

Holoxica Ltd (the "Company")

Registered in England No. 06587101

Companies Acts

Written Record of Members' Written Resolution

Circulation Date: 3rd April 2014

On the 4th day of April 2014, the following RESOLUTIONS IN WRITING (such Resolutions to have effect as Special Resolutions, as indicated) were duly passed by the members of the Company entitled to attend and vote at a general meeting of the Company -

SPECIAL RESOLUTIONS

- a) THAT, in accordance with section 551 of the Companies Act 2006, the directors of the Company be and are hereby generally and unconditionally authorised to allot up to 102,423 ordinary shares of £0.01 each in the share capital of the Company, retrospectively where appropriate, declaring that this authority shall (unless renewed, varied or revoked by the Company) expire on 30th June 2014
- b) THAT all rights of pre-emption whether in terms of the Articles of Association of the Company, the Companies Act 2006 or otherwise be and are hereby waived in respect of any allotment of shares made pursuant to resolution (a) above
- c) THAT the document attached be adopted as the new Articles of Association of the Company, in place of and to the exclusion of all other previous Articles of Association



AUTHORISED SIGNATORY
FOR AND ON BEHALF OF
HOLOXICA LTD

04 04 2013

Dated

THURSDAY



A27 24/04/2014 #302
COMPANIES HOUSE

WARNING This document has been prepared by MBM Commercial LLP on behalf of Share In Limited. You should take independent legal advice before subscribing for or purchasing any shares in the company named below because all such shares issued or transferred to you will be subject to the terms of this document.

ARTICLES of ASSOCIATION

Holoxica Ltd

(Registered Number 06587101)

(ADOPTED 4th April 2014)



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ARTICLES OF ASSOCIATION

of

Holoxica Ltd

(Registered Number 06587101)

A PRIVATE LIMITED COMPANY

Incorporated under

THE COMPANIES ACTS

(ADOPTED 4th April 2014)

1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Articles, the words and expressions below shall have the following meanings unless the context requires otherwise

"the Act"	means the Companies Act 2006,
"Acting in Concert"	shall have the meaning given to it in the City Code on Takeovers and Mergers from time to time,
"Approved Group"	means some or all of the members of the Company approved by the Board from time to time, including any members who are also employees and/or Directors of the Company,
"Approved Issue"	means the issue of such number of shares to any employees, directors and/or consultants pursuant to any share option scheme and/or share option agreement(s) established or entered into by the Company in accordance with (i) any Share In Investment Agreement and/or (ii) any approval which is given, by a special resolution, of the members of the Company,
"Articles"	means these articles of association constituted by the following regulations together with any duly authorised amendments or alterations from time to time, and the term "Article" shall be a reference to a regulation contained in these Articles,
"Associated Company"	shall have the meaning given to it in the Act,
"Auditors"	means the Auditors of the Company from time to time, unless auditors are not required pursuant to the Act and have not been appointed, in which case such reference shall instead mean the accountants of the Company from time to time,

"Board"	means the board of Directors of the Company from time to time,
"Business Day"	means any day from Monday to Friday inclusive which is not a local, public or statutory holiday in Scotland,
"Circulation Date"	means the earliest date on which a proposed written resolution is communicated in hard copy or electronic form (including without limitation by electronic mail or by publication on a website) to every eligible member who is entitled to receive such communication,
"Company"	means Holoxica Ltd, a private limited company incorporated under the Act, registered in England and Wales under number 06587101 and having its registered office at 16 Napier Gardens, Guildford, GU1 2PG,
"Companies Acts"	means the Companies Acts (as defined in section 2 of the Act), in so far as they apply to the relevant company,
"Compulsory Transferor"	means a member (including any joint holder) required to transfer his shares in accordance with Article 6 and "Compulsory Transfer" shall be construed accordingly,
"Connected Persons"	shall have the meaning given to it in sections 1122 and 1123 of the Corporation Tax Act 2010,
"Control Percentage"	means 50% or more of the issued share capital,
"Controlling Interest"	means an interest in the Control Percentage or more of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue and conferring the right to attend and vote at all general meetings,
"Deemed Transfer Notice"	shall have the meaning given to it in Article 6 1,
"Director"	means a director of the Company or any alternate director duly appointed in accordance with these Articles,
"Eligible Director"	means a Director who would be entitled to vote on the matter at a meeting of Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter), as determined in particular in accordance with article 14 of the Model Articles,
"Fair Value"	means the fair value of any shares to be valued (the "valued shares") calculated by the Valuer on the basis of the value of the whole Company and shall be based on the following assumptions - <ul style="list-style-type: none"> (a) an arm's length sale between a willing seller and a willing buyer, (b) if the Company is carrying on a business as a going concern, on the assumption that it will continue to do so,

