

**NAVETAS ENERGY MANAGEMENT LIMITED**

**(Company Registration Number 6700292)**

**(the "Company")**

**Written Resolutions**

**Passed on** 15 JANUARY 2009

**Companies Acts**

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, resolutions (a) to (e) below were passed as **Special Resolutions** and resolution (f) was passed as an **Ordinary Resolution** on the above date

- (a) **THAT** the Company's Articles of Association be replaced by the draft Articles of Association attached hereto (the "Amended Articles")
- (b) **THAT** any rights of pre-emption which the shareholders of the Company may have, howsoever arising, shall be disapplied in relation to the allotment and issue of the following of shares

Allottee name	Shares in the Company to be allotted
University of Oxford	550 E Ordinary Shares
	59 C Ordinary Shares
Malcolm McCulloch	253 E Ordinary Shares
Jim Donaldson	198 E Ordinary Shares
Peter Gingold	99 E Ordinary Shares

- (c) **THAT** 250 Ordinary Shares in the capital of the company held by Michael Mannering be re-designated and converted into 250 B Ordinary Shares (as defined in the Amended Articles),
- (d) **THAT** 600 Ordinary Shares in the capital of the company held by Christopher Saunders be re-designated and converted into 600 D Ordinary Shares (as defined in the Amended Articles),

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- (e) **THAT** 400 Ordinary Shares in the capital of the company held by Christopher Shelley be re-designated and converted into 400 D Ordinary Shares (as defined in the Amended Articles),
- (f) **THAT** subject to the restrictions set out in the Amended Articles, the Directors of the Company are generally and unconditionally authorised for the purposes of section 551 of the Companies Act 2006 to exercise all the powers of the Company to allot relevant securities (within the meaning of that section) up to an aggregate nominal amount of £1159 provided that this authority is for a period expiring five years from the date of this resolution but the Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the directors may allot relevant securities in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired This authority is in substitution for all previous authorities conferred on the Directors in accordance with section 80 of the Companies Act 1985 or section 551 of the 2006 Act

### **Agreement**

Please read the notes at the end of this document before signifying your agreement to the Special Resolutions

The undersigned, a person entitled to vote on the above resolutions on 15 JANUARY 2010 (circulation date), hereby irrevocably agrees to the Special Resolutions

For and on behalf of **Christopher Saunders**



Date

15 JANUARY 2010

For and on behalf of **Christopher Shelley**



Date

15 JANUARY 2010

For and on behalf of **Michael Mannering**

Date

*M. Mannering*  
*Jan 15<sup>th</sup> 2010*

For and on behalf of **Swarraton Partners LP**

Date

For and on behalf of **Swarraton Partners  
(Nominees) Limited**

Date

For and on behalf of **Naxos Capital Partners**

Date

#### **NOTES**

- 1 You can choose to agree to all of the Resolutions or none of them but you cannot agree to only some of the Resolutions. If you agree to all of the Resolutions, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company using one of the following methods

**By Hand** delivering the signed copy to the Company Secretary at the Registered Office  
**Post** returning the signed copy by post to the Company Secretary at the Registered Office

If you do not agree to all of the resolutions, you do not need to do anything you will not be deemed to agree if you fail to reply

- 2 Once you have indicated your agreement to the resolutions, you may not revoke your agreement

For and on behalf of **Michael Mannering**

Date

For and on behalf of **Swarraton Partners LP**

*Elyse D. Wall*

Date

15 JANUARY 2010

For and on behalf of **Swarraton Partners  
(Nominees) Limited**

*Elyse D. Wall*

Date

15 JANUARY 2010

For and on behalf of **Naxos Capital Partners**

Date

## NOTES

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For and on behalf of **Michael Mannering**

Date

For and on behalf of **Swarraton Partners LP**

Date

For and on behalf of **Swarraton Partners  
(Nominees) Limited**

Date

For and on behalf of **Naxos Capital Partners**  
**SAN JACQUES RECKINGER**



Date **15 / 01 / 10**

## NOTES

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If you do not agree to all of the resolutions, you do not need to do anything you will not be deemed to agree if you fail to reply

