

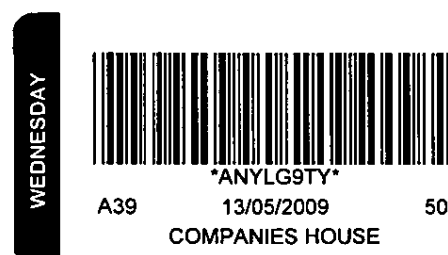
Company No. 6527628

THE COMPANIES ACT 2006  
PRIVATE COMPANY LIMITED BY SHARES  
SPECIAL RESOLUTION  
of  
TYRRELLS GROUP HOLDINGS LIMITED  
Passed on 24 April 2009

The following resolution of the members of the Company was passed as special resolution pursuant to Part 13 Companies Act 2006:

THAT the adoption of the Regulations contained in the printed document marked "A" for the purposes of identification and produced to this General Meeting in substitution for and to the exclusion of all the existing Articles of Association of the Company be and is hereby approved.

  
.....  
Director



Company No. 6527628

THE COMPANIES ACT 2006  
PRIVATE COMPANY LIMITED BY SHARES  
SPECIAL RESOLUTION  
of  
TYRRELLS GROUP HOLDINGS LIMITED  
24 April 2009

The directors of the Company propose that the following resolution be passed as a special resolution of the Company pursuant to Part 13 of the Companies Act 2006:

THAT the adoption of the Regulations contained in the printed document marked "A" for the purposes of identification and produced to this General Meeting in substitution for and to the exclusion of all the existing Articles of Association of the Company be and is hereby approved.





**THE COMPANIES ACT 1985 to 2006**  
**A PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**  
**(adopted by Special Resolution passed on 2009)**  
**OF**  
**TYRRELLS GROUP HOLDINGS LIMITED**

Registered Number: 6527628

Incorporated on 7 March 2008

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THE COMPANIES ACT 1985 AND 2006  
PRIVATE COMPANY LIMITED BY SHARES

NEW ARTICLES OF ASSOCIATION

OF

TYRRELLS GROUP HOLDINGS LIMITED

(Adopted by Special Resolution passed on 24 April 2009)

**1. Table A**

- 1.1 The regulations contained or incorporated in Table A in the Schedule to the Companies (Table A to F) Regulations 1985 as amended as at the date of adoption of these Articles ("**Table A**") shall, except where the same are excluded or varied by or are inconsistent with these Articles, apply to the Company.
- 1.2 The regulations numbered 3, 40, 41, 46, 50, 53, 54, 60-62 (inclusive), 64-68 (inclusive), 72, 73-75 (inclusive), 93-98 (inclusive) and 112 of Table A shall not apply to the Company and in lieu thereof and in addition to the remaining regulations of Table A (subject to the modifications contained herein) the Articles set out below shall constitute the regulations of the Company.
- 1.3 No other regulations set out in any statute or statutory instrument concerning companies shall apply as regulations of the Company.

**2. Interpretation**

**2.1 Definitions**

In these Articles, unless the context otherwise requires:

"**the 2006 Act**" means the Companies Act 2006;

"**the 1985 Act**" means the Companies Act 1985;

"**Actual Return**" means:

- (A) all sums actually received in cash by the B Ordinary Shareholders by way of dividend, distribution, return of capital in respect of the Shares held by those Shareholders (the "**Relevant Shares**") on or prior to the Conversion Event;
- (B) all sums actually received in cash by the B Ordinary Shareholders by way of interest and principal in respect of the Loan Notes held by those Shareholders ("**Relevant Loan Notes**") on or prior to the Conversion Event;
- (C) those Exit Proceeds which have been or, it is known or estimated by the Company will be, received in cash by the B Ordinary Shareholders on the Relevant Shares or the Relevant Loan Notes on the occurrence of a Conversion Event; and

- (D) any other sum received in cash by the B Ordinary Shareholders in respect of the Relevant Shares or Relevant Loan Notes prior to the Conversion Date,

in each case, less any Costs and excluding for all purposes any Exit Proceeds received in respect of the Reserved Shares.

**"Affiliate"** means, in relation to Langholm LLP;

- (a) any fund or company (including, without limitation, any unit trust, investment trust, limited partnership or general partnership) which is advised by, or the assets of which are managed (whether solely or jointly with others) from time to time by, Langholm LLP (or a group undertaking for the time being of Langholm LLP);
- (b) any fund or company (including, without limitation, any unit trust, investment trust, limited partnership or general partnership) of which Langholm LLP (or a group undertaking for the time being of Langholm LLP), or Langholm LLP's (or a group undertaking for the time being of Langholm LLP) general partner, trustee, nominee, manager or adviser, is a general partner, trustee, nominee, manager or adviser; or
- (c) any fund or company (including, without limitation, any unit trust, investment trust, limited partnership or general partnership) which is advised by, or the assets of which are managed (whether solely or jointly with others) from time to time by, Langholm LLP's (or a group undertaking for the time being of Langholm LLP) general partner, trustee, nominee, manager or adviser,

provided that, for the avoidance of doubt, save where the contrary is expressly stated, in no event shall any of the limited partners of the Langholm Funds be considered Affiliates of those Funds, or their Affiliates, solely by virtue of their status as limited partners;

**"A Ordinary Shares"** means the A ordinary shares of £0.10p each in the share capital of the Company the rights and restrictions attached to which are set out in these Articles;

**"Articles"** means these Articles of Association as originally adopted, or as from time to time altered by special resolution;

**"Auditors"** means the auditors of the Company for the time being;

**"B Ordinary Shares"** means the B ordinary shares of £0.10p each in the share capital of the Company the rights and restrictions attached to which are set out in these Articles;

**"Base Return"** means the amount of Exit Proceeds required in order for Actual Return to result in a 15% compound total internal rate of return on the Investment Amount (calculated on a daily accrual basis and on the basis of the actual date of investment and the actual date of return relevant to each element comprising the Investment Amount);