- (c) that the said valued shares are capable of being transferred without restriction,
- (d) that no account is taken of the proportion which the said valued shares bear to the total number of shares in issue,
- (e) that no account is taken of the proportion which the said valued shares bear to the total number of shares of the same share class in issue,

declaring that the Fair Value of each valued share shall be calculated by dividing the Fair Value of all the valued shares by the total number of the valued shares,

“Founder”

means Javid Khan,

“Group Member”

means any holding company, subsidiary company, wholly-owned subsidiary company or a parent company, in each case as defined in the Act,

“member”

means a person registered as a member in the register of members of the Company,

“Model Articles”

means the model Articles for private companies limited by shares contained in Schedule 1 of The Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles,

“Option Holder”

means a holder of options, warrants or any other right to acquire new shares in the share capital of the Company,

“Privileged Relation”

means in respect of an individual -

- (i) the spouse, civil partner, surviving civil partner or widow of the relevant person,
- (ii) the relevant person’s issue (including step and adopted issue),
- (iii) the relevant person’s parents and grandparents (including step and adoptive parents),
- (iv) the relevant person’s siblings and their respective issue (including step and adoptive siblings) (the persons referred to in (i) to (iv) being the “family members”),
- (v) any trust (including without limitation any pension fund) established for the benefit of the relevant person or his family members, or
- (vi) any charitable trust established by the relevant person and/or by his family members,

and in respect of any such family trust referred to in paragraph (v), a beneficiary of such trust,

“Qualifying Majority”

means 50%,

“share”

means any share forming part of the share capital of the Company,

"Share In Investment Agreement"	means any investment agreement entered into between the Company, the Founder and others on or around the date of adoption of these Articles in connection with funding being raised by the Company via the 'Share In' crowdfunding website,
"Total Transfer Condition"	shall have the meaning given to it in Article 5 3, and
"Valuer"	means the Auditors unless they decline to act and in such an instance the valuer shall instead be appointed by the President for the time being of the Institute of Chartered Accountants of Scotland

- 1 2 Words importing the singular include the plural and vice versa
- 1 3 Words importing a particular gender include any gender
- 1 4 References to a "person" include any natural person, or any legal person, body or organisation, incorporated or unincorporated
- 1 5 The headings in these Articles are for convenience only and shall not affect the construction of these Articles
- 1 6 Words and expressions defined in the Act shall bear the same meanings in these Articles
- 1 7 Unless provision is made to the contrary, references to any statute or statutory provision includes a reference to
- 1 7 1 that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated whether before or after the date of adoption of these Articles, and
- 1 7 2 all statutory instruments or orders made pursuant to it
- 1 8 References to the phrase "Privileged Relations" shall save for the references in Article 1 1 and Article 5 2 respectively, be deemed to include the phrase "and/or Group Member"
- 1 9 For the avoidance of doubt, any reference in these Articles to "writing" shall be deemed to include electronic mail ("email")

2. **MODEL ARTICLES**

- 2 1 The Model Articles shall apply to the Company except in so far as they are excluded or varied by or are inconsistent with these Articles
- 2 2 Articles 11(2), 23, 24(2)(d), 24(5)(a), 48(2), 48(3), 49, 52 and 53 of the Model Articles shall not apply to the Company
- 2 3 The following amendments shall be made to the articles of the Model Articles in so far as they apply to the Company -
- 2 3 1 in article 9(1) of the Model Articles, by the insertion of the phrase "not less than five Business Days" in the first sentence between the words "giving" and "notice",
- 2 3 2 in article 20 of the Model Articles, by the insertion of the phrase "(including alternate directors) and the secretary" in the first sentence between the words "directors" and "properly incur",
- 2 3 3 in article 22(1) of the Model Articles, by the amendment to the reference to "ordinary resolution" to read "special resolution", and
- 2 3 4 in article 31(1) of the Model Articles, by the deletion of all occurrences of the phrase "either in writing or as the directors may otherwise decide" and by the substitution, in its place, of the phrase "in writing"