- 2 Once you have indicated your agreement to the resolutions, you may not revoke your agreement

- 3 Unless, within 28 days beginning with the Circulation Date, sufficient agreement has been received from the required majority of eligible members for the Resolutions to be passed, it will lapse. If you agree to the Resolutions, please ensure that your agreement reaches us on or before this date.
- 4 In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.
- 5 If you are signing this document on behalf of a person under a power of attorney or other authority, please send a copy of the relevant power of attorney or authority when returning this document.

COMPANY NUMBER 06700292

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ARTICLES OF ASSOCIATION

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ADOPTED BY SPECIAL RESOLUTION

ON 15 JANUARY 2010

**Ashfords**  
www.ashfords.co.uk

**The Companies Act 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**

of

**NAVETAS ENERGY MANAGEMENT LIMITED**

(Adopted by Special Resolution passed date 15 JANUARY 2010)

**1. PRELIMINARY**

The regulations contained in Table A ('Table A') in the Schedule to the Companies (Tables A to F) Regulations 1985 (as amended by the Companies (Tables A to F) (Amendment) Regulations 1985, the Companies (Tables A to F) (Amendment) Regulations 2007 and the Companies (Tables A to F) (Amendment) (No 2) Regulations 2007 shall, except as hereinafter provided and so far as not inconsistent with the provisions of these Articles, apply to the Company to the exclusion of all other regulations or articles of association. References herein to 'regulations' are to regulations in Table A.

**2. INTERPRETATION**

In these Articles and in Table A the following expressions have the following meanings unless inconsistent with the context

<b>"Adoption Date"</b>	the date of adoption of these Articles,
<b>"Aggregate Notional Subscription Sums"</b>	the aggregate of all sums subscribed for all Shares in issue on the basis that the D Ordinary Shares and E Ordinary Shares had been issued at the price of £1,000 per share,
<b>"A Ordinary Shares"</b>	the A Ordinary Shares of £1 each in the capital of the Company,
<b>"A Shareholders"</b>	the holders of A Ordinary Shares from time to time and "A Shareholder" shall be constructed accordingly,
<b>"Asset Sale"</b>	sale or transfer of the whole or substantially the whole of the undertaking or assets of the Company or any subsidiary of the Company,
<b>"the Act"</b>	the Companies Act 2006 including any statutory modification or re-enactment thereof for the time being in force,
<b>"these Articles"</b>	these Articles of Association whether as originally adopted or as from time to time altered by special resolution,



<b>"Associate"</b>	<p>in relation to any person means</p> <p>(a) any person who is an associate of such person and the question of whether a person is an associate of another is to be determined in accordance with section 435 of the Insolvency Act 1986 and (whether or not an associate as so determined), or</p> <p>(b) any Member of the same Group,</p>
<b>"Auditors"</b>	the auditors of the Company from time to time,
<b>"B Ordinary Shares"</b>	the B Ordinary Shares of £1 each in the capital of the Company,
<b>"B Shareholders"</b>	the holders of B Ordinary Shares from time to time and "B Shareholder" shall be constructed accordingly,
<b>"Bad Leaver"</b>	an Employee Member who ceases to be a director or employee of the Company or any of its subsidiaries and does not continue as either a director or employee in relation to any of them where such cessation occurs in circumstances where the Employee Member is guilty of gross misconduct,
<b>"clear days"</b>	in relation to the period of a notice means that period excluding public holidays in the United Kingdom and the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect,
<b>"C Ordinary Shares"</b>	the C Ordinary Shares of £1 each in the capital of the Company,
<b>"C Shareholders"</b>	the holders of C Ordinary Shares from time to time and "C Shareholder" shall be constructed accordingly,
<b>"Controlling Interest"</b>	an interest in the aggregate of more than fifty per cent (50%) of the total voting rights conferred by all the issued Shares,
<b>"D Ordinary Shares"</b>	the D Ordinary Shares of £1 each in the capital of the Company,
<b>"D Shareholders"</b>	the holders of D Ordinary Shares from time to time and "D Shareholder" shall be constructed accordingly,