**"the Board" or "the Directors"** means the Directors of the Company in office for the time being or a quorum of the Directors present at a board meeting;

**"Business Day"** means a day (other than Saturday or Sunday) on which clearing banks are generally open for normal banking business in London;

**"Conversion Event" or "Exit"** means a Sale, Listing or Winding Up;

**"Costs"** means the aggregate of all costs, fees and expenses incurred by the Company and/or any member of the Langholm Group or which any member of the Langholm Group agrees to bear in connection with a Conversion Event or a proposed Conversion Event including, without limitation, legal fees, commission, transfer costs and any other costs, fees or expenses incurred on an arm's length basis;

**"Deferred Shares"** means the deferred shares of £0.10p each in the capital of the Company, the rights and restrictions attaching to which are set out in these Articles;

**"Encumbrance"** means

- (A) any mortgage, charge, pledge, lien, restriction, assignment, hypothecation, security interest, title retention or any other agreement or arrangement the effect of which is the creation of security; or
- (B) any other interest, equity or other right of any person (including any right to acquire, option, right of first refusal or right of pre-emption); or
- (C) any agreement or arrangement to create any of the same and "un-Encumbered" shall be construed accordingly;

**"Exit Proceeds"** means:

- (A) in the case of a Listing, an amount equal to the Exit Share Price multiplied by the number of Ordinary Shares which are sold in connection with the Listing;
- (B) in the case of a Sale, an amount equal to Exit Share Price multiplied by the number of Ordinary Shares which are sold for cash;
- (C) in the case of Winding-Up, the amount to be distributed on the Winding-Up in respect of the issued Ordinary Shares in the Company,

in each case together with the net amount received upon repurchase, sale or redemption of any Loan Notes and together with any distribution paid in relation to the Ordinary Shares on or in anticipation of a Conversion Event but less all Costs incurred in connection with the relevant Conversion Event;

**"Exit Share Price"** means:

- (A) in the case of a Listing, the price per Ordinary Share received in cash by the holders of equity shares in the Company, being in the case of an offer for sale, the underwritten price or, if an offer for sale by tender, the striking price under such offer, or in the case of a placing, the price at which those Ordinary Shares are sold under the placing; and

- (B) in the case of a Sale, the price per Ordinary Share received in cash by the holder of Shares as consideration on the Sale;

**"Group"** means the Company and all other companies that are from time to time Subsidiaries and the expression **"Group Company"** means any one of them;

**"Higher Target Return"** means the amount of Exit Proceeds required in order for the Actual Return to result in a 40% compound per annum total internal rate of return on the Investment Amount (calculated on a daily accrual basis and on the basis of the actual date of investment and the actual date of return relevant to each element comprising the Investment Amount);

**"Investment Amount"** means the aggregate of:

- (i) the amount subscribed and paid up on the date of adoption of these Articles by the B Ordinary Shareholders for Shares; and
- (ii) the amount subscribed on the date of adoption of these Articles by the B Ordinary Shareholders for Loan Notes; and
- (iii) any additional amounts invested in or advanced or committed to be advanced to the Company or any Group Company from time to time by the B Ordinary Shareholders or the Langholm Funds and/or any member of the Langholm Group whether by way of share capital, loan or loan capital or any other form of commitment including by way of guarantee of the Company's or any Group Company's obligations;

**"Langholm Director"** has the meaning in the Shareholders' Agreement;

**"Langholm Funds"** means the limited partnership established under the name **"Langholm Capital Partners L.P."** and the limited partnership established under the name **"LCP (Guernsey) L.P."** and shall include the Langholm Capital LLP Co-Investment Plan;

**"Langholm Group"** means the Langholm Funds, Langholm LLP and its Affiliates. References to **"Langholm Group Company"** and **"members of the Langholm Group"** shall be construed accordingly;

**"Langholm LLP"** means Langholm Capital LLP;

**"Listing"** means the admission to listing or trading of the whole or any class of Shares (or other securities representing Shares) on the official list of the UK Listing Authority maintained in accordance with s74(5) FSMA or the Alternative Investment Market of the London Stock Exchange;

**"Loan Notes"** means the Primary Loan Notes, the Vendor Loan Notes, the Subordinated Loan Notes and the Redeemable Loan Notes;

**"Member"** or **"Members"** means the members of the Company for the time being;

**"Month"** means calendar month;



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

**"Ordinary Shares"** means the A Ordinary Shares and the B Ordinary Shares (and, for the avoidance of doubt, for the purposes of Article 7 shall include any issued B Ordinary Shares the subject of the Warrant);

**"Primary Loan Notes"** means the 15 per cent. £21,300,000 unsecured primary loan notes 2018 of the Company constituted by the Primary Loan Note Instrument;

**"Primary Loan Note Instrument"** means the instrument constituting the Primary Loan Notes;

**"Quotation"** means the admission of the whole of any class of the issued share capital of the Company to the Official List of the Financial Services Authority and to trading on the London Stock Exchange plc's market for listed securities or to trading on the AIM Market of the London Stock Exchange plc or on any recognised investment exchange (as defined in section 285(1) of the FSMA);

**"Redeemable Loan Notes"** means the 15 per cent. £150,000 unsecured redeemable loan notes 2018 of the Company constituted by the Redeemable Loan Note Instrument;

**"Redeemable Loan Note Instrument"** means the instrument constituting the Redeemable Loan Notes;

**"Reserved Shares"** means 10,000 unissued A Ordinary Shares;

**"Sale"** means the sale (whether through a single transaction or a series of transactions) of Shares for a cash consideration as a result of which any person (or persons connected with each other, or persons acting in concert with each other) would hold or acquire beneficial ownership of or over the whole of the issued Shares including as a result of a sale of Shares pursuant to Clause 11 (*Tag Along*) or Clause 12 (*Drag Along*) of the Shareholders Agreement;

**"Shareholder"** means any person who holds any A Ordinary Shares or B Ordinary Shares and **"A Ordinary Shareholder"** and **"B Ordinary Shareholder"** shall be construed accordingly.