3. SHARE CAPITAL

- 3 1 Save in respect of any Approved Issue or save to the extent authorised from time to time by an ordinary resolution of the members, the Directors shall not exercise any power to allot shares or to grant rights to subscribe for, or to convert any security into, any shares in the Company. Section 550 of the Act shall not apply to the Company.
- 3 2 The Company may at its sole discretion recognise and record the holding of a share by a person on trust, or in the names of trustees, but unless specifically recognised by the Company as such a holding, the Company shall not be bound by, or obliged to recognise, any interest in any share except for the absolute rights of the holder named in the register of members.
- 3 3 Any shares of the Company for the time being unissued and any new shares from time to time to be created shall be offered to existing members in strict proportion to the number of shares held by them at that time. The offer shall be made by notice to each member specifying the number of shares offered and stating a period (not being less than 21 days) within which the offer if not accepted by notice to the Company shall be deemed to be declined. Following expiry of such period or receipt of notice of the acceptance or refusal of every offer made hereunder the Directors may dispose of any shares not accepted by the members in such manner as they think most beneficial to the Company provided that such shares shall not be disposed of on terms which are more favourable to the allottee than the terms on which they were offered to the members hereunder. The provisions of this Article 3 3 shall not apply to any Approved Issue.
- 3 4 Pursuant to the Act, all statutory rights of pre-emption shall be excluded from applying to the Company. In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.

4 LIEN

- 4 1 The Company shall have a first and paramount lien on every share for all moneys, whether presently payable or not, called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares registered in the name of any person, whether solely or jointly with others, for all moneys owing to the Company from that person, or that person's estate, either alone or jointly with any other person, whether as a member, or not, and whether such moneys are presently payable or not. The Directors may at any time declare any share to be wholly or partly exempt from the provisions of this Article.

5 TRANSFER OF SHARES

- 5 1 The Directors shall refuse to register any transfer of shares made in contravention of the provisions of these Articles.
- 5 2 Subject only to Article 7 and Article 8, the Directors shall register a transfer of shares complying with one or more of the following conditions -
- 5 2 1 a transfer of a share made pursuant to Article 6,
- 5 2 2 a transfer or transmission of a share by any member who is an individual to a Privileged Relation and a retransfer of any such share from such Privileged Relation to such member,
- 5 2 3 a transfer or transmission of a share by any member to another member and/or members provided that the Board (exercising its sole discretion and acting by majority vote) has given its prior approval in writing or email to such transfer or transmission, or
- 5 2 4 a transfer or transmission of a share by any member to any third party and/or third parties, provided that the Board (exercising its sole discretion and acting by majority vote) has confirmed in writing or email that it approves of the relevant third party and/or third parties,
- subject, in each case, to the transferor meeting any administrative costs of the Company in processing such transfer.

- 5 3 In the event that any member desires to transfer any share(s) in accordance with any of the provisions set out in Articles 5 2 2 to 5 2 4 (inclusive) above, the member (the **"Transferor"**) shall send the Company a notice in writing to the Company (a **"Transfer Notice"**) and may be in respect of all or some only of the shares held by the Transferor (the **"Offer Shares"**) The Transfer Notice shall specify the Offer Shares and the price at which they are offered for sale (the **"Suggested Price"**) and shall constitute the Directors as the agents of the Transferor for the sale of the Offer Shares in accordance with these Articles A Transfer Notice may contain a provision that unless all the Offer Shares are sold under this Article, none shall be sold (a **"Total Transfer Condition"**) A Transfer Notice may not be revoked unless (i) it contains a Total Transfer Condition, (ii) the Board agrees in writing that it may be revoked, or (iii) the Transferor is permitted to do so in accordance with Article 5 5
- 5 4 Upon receipt of the Transfer Notice, and notwithstanding the terms of Article 5 2, the Board may, in its sole discretion, in relation to any proposed transfer pursuant to Articles 5 2 3 or 5 2 4, within 21 days of receipt of the Transfer Notice from the Transferor determine that the Offer Shares (as hereinafter defined) are
- 5 4 1 bought back by the Company (subject to the Company complying in full with the relevant provisions of the Act), and/or
 - 5 4 2 transferred to any employee benefit trust or similar entity established by the Company from time to time for the purposes of incentivising employees, consultants and/or directors of the Company, and/or
 - 5 4 3 transferred to an Approved Group, and to the members of any Approved Group in such proportions as the Board may determine,
- declaring that such discretion of the Board as may be exercised in accordance with any of Articles 5 4 1 to 5 4 3 (inclusive) is hereinafter referred to as the **"Board Transfer Discretion"**
- 5 5 In the event that the Board desires to exercise the Board Transfer Discretion, it shall, within 21 days of receipt of the Transfer Notice from the Transferor notify the Transferor of its intention to do so on the basis of the Suggested Price of the Transferor and detailing the relevant purchase mechanism(s) (as permitted by Article 5 4) that shall apply (**"Discretion Notice"**) The Transferor shall be entitled to a period of 7 days from the date of receipt of the Discretion Notice to revoke the Transfer Notice, failing which the Transferor shall be deemed to have agreed to the transfer of the Offer Shares on the terms set out in the Discretion Notice and any Director shall be authorised to execute on behalf of and as attorney for the Transferor any necessary transfer documentation and may receive the relevant purchase price (being the Suggested Price) and shall thereupon cause the name of the purchaser(s) (whoever the purchaser(s) may be) to be entered in the register as the holder(s) of the Offer Shares and hold the Suggested Price in trust for the Transferor The receipt by the Directors of the Suggested Price shall be a good discharge to the purchaser and after the name of the purchaser has been entered in the register of members of the Company the validity of the transfer to the purchaser(s) may not be questioned by the Transferor

