to remuneration and otherwise) as the Board may determine and no Director or intending Director shall be disqualified by his office from contracting with the Company either with regard to his tenure of any such other office or place of profit or as vendor, purchaser or otherwise nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested be liable to be avoided nor shall any Director so contracting or being so interested be liable to account to the Company for any profits realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established.
  - (e) Any Director may act by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.
- 25.6 All cheques promissory notes drafts bills of exchange and other negotiable instruments and all receipts for moneys paid by the Company shall be signed drawn accepted endorsed or otherwise executed in such manner as the Board shall at any time determine.
- 25.7 The Board shall cause minutes to be made in books provided for the purpose of:
- (a) all appointments of officers made by the Board;
  - (b) the names of the Directors present at each meeting of the Board and of any committee; and
  - (c) all resolutions and proceedings at meetings of the Company and meetings of the Board and of committees.
- 25.8 Subject to Article 2.5:
- (a) The Board may pay a gratuity pension or allowance on death or retirement to and may establish and maintain or procure the establishment and maintenance of any contributory or non-contributory pension or superannuation or life assurance funds or schemes for the benefit of any persons:
    - (i) who are or were at any time in the employment or service of the Company or of any company which is or was a holding or subsidiary company of the Company or of any predecessor in business of any of them; or

- (ii) who are or were at any time Directors or officers of the Company or of any such other company or predecessor in business as aforesaid and holding any salaried employment or executive office in the Company or such other company or predecessor in business and the wives, widows, children, dependants or relations of any such persons. The receipt of any such gratuity, pension or allowance shall not disqualify any person from being a Director.
- (b) The Board may also establish and subsidise or subscribe to any institutions, associations, clubs or funds calculated to be for the benefit of or to advance the interests and well-being of the Company or of any such other company as aforesaid or of any such persons as aforesaid and make payments for or towards the insurance of any such persons.
- (c) The Board may do any of the matters aforesaid either alone or in conjunction with any such other company.

## **26. DISQUALIFICATION OF DIRECTORS**

26.1 The office of a Director shall ipso facto be vacated in any of the following events:

- (a) if he resigns his office by written notice signed by him sent to or deposited at the Office;
- (b) in the case of a Director who is party to a Service Agreement, his Service Agreement is terminated or expires and the Directors resolve that his office be vacated;
- (c) if he is absent (such absence not being absence with leave or by arrangement with the Board) from meetings of the Board for a consecutive period of six months and the Board resolves that his office shall be vacated;
- (d) if he becomes of unsound mind or incapable or is disqualified from acting as such;
- (e) if he becomes bankrupt, insolvent, suspends payment or compounds with his creditors;
- (f) if he is requested to resign by written notice signed by all his co-Directors or by the Special Director;
- (g) if holders of a Majority of the "A" Shares shall by notice in writing addressed to the Company remove him from office in accordance with Article 21.3;
- (h) if the Company in general meeting declares that he shall cease to be a Director; or
- (i) if he becomes required to obtain and does not obtain, or ceases to hold any necessary approvals to act as an approved person whether of the Company or any member of the Group in accordance with the requirements of the Financial Services Authority or any successor thereto.

26.2 If the office of a Director is vacated due to the occurrence of any of the events listed in Article 26.1, the Company in general meeting or the Board may appoint another person to be a Director in his stead who shall retain his office so long only as the Director in whose place he is appointed would have held the same if his office had not been vacated