**"Shareholders' Agreement"** means any agreement subsisting from time to time to which either all or a majority of the Shareholders are parties or to which they have become bound which regulates their conduct of the affairs of the Company;

**"Shares"** means A Ordinary Shares and/or B Ordinary Shares and/or Deferred Shares, as appropriate;

**"Subordinated Loan Notes"** means £3,000,000 unsecured subordinated loan notes of the Company constituted by the Subordinated Loan Note Instrument;

**"Subordinated Loan Note Instrument"** means the instrument constituting the Subordinated Loan Notes;

**"Subsidiary"** means each subsidiary or subsidiary undertaking of the Company from time to time as defined by the Statutes;

**"Transfer"** means, in relation to any share, loan note or other security or any directly or indirectly held legal or beneficial interest in any share, to:

- (a) sell, assign, transfer or otherwise dispose of it;
- (b) create or permit to subsist any Encumbrance over it;
- (c) direct (by way of renunciation or otherwise) that another person should, or assign any right to, receive it;
- (d) enter into any agreement in respect of the votes or any other rights attached to the share other than by way of proxy for a particular shareholder meeting; or
- (e) agree, whether or not subject to any condition precedent or subsequent, to do any of the foregoing,

and **"Transferred"**, **"Transferor"** and **"Transferee"** shall be construed accordingly;

**"the Statutes"** means the 1985 Act and the 2006 Act (as applicable) and every other act or statutory instrument for the time being in force concerning limited companies and affecting the Company;

**"in writing"** means written, printed, typewritten, lithographed or wholly expressed in any other mode representing or reproducing words, or partly one and partly another;

**"Vendor Loan Notes"** means £1,000,000 unsecured loan notes 2018 of the Company constituted by the Vendor Loan Note Instrument;

**"Vendor Loan Note Instrument"** means the instrument constituting the Vendor Loan Notes;

**"the Warrant"** means the warrant to subscribe for 1,800 B Ordinary Shares or such other number of B Ordinary Shares as may be determined pursuant to a deed poll dated on or about the date of adoption of these Articles;

**"Winding-Up"** means a solvent winding up or dissolution of the Company; and

**"Year"** means calendar year.

## 2.2 Construction

- (A) Any words or expressions defined in the Statutes shall bear the same meaning in these Articles.
- (B) References to statutory provisions shall be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions from time to time and shall include references to any

provisions of which they are re-enactments (whether with or without modification).

- (C) The headings, sub-headings and contents pages are inserted for convenience only and shall not affect the construction of these Articles.
- (D) References to a "person" include any individual, partnership, company, body corporate, corporation sole or aggregate, government, state or agency of a state, firm, joint venture, association, organisation or trust or any other unincorporated association (in each case whether or not having separate legal personality and irrespective of the jurisdiction in or under the law by which it was incorporated or exists) and a reference to any of them shall include a reference to the others.
- (E) Where for any purpose an ordinary resolution of the Company is required, a special resolution shall also be effective.
- (F) References to the singular shall include the plural and vice versa and references to the masculine, the feminine and the neuter shall include each other gender.

### **3. Shares**

#### **3.1 Authorised Share Capital**

The authorised share capital of the Company at the date of the adoption of these Articles is £22,180.00 divided into:

- (A) 20,000 A Ordinary Shares;
- (B) 181,800 B Ordinary Shares; and
- (C) 20,000 Deferred Shares.

#### **3.2 Rights and Restrictions**

The special rights and restrictions attached to and imposed on each class of Shares are as set out in these Articles.

### **4. Unissued Share Capital**

#### **4.1 General**

Subject to:

- (A) the provisions of the Statutes;
- (B) any provisions to the contrary contained in a Shareholders' Agreement; and
- (C) any direction to the contrary which may be given by special resolution of the Company,

any unissued shares of the Company (whether forming part of the original or any increased capital) shall be at the disposal of the Directors who may offer, allot, grant options over or grant any rights to subscribe for such shares or any rights to convert any security into such shares or otherwise dispose of them to such persons, at such times, for such consideration and upon such terms and conditions as the Directors may determine.

#### **4.2 Authority**

For the purposes of s.80 of the 1985 Act, the Directors are hereby authorised to exercise all powers of the Company to allot relevant securities (as defined in the said section) up to an aggregate nominal amount of £22,180.00, being the authorised share capital of the Company at the date of adoption of these Articles and such authority shall expire five years from the date of the adoption of these Articles. The authority in this Article 4.2 may at any time, subject to the 1985 Act, be renewed, revoked or varied by ordinary resolution.

#### **4.3 Redemption and Purchase of Shares**

Subject to the provisions of the 1985 Act and these Articles, the Company may:

- (A) issue Shares which are to be redeemed or are liable to be redeemed at the option of the Company or the shareholder;
- (B) purchase its own Shares (including any redeemable shares); and
- (C) make a payment in respect of the redemption or purchase, under sections 159, 160 and 161 or (as the case may be) section 162 of the 1985 Act of any of its own shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares to the extent permitted by sections 171 to 175 inclusive of the 1985 Act.

#### **4.4 Statutory Pre-emption rights excluded**

In accordance with section 91(1) of the 1985 Act, sections 89(1), 90(1) to 90(6) inclusive of the 1985 Act shall not apply to the Company.