6 **COMPULSORY TRANSFERS**

- 6 1 Where any of the following events occurs after the date of adoption of these Articles in relation to a member (a **"Compulsory Transferor"**), the member in question shall be deemed to have immediately given a provisional notice of transfer (a **"Deemed Transfer Notice"**) in respect of all the shares as then registered in the name of such member and all of the shares as then beneficially owned or controlled by that member (the **"Compulsory Offer Shares"**) -
- 6 1 1 In relation to a member being an individual -
 - 6 1 1 1 such member is adjudicated bankrupt, or
 - 6 1 1 2 such member is suffering from a mental disorder as referred to in article 18(d) of the Model Articles
 - 6 1 2 In relation to a member being a body corporate -

- 6 1 2 1 a receiver, manager or administrative receiver is appointed in respect of such member or over all or any part of its undertaking or its assets, or
 - 6 1 2 2 such member enters into liquidation (other than a voluntary liquidation for the purposes of a bona fide scheme of solvent amalgamation or reconstruction), or
 - 6 1 2 3 such member ceases to be controlled (as defined by Sections 450-451 of the Corporation Tax Act 2010) by the person(s) who controlled such member on the date on which it became the member of the Company or the date of adoption of these Articles (whichever is later)
- 6 2 The Deemed Transfer Notice shall be deemed to constitute the Directors as the agents of the Compulsory Transferor for the sale of the Compulsory Offer Shares in accordance with these Articles and it shall confer upon the Directors the authority to implement a Compulsory Transfer of the Compulsory Offer Shares, subject to the passing of a Board resolution or otherwise in accordance with Article 6 3 A Deemed Transfer Notice cannot contain a Total Transfer Condition and may not be revoked by the Compulsory Transferor
- 6 3 The Deemed Transfer Notice may be enforced by the Directors, if the Directors pass a resolution to that effect, by written notice to the Compulsory Transferor (and his Privileged Relations, as appropriate) at any time within a period of eighteen months from the date of the event which results in a Deemed Transfer Notice After expiry of this period, the Deemed Transfer Notice may not be enforced, but the provisions of Article 6 8 continue to apply The Directors must enforce a Deemed Transfer Notice at the written request of over 50% by nominal value of the holders of shares in the Company (excluding the member(s) whose shares are subject of a Deemed Transfer Notice) without the need for any further resolution of the Directors Immediately upon written notice having been served upon the Compulsory Transferor (or such written request being served upon the Directors), the provisions of Article 5 3 shall apply to any Deemed Transfer Notice as if it were a Transfer Notice, subject to the provision that a Deemed Transfer Notice cannot contain a Total Transfer Condition and may not be revoked by the Compulsory Transferor
- 6 4 The Deemed Transfer Notice shall be deemed to specify the price at which the Compulsory Offer Shares are offered for sale (the "**Suggested Price**"), which price shall be the Fair Value
- 6 5 The Directors shall instruct the Valuer, acting as an expert and not as an arbiter, (i) to determine the Fair Value of the Compulsory Offer Shares as at the date of the event giving rise to the Deemed Transfer Notice, and (ii) to produce a certificate stating such value (a "**Certificate of Fair Value**") within 30 days of being instructed to do so The cost of obtaining a Certificate of Fair Value shall be borne by the Company
- 6 6 The Directors shall send a copy of the Certificate of Fair Value to the Compulsory Transferor as soon as possible and in any event before any transfer of Compulsory Offer Shares is completed pursuant to any Deemed Transfer Notice
- 6 7 Any obligation to transfer a share under the provisions of this Article 6 shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Compulsory Offer Shares free from any lien, charge or other encumbrance
- 6 8 The holders of any Compulsory Offer Shares which are the subject of a Deemed Transfer Notice or Compulsory Transfer -
- 6 8 1 shall, in relation to such shares, be entitled to receive notice of and to attend general meetings of the Company,
 - 6 8 2 shall, in relation to such shares, have no right to vote thereat or sign any written resolutions, and
 - 6 8 3 shall, in relation to such shares, (i) have no right to participate in any other offer round of shares (pursuant to Articles 3 3 or 5 3) and (ii) be deemed to waive any rights of pre-emption accordingly,