<b>"the directors"</b>	the directors for the time being of the Company or (as the context shall require) any of them acting as the board of directors of the Company,
<b>"E Ordinary Shares"</b>	the E Ordinary Shares of £1 each in the capital of the Company,
<b>"E Shareholders"</b>	the holders of E Ordinary Shares from time to time and "E Shareholder" shall be constructed accordingly,
<b>"Employee"</b>	a person who is a director and/or employee of the Company and/or any of its subsidiaries,
<b>"Employee Member"</b>	Christopher Saunders, Christopher Shelley, James Donaldson and Malcolm McCulloch,
<b>"Enhanced Value A"</b>	the aggregate of nominal value together with one third of the difference between Fair Value and nominal value,
<b>"Enhanced Value B"</b>	the aggregate of nominal value together with two thirds of the difference between Fair Value and nominal value,
<b>"Excluded Departures"</b>	an individual shall not be regarded as resigning voluntarily in any of the following cases (a) death, (b) ill health or permanent incapacity, (c) dismissal by the Company found by a tribunal or court of competent jurisdiction to have been wrongful or substantively unfair, (d) retirement or reaching retirement age, in either case in accordance with an individual's terms of employment, (e) redundancy, (f) any other reason that the Board shall decide is not a voluntary resignation
<b>"executed"</b>	includes any mode of execution,
<b>"Fair Value"</b>	the fair value of each share to be certified in accordance with <b>Article 6.3</b>
<b>"Family Trusts"</b>	means as regards any particular individual member or deceased or former individual member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than individual and/or Privileged Relations of that individual, and so that for this

purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is liable to be transferred or paid or applied to or for the benefit of such person or any voting or other rights attaching thereto are exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons,

**"Fund Manager"**

a person whose principal business is to make, manage or advise upon investments in securities,

**"Good Leaver"**

an Employee Member who ceases to be a director or employee of the Company or any of its subsidiaries and does not continue as either a director or employee in relation to any of them and who is not a Bad Leaver,

**"Holding Company"**

has the meaning set out in section 1159 of the Act,

**"Investment Fund"**

a fund, partnership, company, syndicate or other entity whose business is managed by a Fund Manager,

**"Investor Directors"**

the Naxos Director and the Swarraton Director,

**"IPO"**

admission to the official list maintained by the UK Listing Authority or the daily official list of the London Stock Exchange plc or any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000) of any Share or the admission or the dealing therein on the Alternative Investment Market or admission to trading on the PLUS Market,

**"ISE Founders"**

the University of Oxford, Malcolm McCulloch, James Donaldson and Peter Gingold,

**"a Member of the same Fund Group"**

means if the Shareholder is a fund, partnership, company, syndicate or other entity whose business is managed by a Fund Manager (an "Investment Fund") or a nominee of any such person as aforesaid

- (a) any participant or partner in or member of any such fund, partnership, company or other entity or to the holders of any unit trust which is a participant or partner in or

member of any such fund, partnership, company or other entity,

- (b) any fund managed by that Fund Manager, or
- (c) any Holding Company or Subsidiary of that Fund Manager, or any Subsidiary of any Holding Company of that Fund Manager,

**"Member of the same Group"** as regards any company, a company which is for the time being a Holding Company or a Subsidiary of that company or a Subsidiary of any such Holding Company,

**"MM Leaver"** means Malcolm McCulloch should he for whatever reason cease to be employed, contracted or engaged by or be a Director of the Company of any member of the same Group (and does not forthwith become or continue to be employed, contracted or engaged by or a Director of any other member of the same Group),