### **5. Rights attaching to Share capital**

#### **5.1 Dividends**

- (A) Any profits available for distribution within the meaning of the 2006 Act which the Company may determine to distribute in respect of such financial year shall be applied in paying a dividend to the holders of the A Ordinary Shares and the B Ordinary Shares, which shall rank parri passu in respect thereof.
- (B) Save as otherwise provided, every dividend shall be distributed to the appropriate Shareholders pro-rata according to the amounts paid up or credited as paid up on the Shares held by them respectively, ignoring for these purposes any amount in respect of share premium.

## **5.2 Voting**

On a show of hands, every A Ordinary Shareholder and every B Ordinary Shareholder who (being an individual) is present in person or by proxy or (being a corporation) is present by a representative not being himself a member shall have one vote, and on a poll every A Ordinary Shareholder and every B Ordinary Shareholder shall have one vote for each A Ordinary Share or B Ordinary Share (as the case may be) of which he is the holder.

## **5.3 Rights on a return of capital**

On a return of capital on liquidation or otherwise (except on a redemption or purchase by the Company of any Shares), the surplus assets of the Company remaining after payment of its liabilities shall be distributed in the following order of priority:

- (A) First, in or towards paying to each holder of A Ordinary Shares and each holder of B Ordinary Shares an amount equal to the amount paid up or credited as paid up on each A Ordinary Share and/or each B Ordinary Share multiplied by the number of A Ordinary Shares held by each A Ordinary Shareholder and/or each B Ordinary Shareholder, and so that if there shall be insufficient surplus assets to pay such amounts in full, the amount payable to each A Ordinary Shareholder and/or B Ordinary Shareholder shall be abated pro rata to the number of Ordinary Shares held by each of them;
- (B) Secondly, the balance of the surplus assets then remaining (if any) shall be distributed amongst the holders of A Ordinary Shares and B Ordinary Shares pro rata according to the nominal value of such A Ordinary Shares and B Ordinary Shares (treating the A Ordinary Shares and B Ordinary Shares as a single class for this purpose) held by such A Ordinary Shareholders and B Ordinary Shareholders.

## **6. Transfer of Shares**

6.1 Shares may only be Transferred by A Ordinary Shareholders if:

- (A) such proposed Transfer is in accordance with the terms of the Shareholders Agreement; or
- (B) the prior written consent of the holders of all B Ordinary Shares entitled to vote at a general meeting is obtained prior to such proposed Transfer.

6.2 Save as set out in the Shareholders' Agreement, there shall be no restriction on Shares being Transferred by a B Ordinary Shareholder.

## **7. Ratchet**

7.1 In the event of a Conversion Event, then, immediately prior to, and conditional upon, such Conversion Event, such number of B Ordinary Shares shall be automatically and immediately converted into Deferred Shares in accordance with this Article 7 (and in relation to each holder of B Ordinary Shares, pro rata to his holding of those Shares) as shall result in A Ordinary Shares representing the following:

- (A) if the amount of the Exit Proceeds upon the occurrence of that Conversion Event are less than, or equal to, the Base Return, the share capital of the Company shall remain as it stands immediately prior to the Conversion Event and no B Ordinary Shares shall be converted into Deferred Shares;
- (B) If the amount of the Exit Proceeds upon the occurrence of that Conversion Event exceed the Higher Target Return, then:
  - (i) the number of B Ordinary Shares to be converted into Deferred Shares shall be such number so that after such conversion, the B Ordinary Shares represent 80% of the total issued nominal equity share capital of the Company; and
  - (ii) as a result thereof, the A Ordinary Shares shall represent 20% of the issued nominal equity share capital.
- (C) If the amount of the Exit Proceeds upon the occurrence of that Conversion Event exceed the Base Return but are less than or equal to the Higher Target Return then:
  - (i) the B Ordinary Shares to be converted into Deferred Shares shall be such number so that, after such conversion, the B Ordinary Shares shall represent such percentage of the total issued Ordinary Shares calculated by following an iterative approach as set out below using the following definitions:

"i" = iterative round

where:

i = 0 is the start/first round

i = n is the final round (when the iterative process has been resolved)

"A<sub>i</sub>" = the number of A Ordinary Shares in Round i expressed as a percentage of the total issued Ordinary Shares

"IRR<sub>i</sub>" = IRR in round i

A<sub>i</sub> and IRR are related as follows:

$$A_i = 10\% + 10\% [(IRR_i - 15\%) / 25\%]$$

In Round n the difference between A<sub>n</sub>— A<sub>n-1</sub> will be less than 0.01%. The number of A Ordinary Shares in Round n expressed as a percentage of the total issued Ordinary Shares will be A<sub>n</sub>

so that, for the avoidance of doubt, the A Ordinary Shares shall never represent more than 20% of the total issued Ordinary Share capital of the Company;

- (ii) the B Ordinary Shares shall represent the balance of the issued nominal equity share capital of the Company so that, for avoidance of doubt the number of B Ordinary Shares in Round n expressed as a percentage of the total issued Ordinary Shares shall be calculated by the following formula:

$$100\% - A_n$$

- 7.2 The conversion of the B Ordinary Shares shall be made such that whole B Ordinary Shares only, and not fractions thereof, are converted (rounding fractions down always) into Deferred Shares.
- 7.3 On the date for the conversion of the B Ordinary Shares, the Company shall have irrevocable authority to purchase the same in accordance with the 1985 Act for not more than £1 for all Deferred Shares falling to be converted.
- 7.4 On any conversion, the Company shall cancel the share certificate of the Shareholder concerned and, in the case of a buy-back, without charge issue a fresh certificate for the balance of Shares not bought back.
- 7.5 This Article 7 will cease to apply immediately following the occurrence of a Conversion Event.
- 7.6 A worked example of the formula set out in Article 7.1 is appended to the Shareholders' Agreement.