Declaring that all voting rights attached to such shares which are the subject of a Deemed Transfer Notice shall be suspended forthwith (with effect from the sooner to occur of the Deemed Transfer

Notice or Compulsory Transfer) until such time as the transfer of those shares is completed (being, for the avoidance of doubt, the registration of the transferee's name in the register of members in respect of those shares) in accordance with these Articles

7. TAG ALONG RIGHTS

7 1 Notwithstanding any other Article, no sale or transfer (other than a sale or transfer permitted by Articles 5 2 or 5 3 (provided that in each case there is no change in the Controlling Interest)) of the legal or beneficial interest in any shares in the Company (the "**Specified Shares**") may be made or validly registered if as a result of a sale or transfer of the legal and or beneficial interest in any such shares in the Company either -

7 1 1 a Controlling Interest would be obtained in the Company by any person or group of persons Acting in Concert, or

7 1 2 50% or more of the shares held collectively by the Founder or his Privileged Relations or Connected Persons would be transferred to any person or group of persons Acting in Concert

unless the proposed transferee or transferees or his or their nominees has or have offered to purchase all the shares for the time being in issue at the Specified Price (as defined below) and on the same terms and conditions as to the payment of the Specified Price (the "**Tag Along Offer**"), such offer to be made by notice in writing to all Recipients (as defined below) and such offer stipulated to be open for acceptance for at least 21 days

7 2 A Tag Along Offer shall expire 21 days (or such longer period of acceptance stipulated within the Tag Along Offer) after the date of the Tag Along Offer Any Recipient who wishes to accept the Tag Along Offer must notify the proposed transferee(s) in writing of its acceptance of such offer Any Recipient who fails to accept the Tag Along Offer within the period for acceptance shall be deemed to have rejected it In the event that an Option Holder wishes to accept a Tag Along Offer, such person must also notify the Company in writing no less than seven days prior to expiry of the period of acceptance of the Tag Along Offer of its intention to exercise the relevant option or other right to acquire shares, and any failure to do so or any inability under the terms of the relevant option agreement to exercise such option or right to acquire shares within 30 days of notification shall be deemed a rejection of the Tag Along Offer

7 3 The Specified Price in respect of a particular share shall take into account any differences in class rights between it and any other share including, without limitation, any Specified Share

7 4 If any part of the Specified Price is to be paid except by cash then each Recipient may, at its option, elect to take a price per share of such cash sum as may be agreed by it and the proposed transferee having regard to the transaction as a whole

7 5 In the event of a disagreement, the calculation of the Specified Price (including a determination of the Fair Value) shall be referred to an independent expert (acting as an expert and not as an arbiter and whose decision shall be final and binding) nominated by the President for the time being of the Institute of Chartered Accountants of Scotland and acting at the expense of the proposed transferee(s) or his or their nominees (as appropriate)

7 6 For the purposes of this Article 7 -

"**Recipients**" means all members of the Company and all Option Holders (and "**Recipient**" means any one of them), and

"**Specified Price**" means a price per ordinary share being not less than the Fair Value and at least equal to the value of the consideration (in cash or otherwise) offered or paid or payable by the proposed transferee(s) or his or their nominees for the Specified Shares being acquired including without limitation (i) the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified Shares which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable per share and (ii) all arrears and accruals

of the dividends on such shares calculated down to the date of the sale or transfer