## **27. PROCEEDINGS OF DIRECTORS**

27.1

- (a) The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
  - (b) The quorum for the transaction of the business of the Directors may be fixed by the Board and unless so fixed, shall be one provided that no such meeting shall be quorate unless attended by the Special Director (unless such Special Director confirms that he shall not be attending the relevant board meeting and consents in writing to the meeting being quorate in his absence). A quorum must be present throughout the whole meeting.
  - (c) Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the Special Director shall, without prejudice to Article 2.5, have a second or casting vote.
  - (d) A telephone conference call in which a quorum of Directors participates shall be a valid meeting.
- 27.2 The Special Director shall determine the notice necessary for meetings of the Board and the persons to whom such notice shall be given.
- 27.3 A meeting of the Board at which a quorum is present shall be competent to exercise all powers and discretions exercisable by the Board.
- 27.4 The continuing Directors may act notwithstanding any vacancy but if and so long as their number is reduced below the minimum number fixed by or pursuant to these Articles the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting but for no other purpose. If there are no Directors able or willing to act then any holder of "A" Shares may summon a general meeting for the purpose of appointing Directors.
- 27.5 The Board may elect a chairman of their meetings and determine the period for which he is to hold office. If no such chairman is elected or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same the Directors present may choose one of their number to be chairman of the meeting.
- 27.6 The Board may delegate any of its powers to committees consisting of such one or more Directors as it thinks fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Board.
- 27.7 An alternate Director shall be counted in a quorum at a meeting at which the Director appointing him is not present.
- 27.8 A resolution in writing signed by each Director entitled to receive notice of a meeting of the Board or by all the members of a committee shall be as valid and effectual as a resolution passed at a meeting of the Board or committee. Such resolution may be contained in one document or in several documents in like form (which may include facsimile copies of such resolutions) each signed by one or more of the Directors or members of the committee.

## **28. EXECUTIVE DIRECTORS**

- 28.1 The Board may at any time appoint one or more of its body to be the holder of any executive office, including the office of Managing Director, on such terms and for such periods as it may determine.
- 28.2 The appointment of any Director to any executive office shall be subject to termination if he ceases from any cause to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the Company.

- 28.3 The Board may entrust to and confer upon a Director holding any executive office any of the powers exercisable by the Board upon such terms and conditions and with such restrictions as it thinks fit and either collaterally with or to the exclusion of its own powers and may at any time revoke, withdraw, alter or vary all or any of such powers.

## **29. SECRETARY**

- 29.1 The Secretary shall be appointed by the Board for such term, at such remuneration and upon such conditions as the Board may think fit; and any secretary may be removed by the Board but without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- 29.2 Any provision of the Act or these Articles requiring or authorising an act to be carried out by a Director and the Secretary shall not be satisfied by its being done by the same person acting both as Director and as or in the place of the Secretary provided that nothing in this Article shall prevent or restrict a Director from being a director and secretary of a Group Company or of a Director or the Secretary being corporate bodies.

## **30. AUTHENTICATION OF DOCUMENTS**

Any Director or the Secretary or any person appointed by the Board for the purpose shall have power to authenticate any documents affecting the Company (including the Memorandum and these Articles) and any resolutions passed by the Company or the Board and any books, records, documents and accounts relating to the business of the Company and to certify copies or extracts as true copies or extracts; and where any books records documents or accounts are elsewhere than at the Office the local manager or other officer of the Company having their custody shall be deemed to be a person appointed by the Board as aforesaid.

## **31. DIVIDENDS**

- 31.1 Subject always to Article 5 and to the Act, the Company in general meeting may declare dividends but no dividend shall exceed the amount recommended by the Board.
- 31.2 The Company may declare a dividend on one class of Share but not another. However, no dividend shall be paid on the Shares otherwise than strictly in accordance with Article 5.
- 31.3 Unless and to the extent that the rights attached to any Shares or the terms of issue thereof otherwise provide and subject always to Article 5, all dividends shall be declared and paid according to the amounts paid up on the Shares in respect whereof the dividend is paid.
- 31.4 Subject always to the Act and these Articles, the Board may at any time with the prior written consent of the Special Director, and shall, if directed in writing by the Special Director, declare and pay such interim dividends as appear to the Board, or if directed by the Special Director to declare and pay such interim dividend, as appear to the Special Director, to be justified by the position of the Company. The Board may also declare and pay any fixed dividend which is payable on any Shares half-yearly or otherwise on fixed dates whenever the position in the opinion of the Board so justifies.
- 31.5 The Board may deduct from any dividend payable to any Member on or in respect of a Share all sums of money (if any) presently payable by him to the Company on account of calls.
- 31.6 The Board may retain any dividend or other moneys payable on or in respect of a Share on which the Company has a lien and may apply the same in or towards satisfaction of the liabilities or obligations in respect of which the lien exists.

- 31.7 The Board may retain the dividends payable upon Shares in respect of which any person is entitled to become a Member until such person has become a Member.