## **8. Deferred Shares**

If any Deferred Shares shall arise on a Conversion Event, the following rights and restrictions shall attach to them:

- (A) on a winding up or other return of capital, the Deferred Shares shall entitle the holders thereof to payment of the amounts paid up thereon only after payment to the holders of Shares of the nominal amount paid up on the Shares held by them respectively and the payment of a further £10,000,000 on each Share;
- (B) the Deferred Shares shall not entitle the holders thereof to the payment of any dividend or to receive notice of or to attend and vote at any general meeting of the Company;
- (C) the Deferred Shares shall not be transferable except as provided in (D) below;
- (D) the effecting of conversion shall be deemed to confer irrevocable authority on the Company to appoint any person to execute on behalf of the holders of any Deferred Shares an instrument of transfer in respect thereof in favour of such person as the Company may appoint to be the custodian of the Deferred Shares or to purchase or cancel the same in accordance with the 1985 Act; in any such case for not more than £1 for all such shares being transferred, purchased or cancelled (to be paid to such one of the holders thereof as may be selected by lot), without obtaining the sanction of the holders thereof and, pending such transfer, purchase or cancellation, to retain the certificates for such Deferred Shares; and

- (E) the Company may, at its option, at any time after the conversion of B Ordinary Shares into Deferred Shares, and without any prior notice to the holders thereof redeem all such Deferred Shares then in issue at a price not exceeding £1 for all the Deferred Shares (to be paid to such one of the holders thereof as may be selected by lot).

## **9. Proceedings at General Meetings**

### **9.1 Quorum**

No business shall be transacted at any general meeting unless a quorum is present, which shall consist of two members entitled to vote, one of which shall be a B Ordinary Shareholder, who are present in person or by proxy or, in the case of a corporation, is present by authorised representative.

### **9.2 Voting**

- (A) A resolution put to the vote of a meeting shall be decided on a show of hands unless, before, or on the declaration of the result itself, a poll is duly demanded. Subject to the provisions of the Statutes, a poll may be demanded by any one or more Shareholders holding at least ten per cent of the issued Shares in the Company having the right to vote on that resolution.
- (B) A demand by a person as proxy for a Member shall be the same as a demand by a Member.

### **9.3 Proxies**

- (A) Where it is desired to permit Members to instruct a proxy how he is to vote the appointment of the proxy shall be in any form approved by the Directors which enables the appointor to determine how his votes are to be cast on each of the resolutions comprised in the business of the meeting for which it is to be used.
- (B) The appointment of a proxy and the power of attorney or other authority (if any) under which it has been signed, or a notarially certified copy of such power of attorney, shall in the case of an appointment in writing be deposited at the registered office of the Company (or such other place in the United Kingdom as is specified for that purpose in the notice of the meeting or any instrument of proxy sent by the Company in relation to the meeting) not less than one hour before the time for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote, or handed to the Chairman of the meeting or adjourned meeting at the commencement of such meeting.
- (C) An appointment of a proxy may also be sent by facsimile or e-mail to such number or address as may be specified by the Company in the notice of the meeting or in any document accompanying it so as to be received within the same time as is fixed for delivery of an appointment in writing. In default the appointment of a proxy shall not be treated as valid.



#### **9.4 Resolutions in writing**

A resolution in writing signed or approved by letter, facsimile, telegram or e-mail by or on behalf of all the members of the Company who would be entitled to vote on it if it had been proposed at a general meeting or at a meeting of any class of members of the Company shall be as valid and effectual as if it had been passed at a general meeting or at such class meeting (as the case may be) duly convened and held. The resolution may be contained in one document or in several documents in like form each stating the terms of the resolution accurately and signed by or on behalf of one or more of the members.

### **10. The Board of Directors**

#### **10.1 Number of Directors and general matters**

- (A) There shall be no maximum number of directors and the minimum number shall be two.
- (B) The Directors shall not be subject to retirement by rotation and accordingly Regulations 73 to 75 of Table A shall not apply and all other references in Table A to retirement by rotation shall be disregarded.

### **11. Powers and Duties of Directors**

#### **11.1 Voting on matters in which a director is interested**

Subject to Article 14 and subject to proper and full disclosure under Sections 177, 180 and 182 to 187 of the 2006 Act and any provision of these Articles, a Director or alternate Director may vote as a Director in regard to any contract or arrangement in which he is interested or upon any matter arising thereon. If he shall so vote, his vote shall be counted and he shall be reckoned in calculating a quorum when any such contract or arrangement is under consideration.

### **12. Proceedings of Directors**

#### **12.1 Quorum**

- (A) The quorum for the transaction of the business of the Directors shall be two directors.
- (B) A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.

#### **12.2 Telephone Board Meetings**

Meetings of the Directors may be held by telephone or audio-visual communication (whereby all persons participating in the meeting can hear and speak to each other simultaneously) provided that the number of Directors participating in such communication is not less than the quorum stipulated by these Articles and such meetings shall, subject to notice thereof having been given in accordance with these Articles, be as effective as if the Directors had met in person. Such a meeting shall

be deemed to take place where the largest group of those participating is assembled and, if there is no such group, where the Chairman of the meeting then is.

### **12.3 Alternate Directors**

- (A) Each Director shall have power, by notice in writing signed by him addressed to the secretary of the Company (which shall take effect on the service thereof at the registered office of the Company) to appoint any other Director or any other person approved for that purpose by the Directors (such approval not to be unreasonably withheld or delayed) to act as his alternate and at his discretion to remove such alternate director but no such approval shall be required for an appointment made by a member of the Langholm Group.
- (B) On such appointment being made the alternate director shall for all purposes be counted as a Director and, except as regards remuneration and the power to appoint an alternate, shall, whilst so acting, be entitled to exercise and discharge all the functions, powers and duties of the Director whom he represents.
- (C) Any person acting as an alternate shall in the absence of his appointor have a vote for each Director for whom he acts as alternate, in addition, where such person is a Director, to his own vote but shall not be considered as more than one Director for the purpose of determining whether there is a quorum of Directors.