8. DRAG ALONG RIGHTS

- 8 1 Notwithstanding any other Article but subject to Article 8 3, where any person or persons (an **"Offeror"**) makes a Qualifying Offer (as hereinafter defined) and this is to be accepted by the Majority Members (as hereinafter defined), the Majority Members may by notice in writing (a **"Drag Along Notice"**) to the other members of the Company (the **"Minority Members"**) require the Minority Members to (i) forthwith accept such Qualifying Offer, and (ii) transfer all of their shares free from all charges, liens, encumbrances and other third party rights to the Offeror at the same time as the Majority Members transfer all of their own shares to the Offeror. The Drag Along Notice shall specify the intended date of completion of the transfer of the shares pursuant to the Qualifying Offer, being a date not less than 15 Business Days following the date of the Drag Along Notice (the **"Drag Along Completion Date"**). The Majority Members shall also serve the Drag Along Notice on all Option Holders of the Company.
- 8 2 A Drag Along Notice is irrevocable but the Drag Along Notice and all obligations thereunder shall lapse if for any reason the sale of the shares of the Majority Members pursuant to Article 8 1 does not complete within 60 days after the date of the Drag Along Notice.
- 8 3 Upon any person, following the issue of a Drag Along Notice, becoming a member of the Company pursuant to the exercise of a pre-existing option to acquire shares in the Company or otherwise (a **"New Member"**), a Drag Along Notice shall be deemed to have been served upon the New Member on the same terms as the previous Drag Along Notice and the New Member shall thereupon be bound to sell and transfer all such shares acquired by him to the Offeror and the provisions of this Article 8 shall apply to the New Member (and the New Member shall be deemed to be a **"Minority Member"** for the purposes of this Article 8).
- 8 4 In the event that any Minority Member fails to accept such Qualifying Offer or having accepted such Qualifying Offer fails to execute and deliver any of the documents required to effect any transfer of shares pursuant thereto on or before the later of (i) 30 days after receipt or deemed receipt of the Qualifying Offer or (ii) the Drag Along Completion Date, such Minority Member shall be deemed to have irrevocably appointed any of the Directors to be his agents and attorneys for the purposes of accepting such Qualifying Offer and/or transferring all of that Minority Member's shares (as the case may) and executing and delivering any such documents. The provisions of Article 5 5 in so far as they relate to the attorney that is granted shall have effect as if such Minority Member was the Transferor and the Offeror was the purchaser.
- 8 5 For the purposes of this Article 8 -

"Majority Members" means members holding shares conferring in aggregate more than the Qualifying Majority of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue and conferring the right to attend and vote at all general meetings of the members of the Company,

"Qualifying Offer" means an offer which

- (i) is made on identical or substantially similar terms to all members (and Option Holders in the event that they become New Members) as to the price and terms and conditions as to the payment of price, and
- (ii) specifies a price which is not less than the Fair Value of each share, and
- (iii) is certified as complying with conditions (i) and (ii) above by an independent expert (acting as expert and not as arbiter and whose decision shall be final and binding) acting at the expense of all the members of the Company (in proportion to their respective shareholdings) and nominated by the Majority Members or (in the event of disagreement as to nomination) appointed by the President

for the time being of the Institute of Chartered Accountants of Scotland

- 8 6 In determining whether an offer satisfies condition (i) of Article 8 5 above such independent expert shall take into account
- 8 6 1 any differences in class rights between shares, and
- 8 6 2 any consideration (in cash or otherwise) received or receivable by any member which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable to that member including, without limitation, any increase in salary, any bonus or termination payment
- 8 7 The determination of the Fair Value pursuant to condition (ii) of Article 8 5 may be referred by the Company to an independent expert (acting as an expert and not as an arbiter and whose decision shall be final and binding) nominated by the President for the time being of the Institute of Chartered Accountants of Scotland and acting at the expense of the Company In the event that the calculation of the Fair Value by the independent expert appointed pursuant to this Article 8 7 differs from the calculation of the Fair Value by the independent expert appointed pursuant to Article 8 5, then the Fair Value for the purposes of the Qualifying Offer shall be the average of such Fair Value calculations
- 8 8 For the avoidance of doubt, the provisions of Article 5 3 do not apply in the event of any acquisition of shares pursuant to this Article 8

9 PROCEEDINGS AT GENERAL MEETINGS

- 9 1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, and such meeting was convened on the requisition of members, then the chairman of the meeting must dissolve the meeting
- 9 2 If the persons attending an adjourned general meeting within half an hour of the time at which the adjourned meeting was due to start do not constitute a quorum, then the members present shall be a quorum
- 9 3 On a show of hands or on a poll, votes may be given either personally or by proxy, or if a corporation, by its duly authorised representative
- 9 4 The Company shall hold an annual general meeting each calendar year

10 WRITTEN RESOLUTIONS

- 10 1 Where a resolution is to be proposed as a written resolution and such written resolution is accepted by or on behalf of -
- 10 1 1 in the case of an ordinary resolution, over 50%, and
- 10 1 2 in the case of a special resolution, 75% or more
- of the members who would be entitled to receive notice of and to attend and vote at a general meeting at which such resolution was to be proposed shall, subject always to the provisions of the Act from time to time, be valid, effectual and binding on all of the members of the Company Any such written resolution may consist of several documents in materially the same form, each accepted by or on behalf of the requisite number of members Acceptance of a written resolution shall be in terms of the procedure set out in section 296 of the Act In the case of a corporation which is a member of the Company, acceptance (following section 296 of the Act) by a director or its secretary or by a duly appointed and authorised attorney or representative shall be sufficient
- 10 2 A proposed written resolution circulated to the members shall lapse if it is not passed by the requisite number of members before the expiration of three months from the Circulation Date stated on the proposed written resolution