## **32. RESERVES**

- 32.1 The Board may before recommending any dividend set aside out of the profits of the Company such sums as it thinks proper as reserves which shall at the discretion of the Board be applicable for any purpose to which the profits of the Company may be properly applied and pending such application may either be employed in the business of the Company or be invested in such investments as the Board may at any time think fit. The Board may also without placing the same to reserve carry forward any profits which it may think prudent not to divide.

## **33. CAPITAL RESERVE**

- 33.1 The Board may establish a capital reserve. All capital appreciation realised upon or derived from the sale or realisation of properties, securities or investments or other realisations of or dealings with the capital assets or any other sums which in the opinion of the Board are of a capital nature may if so determined by the Board be applied to capital purposes only and unless forthwith appropriated to meeting realised losses on sales or realisations or on any change or transposition of securities, investments or properties or other realisations of or dealings with capital assets or to writing down properties, securities, investments or other capital assets (either individually or in the aggregate) shall be carried by the Board to the credit of a capital reserve and all losses of a similar nature shall be carried to the debit of such capital reserve.
- 33.2 The sum carried and at any time standing to the credit of the capital reserve shall not in any event be transferred to profit and loss or revenue account but may be regarded as available for capital distribution or for making good losses on the Company's properties securities and investments or for providing for depreciation in the value of the Company's properties securities and investments. Any moneys for the time being standing to the credit of the capital reserve may at the discretion of the Board either be employed in the business of the Company or be invested in such properties investments or other assets as the Board may think fit.

## **34. CAPITALISATION OF PROFITS**

- 34.1 The Company in general meeting may upon the recommendation of the Board resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the Company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution and accordingly that such sums be set free for distribution amongst the Members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any Shares held by such Members respectively or paying up in full unissued Shares of the Company to be allotted and distributed credited as fully paid to and amongst such Members.
- 34.2 Whenever such a resolution as aforesaid is passed the Board shall make all appropriations and applications of the undivided profits resolved to be capitalised and all allotments and issues of fully-paid Shares and generally shall do all acts and things required to give effect thereto with full power to the Board to make such provision by payment in cash or otherwise as it thinks fit for the case of Shares becoming distributable in fractions and also to authorise any person to enter on behalf of all Members entitled thereto into an agreement with the Company providing for the allotment to them respectively credited as fully paid of any further Shares to which they may be entitled upon such capitalisation or (as the case

may require) for the payment up by the Company on their behalf by the application thereto of their respective proportions of the profits resolved to be capitalised of the amounts or any part of the amounts remaining unpaid on their existing Shares and any agreement made under such authority shall be effective and binding on all such Members.

### **35. ACCOUNTS**

- 35.1 The Board shall cause proper books of account to be kept with respect to all the transactions, assets and liabilities of the Company in accordance with the Act.
- 35.2 The books of account shall be kept at the Office or at such other place or places as the Board shall think fit and shall at all times be open to the inspection of the Directors but no person other than a Director or Auditor or other person whose duty requires and entitles him to do so shall be entitled to inspect the books, accounts and documents of the Company except as provided by or authorised by the Board, by the Company in general meeting or by these Articles.

### **36. AUDIT**

- 36.1 A Director shall not be capable of being appointed as an Auditor.
- 36.2 The Board may fill any casual vacancy in the office of Auditor but while any such vacancy continues the surviving or continuing Auditors (if any) may act.
- 36.3 The remuneration of the Auditors shall be fixed by the Company in general meeting or in such manner as the Company may determine except that the remuneration of any Auditors appointed by the Directors shall be fixed by the Directors.
- 36.4 Every Auditor shall have a right of access at all times to the books, accounts and documents of the Company and as regard books, accounts and documents of which the originals are not readily available shall be entitled to rely upon copies or extracts certified by the Company's representatives and shall be entitled to require from the Board such information and explanations as may be necessary for the performance of their duties.