### **12.4 Position of Alternate Director**

- (A) An alternate director shall cease to be so if his appointor ceases for any reason to be a Director or on the happening of any event which if the alternate was a Director would cause him to vacate such office.
- (B) An alternate shall, during his appointment, be an officer of the Company and shall not be deemed to be an agent of his appointor.
- (C) An appointment of an alternate shall not prejudice the right of his appointor to receive notice of and to attend and vote at meetings of the Board.
- (D) An alternate director shall not be entitled to any remuneration from the Company.

### **12.5 Voting**

Save as provided otherwise in these Articles, all business arising at any meeting of the Directors or of any committee of the Directors shall be determined only by resolution passed by a majority of votes and the Chairman of the meeting shall have a second or casting vote in the event of a deadlock.

### **12.6 Resolutions in writing**

A resolution in writing signed by all the Directors entitled to receive notice of a meeting of Directors shall be as valid and effectual as if it has been passed at a meeting duly convened and held. The resolution may be contained in one document or in several documents each stating the terms of the resolution accurately and signed by one or more Directors; but a resolution signed by an alternate Director need not also

be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.

#### **12.7 Signatures**

In this Article 12, reference to a document being "signed" includes it being approved by letter, facsimile or e-mail.

#### **12.8 Committees**

- (A) The Directors may not delegate any of their powers to a committee without the unanimous consent of all Directors.
- (B) Any such delegation may be made upon such terms and conditions and with such restrictions as the Directors unanimously approve, and either collaterally with or to the exclusion of their own powers, and may from time to time, acting unanimously, revoke, withdraw, alter or vary all or any of such powers.
- (C) Subject to any such conditions, the proceedings of such committee shall be governed by these Articles regulating the proceedings of Directors insofar as they are capable of applying.

#### **13. Notice of Board Meetings**

##### **13.1 Notice to be in writing**

Regulation 111 of Table A shall be read as if the words "except that a notice calling a meeting of the Directors need not be in writing" were deleted therefrom.

##### **13.2 Method of service and addresses for service of notices**

Each such notice shall:

- (A) be sent by pre-paid first class post, courier, facsimile or e-mail to either:
  - (1) the postal address, facsimile number or e-mail address whether or not within the United Kingdom notified from time to time by each Director to the secretary (or, if there is none at that time, the Chairman of the Board) as his address or number for the service of such notices (or if no address has been so supplied, by pre-paid first class post to his last known postal address); or
  - (2) an e-mail address or facsimile number which the Company or the Board has previously used to contact such person, PROVIDED THAT such person has not given notice to the Secretary (or, if there is none at that time, the Chairman) specifically requesting that no e-mail address or facsimile number be used for the purposes of this Article;
- (B) contain an agenda specifying in reasonable detail the matters to be discussed at the relevant meeting;

- (C) if sent to an address outside the United Kingdom, be sent by courier, facsimile transmission or e-mail.

#### **14. Board power to authorise conflicts of interest**

- 14.1 The Board may, in accordance with these Articles, authorise a matter proposed to it which would, if not authorised, involve a breach by a Director of his duty under s175 of the 2006 Act to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the Company's interests.
- 14.2 A matter referred to in Article 14.1 is proposed to the Board by its being submitted:
  - (A) in writing for consideration at a meeting of the Board or for authorisation of the Board by resolution in writing; and
  - (B) in accordance with the Board's normal procedures or in such other manner as the Board may from time to time approve.
- 14.3 A reference in these Articles to a conflict of interest includes a conflict of interest and duty, and a conflict of duties.
- 14.4 An authorisation referred to in Article 14.1 is effective only if:
  - (A) it is given in accordance with the requirements of the 2006 Act;
  - (B) in the case of an authorisation given by resolution in writing:
    - (a) the resolution is signed by all the Directors (disregarding the Director in question) in accordance with Article 12.6; and
    - (b) the number of Directors that sign the resolution (disregarding the Director in question) is not less than the number required to form a quorum.
- 14.6 The Board may:
  - (A) authorise a matter pursuant to Article 14.1 on such terms and for such duration, or impose such limits or conditions on it, as it may decide; and
  - (B) at any time vary the terms or duration of such an authorisation (including any limits or conditions imposed on it) or revoke it.
- 14.7 Any terms, limits or conditions imposed by the Board in respect of its authorisation of a Director's conflict of interest or possible conflict of interest, including (without limitation) an authorisation given pursuant to Article 14 may provide (without limitation) that:
  - (A) if the relevant Director has (other than through his position as Director) information in relation to the relevant matter in respect of which he owes a duty of confidentiality to another person, he is not obliged to disclose that information to the Company or to use or apply it in performing his duties as a Director or for the benefit of the Company;

- (B) the Director is to be excluded from discussions in relation to the relevant matter whether at a meeting of the Board or any committee or sub-committee of the Board or otherwise;
  - (C) the Director is not to be given any documents or other information in relation to the relevant matter; and
  - (D) the Director may or may not vote (or may or may not be counted in the quorum) at a meeting of the Board or any committee or sub-committee of the Board in relation to any resolution relating to the relevant matter.
- 14.8 A Director does not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the 2006 Act if he acts in accordance with such terms, limits and conditions (if any) as the Board imposes in respect of its authorisation of the Director's conflict of interest or possible conflict of interest, including (without limitation) an authorisation given pursuant to Article 14.
- 14.9 Subject to compliance by him with his duties as a Director under Part X of the 2006 Act (other than the duty in section 175(1) of the 2006 Act to the extent that it is the subject of this Article 14.9), a Langholm Director may be a director or other officer of, employed by, hold shares or other securities in, or otherwise be interested, whether directly or indirectly in:
- 14.9.1 any Langholm Investor, Langholm Fund or Langholm Affiliate (as such terms are defined in the Shareholders' Agreement), or other entity which, directly or indirectly, holds Shares in the Company (a "**Relevant Investor**") and as such the Langholm Director may, on behalf of the Relevant Investor, give or withhold any consent or give any direction required of the Relevant Investor(s) pursuant to the terms of the Shareholder Agreement relating to the Company, or of any similar agreement or document ancillary to such agreement; or
  - 14.9.2 any other company in which a Relevant Investor also holds shares or other securities or is otherwise interested, whether directly or indirectly,
- (in either case a "**Langholm Director Interest**"), and notwithstanding his office or the existence of an actual or potential conflict between any Langholm Director Interest and the interests of the Company which would fall within the ambit of section 175(1) of the 2006 Act, the relevant Langholm Director;
- 14.9.3 shall be entitled to attend any meeting or part of a meeting of the Directors or a committee of the Directors at which any matter which may be relevant to the Langholm Director Interest may be discussed, and to vote on a resolution of the Directors or a committee thereof relating to such matter, and any board papers relating to such matter shall be provided to the relevant Langholm Director at the same time as the other Directors;
  - 14.9.4 shall not be obliged to account to the Company for any remuneration or other benefits received by him in consequence of any Langholm Director Interest;