10 3 For the avoidance of doubt a written resolution may be validly circulated to members by email

11. NUMBER OF DIRECTORS

11 1 Unless otherwise determined by ordinary resolution of the Company, the number of Directors shall not be subject to any maximum and the minimum number of directors shall be one

11 2 A Director shall not be required to hold any share in the Company in order to qualify for office as a Director. A Director, whether or not the Director holds any share in the Company, shall be entitled to attend and speak at any general meeting, or any meeting of any class, of the members of the Company

12. ALTERNATE DIRECTORS

12 1 Any Director (the “Appointor”) may appoint as an alternate any other Director, or any other person approved by resolution of the Directors, to exercise that Director’s powers and carry out that Director’s responsibilities, in relation to the taking of decisions by the Directors in the absence of the alternate’s Appointor

12 2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the Directors

12 3 Any notice relating to an alternate must identify the proposed alternate and, in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice

12 4 An alternate Director may act as alternate Director to more than one Director and has the same rights in relation to any decision of the Directors as the alternate’s Appointor

12 5 Except as the Articles specify otherwise, alternate Directors are deemed for all purposes to be Directors, are liable for their own acts and omissions, are subject to the same restrictions as their Appointors, are not deemed to be agents of their Appointors and, in particular (without limitation), each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his Appointor is a member

12 6 A person who is an alternate Director but not a Director -

12 6 1 may be counted as participating for the purposes of determining whether a quorum is present (but only if that person’s Appointor is not participating),

12 6 2 may participate in a unanimous decision of the Directors (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate), and

12 6 3 shall not be counted as more than one Director for the purposes of Articles 12 6 1 and 12 6 2

12 7 A Director who is also an alternate Director is entitled, in the absence of his Appointor, to a separate vote on behalf of his Appointor, in addition to his own vote on any decision of the Directors (provided that his Appointor is an Eligible Director in relation to that decision), but shall not count as more than one Director for the purposes of determining whether a quorum is present

12 8 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the alternate’s Appointor’s remuneration as the Appointor may direct by notice in writing made to the Company

12 9 An alternate Director’s appointment as an alternate terminates -

12 9 1 when the alternate’s Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate,

12 9 2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate’s Appointor, would result in the termination of the Appointor’s appointment as a Director,

12 9 3 on the death of the alternate’s Appointor, or

12 9 4 when the alternate's Appointor's appointment as a Director terminates

13. APPOINTMENT OF DIRECTORS AND TERMINATION OF APPOINTMENT

- 13 1 The Company may by ordinary resolution appoint a person who is willing to act as a Director, either to fill a vacancy or as an additional Director
- 13 2 The Directors may appoint any person who is willing to act as a Director, either to fill a casual vacancy or as an additional Director
- 13 3 The Board shall be entitled from time to time to appoint one of the Directors as the chairman of the Board from time to time and remove from office any such person so appointed and to appoint another Director as chairman in his place
- 14 4 In addition to any other ground of termination of a Director's appointment as may be set out in these Articles or in the Model Articles, the Board may also terminate a Director's appointment by reason of that person's mental health, as soon as a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have

14. PROCEEDINGS OF DIRECTORS

- 14 1 A sole Director shall have and may exercise all the powers of, and the full authority conferred on, the Directors in terms of these Articles, and all references to the Directors in the Articles and Model Articles shall be construed accordingly
- 14 2 The quorum for the transaction of business of the Directors shall be two Directors, except in the case of a sole Director, when the quorum shall be one

15 DIRECTORS' CONFLICT OF INTEREST

- 15 1 The Directors may, in accordance with the requirements set out in this Article, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director breaching his duty under Section 175 of the Act to avoid conflicts of interest (a "Conflict")
- 15 2 Any authorisation under this Article will be effective only if -
 - 15 2 1 the matter in question shall have been proposed by any Director for consideration at a meeting of Directors in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine,
 - 15 2 2 any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question, and
 - 15 2 3 the matter was agreed to without his voting or would have been agreed to if his vote had not been counted
- 15 3 Any authorisation of a Conflict under this Article may (whether at the time of giving the authorisation or subsequently) -
 - 15 3 1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised,
 - 15 3 2 be subject to such terms and for such duration, or impose such limits or conditions as the Directors may determine, and
 - 15 3 3 be terminated or varied by the Directors at any time
- 15 4 This will not affect anything done by the Director prior to such termination or variation in accordance with the terms of the authorisation
- 15 5 In authorising a Conflict the Directors may decide (whether at the time of giving the authorisation or subsequently) that if a Director has obtained any information through his involvement in the Conflict