### **37. NOTICES**

- 37.1 A notice shall be in writing and may be given by the Company to any Member either personally or by sending it by prepaid post addressed to such Member at his registered address or, if he desires that notices shall be sent to some other address or person, to the address or person nominated for such purpose, or by facsimile to the facsimile number held by the Company for that Member. A notice or other document if served by post shall be deemed to have been served:
- (a) in the case of a notice sent by post to an address in the United Kingdom, Channel Islands or the Isle of Man, on the third Business Day after the day of posting;
  - (b) in the case of a notice sent elsewhere by airmail on the seventh Business Day after posting;
  - (c) in the case of a notice sent by facsimile, upon sending.
- 37.2 In proving such service it shall be sufficient to prove that the notice or document was properly addressed, stamped and posted.
- 37.3 A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder first named in the Register in respect of the Share.

- 37.4 Any notice or document delivered or sent by post to or left at the registered address of any Member shall notwithstanding the death, disability or insolvency of such Member and whether the Company has notice thereof be deemed to have been duly served in respect of any Share registered in the name of such Member as sole or joint holder and such service shall for all purposes be deemed a sufficient service of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in any such Share.
- 37.5 A Member present, either in person or by proxy, at any meeting of the Company or of the holders of any class of shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 37.6 Every person who becomes entitled to a Share shall be bound by any notice in respect of that Share which, before his name is entered on the Register, has been duly given to a person from which he derives his title.

## **38. WINDING UP**

- 38.1 If the Company is wound up, whether voluntarily or otherwise, the Liquidator may with the sanction of an extraordinary resolution and any other sanction required by law divide among the Members in specie any part of the assets of the Company and may with the like sanction vest any part of the assets of the Company in trustees upon such trusts for the benefit of the Members as the Liquidator with the like sanction shall think fit.
- 38.2 If thought expedient subject to the obtaining of any necessary consents or sanctions any such division may be otherwise than in accordance with the then existing rights of the Members and in particular any class of shareholder may be given preferential or special rights or may be excluded altogether or in part but in default of any such provision the assets shall, subject to the rights of the holders of Shares issued with special rights or privileges or on special conditions, be distributed rateably according to the amount paid up on the Shares.
- 38.3 Where any of the Shares to be divided as aforesaid involve a liability to calls or otherwise any person entitled under such division to any of the said Shares may within 14 days after the passing of the special resolution by notice in writing direct the Liquidator to sell his proportion and pay him the net proceeds and the Liquidator shall if practicable act accordingly.

## **39. INDEMNITY**

Subject to the provisions of the Act, the Company may, with an "A" Shareholders Consent:

- (a) indemnify any person who is or was a director directly or indirectly (including by funding any expenditure incurred or to be incurred by him) against any loss or liability, whether in connection with any proven or alleged negligence, default, breach of duty or trust by him or otherwise, in relation to the Company or any associated company; and/or
- (b) purchase and maintain insurance for any person who is or was a director against any loss or liability or any expenditure he may incur, whether in connection with any proven or alleged negligence, default, breach of duty or breach of trust by him or otherwise, in relation to the Company or any associated company.

## **40. INSPECTION OF DOCUMENTS**

- 40.1 The Board shall determine whether and to what extent and at what times and places and under what conditions the accounts, books and documents of the Company shall be open to



inspection and no Member shall have any right of inspecting any account or book or document except as conferred by the Act or authorised by the Board.

- 40.2 The Company shall, if so requested by any Member, within a period of seven days beginning on the day of receipt of the request, provide the Member with a copy of the Memorandum and Articles and of any ordinary resolution or special resolution subject to the payment in each case of such sum as the Company may require.
- 40.3 A Director shall be entitled at any time to inspect the Register, the minutes of proceedings at general meetings, the minutes of proceedings at Directors' meetings, the register of annual returns, the register of Directors, the register of Secretaries, the index of Members (if any) and the accounting records, in each case of the Company.
- 40.4 A Member shall be entitled on giving not less than 48 hours' notice to inspect the Register, the minutes of proceedings at general meetings, the register of annual returns, the register of Directors, the register of secretaries and the index of Members (if any).
- 40.5 Such rights of inspection shall be exercisable between the hours of 10.00 a.m. and noon on any Business Day.
- 40.6 Any Director, Member or other person may take a note of any record open to his inspection. The Company shall cause any copy requested by a Director, Member or other person of any record open to his inspection to be sent to him within seven days after the receipt by the Company of such request and upon payment of the appropriate fee.