- 14.9.5 shall be entitled to consult freely about the Group and its affairs with, and to disclose, for investment appraisal purposes, Confidential Information to, any Relevant Investor, Affiliate or proposed investor in the Group or any other person on whose behalf it is investing in the Group, and to the Group's auditors, lenders and proposed lenders (or with and to any of its or their professional advisers);
  - 14.9.6 for the purposes of facilitating a Sale or Quotation, shall be entitled to disclose any Confidential Information to any proposed purchaser, underwriter, sponsor or broker; and
  - 14.9.7 will not be obliged to disclose to the Company or use for the benefit of the Company any other confidential information received by him by virtue of his Langholm Director Interest and otherwise than by virtue of his position as a Director, if to do so would breach any duty of confidentiality to a third party.
- 14.10 For the purposes of Article 14.9, the expression "**Confidential Information**" shall mean all information (whether oral or recorded in any medium) relating to any Group Company's business, financial or other affairs (including future plans of any Group Company) which is treated by a Group Company as confidential (or is marked or is by its nature confidential).

## **15. Directors permitted to retain benefits**

- 15.1 A Director is not required, by reason of being a Director (or because of the fiduciary relationship established by reason of being a Director), to account to the Company for any remuneration or other benefit which he derives from, or in connection with, a relationship involving a conflict of interest or possible conflict of interest which has been authorised by the Board, including (without limitation) pursuant to Article 14.1, or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation).
- 15.2 If he has disclosed to the Board the nature and extent of his interest to the extent required by the 2006 Act, a Director is not required, by reason of being a Director (or because of the fiduciary relationship established by reason of being a Director), to account to the Company for any remuneration or other benefit which he derives from or in connection with:
- (A) being a party to, or otherwise interested in, any transaction or arrangement with:
    - (i) the Company or in which the Company is interested; or
    - (ii) a body corporate promoted by the Company or in which the Company is otherwise interested;
  - (B) acting (otherwise than as auditor) alone or through any person with whom he is connected for the Company (and he or that person is entitled to remuneration for professional services as if he were not a Director); or

- (C) being a director or other officer of, or employed by, or otherwise interested in, a body corporate promoted by the Company or in which the Company is otherwise interested.
- 15.3 A Director's receipt of any remuneration or other benefit referred to in Article 15.1 or 15.2 does not constitute an infringement of his duty under s176 of the 2006 Act.
- 15.4 A transaction or arrangement referred to in Article 15.1 or 15.2 is not liable to be avoided on the ground of any remuneration, benefit or interest referred to in that Article.
- 16. Prohibition on voting for Directors with interests**
- 16.1 Except as provided by Article 16.3 or by the terms of any authorisation given by the Board, including (without limitation) pursuant to Article 14.1, or by the Company in general meeting, a Director must not vote at a meeting of the Board or any committee or sub-committee of the Board in respect of any contract, transaction, arrangement or proposal in which he has an interest (other than an interest in shares, debentures or other securities of or otherwise in or through the Company) which is to his knowledge a material interest.
- 16.2 A Director must not be counted in the quorum at a meeting of the Board or any committee or sub-committee of the Board in relation to any resolution on which he is not entitled to vote.
- 16.3 A Director may vote on any resolution concerning any of the following matters:
- (A) the giving of a guarantee, security or indemnity in respect of money lent, or obligations incurred, by him or by another person at the request of, or for the benefit of, the Company or a Subsidiary;
  - (B) the giving of a guarantee, security or indemnity in respect of a debt or obligation of the Company or a Subsidiary for which the Director has assumed responsibility (wholly or partly) under a guarantee or indemnity or by the giving of security;
  - (C) any proposal concerning an offer of shares or debentures or other securities of or by the Company or a Subsidiary for subscription or purchase or exchange in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting of the offer;
  - (D) any proposal concerning another company in which he is interested, directly or indirectly and whether as an employee, member, officer or shareholder or otherwise, if he (and persons connected with him) does not to his knowledge hold an interest in shares (as that term is used in ss820 to 825 of the 2006 Act) representing one per cent. or more of the issued shares of any class of the equity share capital of that company (or of any third company through which his interest is derived) or of the voting rights available to members of the relevant company (that interest is deemed for the purposes of this Article to be a material interest);

- (E) any proposal concerning the adoption, modification or operation of a pension, superannuation or similar scheme or retirement, death or disability benefits scheme or an employees' share scheme under which he may benefit and which relates both to employees and Directors and does not accord to the Director any privilege or benefit not generally accorded to the employees and Directors to whom the scheme relates;
- (F) any proposal under which he may benefit concerning the granting of an indemnity to a Director or other officer of the Company;
- (G) any proposal under which he may benefit concerning the purchase, funding or maintenance of insurance for any Director or other officer of the Company; and
- (H) any proposal under which he may benefit concerning the provision to a Director of funds to meet expenditure incurred or to be incurred by the Director in defending proceedings or in connection with any application under any of the provisions mentioned in s234(6) of the 2006 Act or otherwise enabling the Director to avoid incurring that expenditure.