- otherwise than as a Director of the Company and in respect of which he owes a duty of confidentiality to another person, the Director is under no obligation to -
- 15 5 1 disclose such information to the Directors or to any Director or other officer or employee of the Company, or
 - 15 5 2 use or apply any such information in performing his duties as a Director where to do so would amount to a breach of that confidence
- 15 6 Where the Directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the Director -
- 15 6 1 is excluded from discussions (whether at meetings of Directors or otherwise) related to the Conflict,
 - 15 6 2 is not given any documents or other information relating to the Conflict, and
 - 15 6 3 may or may not vote (or may or may not be counted in the quorum) at any future meeting of Directors in relation to any resolution relating to the Conflict
- 15 7 Where the Directors authorise a Conflict -
- 15 7 1 the Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict, and
 - 15 7 2 the Director will not infringe any duty he owes to the Company by virtue of Sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the Directors impose in respect of its authorisation
- 15 8 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, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the Directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds

16. THE SEAL

- 16 1 The Company shall not have a seal

17 INDEMNITY

- 17 1 Without prejudice to any indemnity to which any person referred to in this Article 17 may otherwise be entitled, every present and former Director, alternate Director, secretary or other officer of the Company (excluding any present or former Auditors) (an "Indemnified Person") shall be indemnified by the Company against all liabilities, costs, charges and expenses incurred by him in the execution and discharge of his duties to the Company and any Associated Company, including any liability incurred by any Indemnified Person in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to be done or omitted by him as an officer or employee of the Company or an Associated Company provided that such indemnity shall not extend to any liability arising out of the fraud or dishonesty of the relevant Indemnified Person (or the obtaining of any personal profit or advantage to which the relevant Indemnified Person was not entitled) and no Indemnified Person shall be entitled to be indemnified for
- 17 1 1 any liability incurred by him to the Company or any Associated Company of the Company as above defined,
 - 17 1 2 any fine imposed in any criminal proceedings,
 - 17 1 3 any sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature howsoever arising,

- 17 1 4 any amount for which he has become liable in defending any criminal proceedings in which he is convicted and such conviction has become final,
- 17 1 5 any amount for which he has become liable in defending any civil proceedings brought by the Company or any Associated Company in which a final judgment has been given against him,
- 17 1 6 any amount for which he has become liable in connection with any application under sections 661(3) or (4) or 1157 of the Act in which the court refuses to grant him relief and such refusal has become final, and
- 17 1 7 any liability incurred by a Director or other officer of the Company pursuant to a Share In Investment Agreement, any future investment or subscription agreement

18. INSURANCE

- 18 1 The Company shall have power to purchase and maintain for (i) any Indemnified Person (as defined in Article 17), (ii) any director, secretary or other officer (other than any present or former auditors) or employee of an Associated Company and (iii) any persons who are or were at any time trustees of any pension fund or employees' share scheme in which employees of any Associated Company are interested, insurance against any liability incurred by him in connection with any negligence, default, breach of duty or breach of trust (actual or purported) by him in relation to the Company or any Associated Company or any such pension fund or employees' share scheme or otherwise in connection with his duties, powers or office

19. NOTICES

- 19 1 Subject to Article 19 2, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company
- 19 2 Any notice required or permitted to be given by the Company to a member shall be sufficiently given to that member if sent in a legible form by facsimile transmission ("fax"), first class or express registered post ("post"), or airmail, or by personal delivery, including courier delivery, to the registered address of the member, or by e-mail to the e-mail address of the member notified to the Company. A notice shall be deemed to have been received (i) in the case of fax, when a successful transmission report is generated during that or the next Business Day, (ii) in the case of post, thirty-six hours from midnight (00 00 hrs) on the date of posting, postage prepaid, evidenced by the relevant proof of posting, (iii) in the case of airmail, on the seventh Business Day following mailing, if mailed by airmail, postage prepaid, evidenced by the relevant proof of posting, (iv) in the case of personal delivery, thirty minutes after the time of delivery, evidenced, where appropriate, by the courier's receipt duly counter-signed for or on behalf of the addressee and (v) in the case of e-mail, when a successful delivery receipt is generated during that or the next Business Day. Where the deemed day of receipt of a notice is not a Business Day or where deemed receipt occurs at the place of delivery on a Business Day but after 1800hrs, that notice shall be deemed to have been received at 0930hrs on the next Business Day
- 19 3 Subject to the Articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being
- 19 4 A Director may agree with the Company that notices or documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than as expressly required in these Articles

20. GOVERNING LAW

These Articles shall be governed by, and construed in accordance with, the Law of Scotland and the Company, its officers and its members, from time to time, submit to the non-exclusive jurisdiction of the Scottish Courts