**"Navetas Founders"** Christopher Shelley and Christopher Saunders,

**"Naxos"** Naxos Capital Partners of Luxembourg Boulevard Joseph II, L-1840,

**"Naxos Director"** the director appointed by Naxos in accordance with **Article 15**;

**"office"** the registered office of the Company,

**"Ordinary Shares"** the Ordinary Shares of £1 each in the capital of the Company,

**"Ordinary Shareholders"** the holders of Ordinary Shares from time to time and "Ordinary Shareholder" shall be constructed accordingly,

**"Permitted Transferee"** means in relation to a Shareholder who is an individual any of his Privileged Relations or Trustees, in relation to a Shareholder which is an undertaking (as defined in section 1161(1) of the Act) means any Member of the same Group, in relation to a Shareholder which is an investment fund means any Member of the same Fund Group, in relation to the University of Oxford means any investment vehicle in which the University of Oxford and/or any colleges if the University are participants,

**"Prior Adoption Date"** 18 November 2008,

<b>"Privileged Relation"</b>	in relation to a Shareholder who is an individual member or deceased or former member means a spouse, child or grandchild (including step or adopted or illegitimate child and their issue),
<b>"Proceeds of Sale"</b>	the consideration payable (including any deferred consideration) whether in cash or otherwise to those shareholders selling shares pursuant to a Share Sale,
<b>"seal"</b>	the common seal of the Company (if any),
<b>"secretary"</b>	the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary,
<b>"Shares"</b>	the A Ordinary Shares, B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares and Ordinary Shares, including any interest in any Share and "Share" shall be constructed accordingly,
<b>"Share Option Scheme"</b>	any share option scheme in favour of the Company's employees as agreed from time to time by a the holders of a majority of the Shares (including the holders of a majority of the A Ordinary Shares),
<b>"Share Sale"</b>	sale of (or the grant of a right to acquire or to dispose of) any Shares (in one transaction or as a series of transactions) which will result in the purchaser of such Shares (or grantee of such right) and persons connected (in terms of section 839 of the Income and Corporation Taxes Act 1988) with him gaining a Controlling Interest in the Company,
<b>"Shareholders"</b>	the holders of Shares from time to time and "Shareholder" shall be constructed accordingly,
<b>"Subsidiary"</b>	has the meaning set out in section 1159 of the Act,
<b>"Swarraton"</b>	Swarraton Partners Limited a company incorporated in England and Wales under number 05946028 and having its registered office at Ashford House, Grenadier Road, Exeter EX1 3LH, Swarraton Partners LP and Swarraton Partners (Nominees) Limited,
<b>"Swarraton Director"</b>	the director appointed by Swarraton in accordance with <b>Article 15</b> ,

<b>"Swarraton Partners LP"</b>	means Swarraton Partners LP (limited partnership number LP011839), a limited partnership based in England, whose principal place of business is situated at 5th Floor, 79 Knightsbridge, London SW1X 7RB,
<b>"Swarraton Partners (Nominees) Limited"</b>	means Swarraton Partners (Nominees) Limited a company incorporated in England and Wales under number 6077561 and having its registered office at Ashford House, Grenadier Road, Exeter EX1 3LH,
<b>"Trust"</b>	a trust (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made) whereby a person shall be considered to be beneficially interested in a Share if such Share or the income thereof is liable to be transferred or paid or applied to or for the benefit of a person other than the Trustees or any voting or other rights attaching thereto are exercisable by or as directed by a person other than the Trustees pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons,
<b>"Trustees"</b>	in relation to a Shareholder means the trustee or the trustees of a Family Trust or a Trust,
<b>"University of Oxford"</b>	the Chancellor, Masters and Scholars of the University of Oxford, whose address is Wellington Square, Oxford OX1 2JD,
<b>"Voluntary Resignation"</b>	means the voluntary resignation of an individual for any reason other than Excluded Departures,
<b>"the United Kingdom"</b>	Great Britain and Northern Ireland,