**16.4 For the purposes of this Article 16:**

- (A) an interest of a person who is, for any purpose of the 2006 Act, "connected with" (within the meaning of s252 of the 2006 Act) a Director is to be treated as an interest of the Director; and
- (B) in relation to an alternate Director, an interest of his appointor is to be treated as an interest of the alternate Director without prejudice to any interest which the alternate Director has otherwise.

**17. Directors voting on appointments**

If it is proposed to appoint two or more Directors to offices or employments with the Company or with a company in which the Company is interested, or to fix or vary the terms of those appointments, the proposals may be divided and considered in relation to each Director separately and in such case each of those Directors (if not debarred from voting under Article 16.3(D)) may vote (and be counted in the quorum) in respect of each resolution except that which relates to him.

**18. Chairman's ruling is final**

If a question arises at any meeting of the Board or committee or sub-committee of the Board as to the materiality of a Director's interest or as to the entitlement of a Director to vote and the question is not resolved by his voluntarily agreeing to abstain from voting, the question must be referred to the Chairman of the meeting (or where the interest concerns the Chairman to the Deputy Chairman of the meeting who if not already appointed is the non-executive Director who has been in office as a non-executive Director the longest) and his ruling in relation to any other Director is final and conclusive except in a case where the nature or extent of the interests of the Director concerned have not been fairly disclosed.



**19. Directors' power relating to other companies**

The Board may exercise the voting power conferred by the shares in any company held or owned by the Company in any way that it decides (including voting in favour of any resolution appointing any of them directors of that company, or voting or providing for the payment of remuneration to the directors of that company).

**20. Notices to Members and to the Company**

**20.1 Manner of service of notice by the Company**

Any notice required by these Articles to be given by the Company to its Members may be delivered or sent by any visible form on paper, including a notice sent by post or courier, or by facsimile or e-mail addressed to him either:

- (A) at his registered address as appearing in the register of Members; or
- (B) at an e-mail address or facsimile number which is notified by the Member to the Company or which the Company or the Board has previously used to contact such person, PROVIDED THAT such person has not given notice to the secretary of the Company specifically requesting that no e-mail address or facsimile number be used for the purposes of this Article 20.1.

A Member is entitled to receive notices from the Company notwithstanding that his registered address as appearing in the register of members is outside the United Kingdom (in such case notice shall be given by courier, facsimile or e-mail). In the case of joint holders of a Share, notices shall be given to that one of the joint holders whose name stands first in the register of members and notice given to him shall be sufficient notice to all the joint holders.

**20.2 Manner of service of notice to the Company**

Any notice to be served by a Member upon the Company may be served by any of the methods referred to in Article 20.1 and if delivered personally or sent by post shall be addressed to the Office or if sent by facsimile or e-mail shall be sent to such number or address as appears in the Company's letter-heading or which is notified by the Company to the members for that purpose.

**20.3 Time of service**

Any notice or document shall be deemed to have been served:

- (A) If personally delivered, at the time of delivery; or
- (B) If sent by pre-paid first class post to an address in the United Kingdom, 48 hours after posting or if despatched by airmail to an address outside the United Kingdom, five Business Days after posting; or
- (C) if sent by facsimile, when despatched, subject to the confirmation of uninterrupted transmission by a transmission report, if despatched before 17.00 hours on any Business Day and, in any other case, at 08.00 hours on the Business Day following the date of despatch; or

- (D) if given by e-mail, when the e-mail notice leaves the e-mail gateway server of the sender, the onus being on the sender to demonstrate that such e-mail has left its server, where it leaves such server before 17.00 hours on any Business Day and, in any other case, at 08.00 hours on the next following Business Day.

#### **20.4 Proving service**

In proving service of a notice or document personally delivered or sent by post, it shall be sufficient to prove that delivery was made or that the envelope containing the notice or document was properly addressed and sent by post or courier, as the case may be.

#### **20.5 Service on dead or bankrupt Members**

- (A) Any notice or document delivered or sent in accordance with these Articles shall, notwithstanding that the Member is then dead or bankrupt and whether or not the Company has notice of his death or bankruptcy be deemed to have been duly served in respect of any Share registered in his name as sole or joint holder, unless at the time of the service of the notice or document his name has been removed from the register as the holder of the Share.
- (B) Such service shall for all purposes be deemed a sufficient service of the notice or document on all persons interested in the Share (whether jointly with or as claiming through or under him).

#### **20.6 Successors in title bound**

Every person who by operation of law, transfer or other means becomes entitled to any Share shall be bound by every notice in respect of the Share which, prior to his name and address being entered in the register of members, has been duly given to the person from whom he derives his title other than a notice given under section 793 of the 2006 Act.

### **21. Indemnity and Insurance**

#### **21.1 Indemnity**

In addition to the indemnity contained in Regulation 118 of Table A and subject to the provisions of s.310 of the 1985 Act, every Director, agent, secretary and other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all losses and liabilities properly incurred by him in or about the execution and discharge of the duties of his office and, in regulation 118 of Table A, the words "or auditor" shall be omitted.

#### **21.2 Insurance**

Without prejudice to the provisions of Regulation 118 of Table A and subject to the provisions of s.310 of the 1985 Act, the Directors shall have power to purchase and maintain insurance for the benefit of any persons who are or were at any time Directors, officers, or employees of any Group Company or who are or were at any time following the adoption of these Articles trustees of any pension fund in which any employees of any Group Company are interested including (without

prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in respect of any Group Company or any such pension fund.