Unless the context otherwise requires, words or expressions contained in these Articles and in Table A bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these Articles become binding on the Company Regulation 1 of Table A shall not apply to the Company

### 3. SHARE CAPITAL

- 3 1 The A Ordinary Shares, B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares and the Ordinary Shares shall be separate classes of Shares but, save as hereinafter expressly provided, shall rank *pari passu* in all respects
- 3 2 Save as may be provided by regulation 110 of Table A as amended by these Articles, all Shares which the directors propose to issue shall be

dealt with in accordance with the following provisions of this **Article 3.2**:

- 3 2 1 any Shares proposed to be issued shall be offered to the Shareholders in proportion to the number of existing Shares held by them respectively unless the Company shall by special resolution otherwise direct,
  - 3 2 2 each such offer shall be made by notice specifying the total number of Shares being offered to the Shareholders as a whole, to holders of each class, the proportionate entitlement of the Shareholder to whom the offer is made and the price per Share (which shall be the same for each share of each class of Share) and shall require each Shareholder to state in writing within a period (not being less than seven clear days) specified in the notice whether he is willing to take any and, if so, what maximum number of the said Shares up to his proportionate entitlement,
  - 3 2 3 an offer, if not accepted within the period specified in the notice as regards any Shares, will be deemed to be declined as regards those Shares. After the expiration of such period any Shares (other than A Ordinary Shares) so deemed to be declined shall be offered in the proportion aforesaid to the holders of A Ordinary Shares in proportion to the number of Shares in the capital of the Company held by them respectively and any A Ordinary Shares so deemed to be declined by the holders of A Ordinary Shares shall be offered in the proportion aforesaid to the holders of Shares (other than A Shareholders) in proportion to the number of Shares in the capital of the Company held by them respectively, such further offers shall be made in the same manner and limited by a like period as the original offer,
  - 3 2 4 any Shares not accepted pursuant to such offer and further offers made in accordance with this **Article 3.2** or not capable of being offered as aforesaid except by way of fractions shall not be issued,
  - 3 2 5 any Shares released from the provisions of this **Article 3.2** by special resolution in accordance with **Article 3.2.1** shall be under the control of the directors, who may allot, grant options over or otherwise dispose of the same to such persons, on such terms, and in such manner as they think fit
- 3 3 The provisions of **Article 3.2** shall
- 3 3 1 have effect subject to sections 549 and 551 of the Act,
  - 3 3 2 not apply to Shares issued to a Share Option Scheme
- 3 4 Regulation 4 of Table A and, in accordance with section 567(1) of the Act, sections 561, 562 and 568(3) of the Act shall not apply to the Company

3 5 The Shares shall confer upon their holders the following class rights -

3 5 1 As to capital, on a liquidation or other return of capital, the surplus assets available after payment of the Company's liabilities shall, if the surplus assets are equivalent to or less than the Aggregate Notional Subscription Sums, be distributed as follows -

3 5 1 1 first in paying to the holders of A Ordinary Shares and B Ordinary Shares a sum equal to the amount subscribed for such shares and in paying to the holders of C Ordinary Shares £1,000 per share,

3 5 1 2 second in paying to the holders of Ordinary Shares a sum equal to the amount subscribed for such shares,

3 5 1 3 third in paying to the holders of the D Ordinary Shares £1,000 per share and to the holders of E Ordinary Shares £1,000 per share, and

3 5 1 4 fourth in distributing the balance amongst the holders of the Shares as if the same constituted one class in proportion to the amount subscribed for such shares (on the basis that the D Ordinary Shares had been issued at a price of £1,000 per share and that the E Ordinary Shares had been issued at a price of £1,000 per share)

but if the surplus assets available for distribution exceeds the Aggregate Notional Subscription Sums, then all the surplus assets shall be distributed amongst the holders of the Shares as if the same constituted one class in proportion to the amount subscribed for such shares (on the basis that the D Ordinary Shares had been issued at a price of £1,000 per share and that the E Ordinary Shares had been issued at a price of £1,000 per share)

3 5 2 Upon a Share Sale, the directors shall not register any transfer of Shares unless

3 5 2 1 the Proceeds of Sale represented by cash are paid into the Company's solicitors bank account and the Proceeds of Sale represented other than in cash shall be held by the Company on trust for the holders of those Shares being sold in connection with the Share Sale, and

3 5 2 2 the Proceeds of Sale are distributed in the order of priority set out in **Article 3.5.1** as if such Share Sale was a liquidation save in respect of any Shares not sold in connection with such Share Sale,

Provided that if the Proceeds of Sale are not settled in their entirety upon completion of the Share Sale,



3 5 2 3 the Directors shall not be prohibited from registering the transfer of the shares so long as the provisions of **articles 3.5.2.1 and 3.5.2.2** have been applied to the Proceeds of Sale settled upon completion, and

3 5 2 4 the Shareholders shall be required to take such actions as the Investors may require to ensure that the Proceeds of Sale in their entirety are distributed in the order of priority set out in **article 3.5.1**

3 5 3 Upon an Asset Sale the surplus assets of the Company remaining after payment of its liabilities shall be distributed (insofar as the Company is lawfully permitted to do so) in the order of priority set out in **Article 3.5.1** as if such Asset Sale was a liquidation provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, the Shareholders shall be required to take such actions as the Investors may require including, but without prejudice to the generality of the foregoing, such actions that may be necessary to put the Company into voluntary liquidation so that **Article 3.5.1** applies

#### **4. LIEN**

The Company shall have a first and paramount lien on all Shares, whether fully paid or not, standing registered in the name of any person indebted or under liability to the Company, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company Regulation 8 of Table A shall be modified accordingly

#### **5. CALLS ON SHARES AND FORFEITURE**

There shall be added at the end of the first sentence of regulation 18 of Table A, so as to increase the liability of any Shareholder in default in respect of a call, the words "and all expenses that may have been incurred by the Company by reason of such non-payment"

#### **6. TRANSFER OF SHARES**

6 1 Any person (hereinafter called "the Proposing Transferor") proposing to transfer any Shares shall give notice in writing (hereinafter called "the Transfer Notice") to the Company that he desires the same and specifying the price per share at which he is willing to sell them The Transfer Notice shall constitute the Company the agent of the Proposing Transferor for the sale of all (but not some only) of the Shares comprised in the Transfer Notice together with all rights then attached thereto to any Shareholder willing to purchase the same at the price specified therein or at the fair value certified in accordance with **Article 6.3** (whichever shall be the lower) A Transfer Notice shall be revocable if the valuation certified in accordance with **Article 6.3** is lower than the price per share stated in the Transfer Notice, a Transfer notice shall not be revocable in any other circumstances except with the sanction of the directors If the Proposing Transferor revokes the

Transfer Notice the Proposing Transferor will pay the costs of the valuation undertaken in accordance with **Article 6.3**

6 2 The Shares comprised in any Transfer Notice (the "Transfer Shares") shall be offered to the Shareholders (other than the Proposing Transferor) (the "Purchasing Shareholder") as nearly as may be in proportion to the number of Shares held by them respectively. Such offer shall be made by notice in writing (hereinafter called "the Offer Notice") within seven clear days after the receipt by the Company of the Transfer Notice. The Offer Notice shall

6 2 1 state the identify of the Proposing Transferor, the number and class of Shares comprised in the Transfer Notice and the price per share specified in the Transfer Notice and inform the Purchasing Shareholders that the Transfer Shares are offered to them in accordance with the provisions of this **Article 6.2**:

6 2 2 contain a statement to the effect that the Transfer Shares are offered in the first instance in the proportion referred to in the opening sentence of this **Article 6.2** but go on to invite each Purchasing Shareholder to state in his reply whether he wishes to purchase more or less Transfer Shares than his proportionate entitlement and if so what number,

6 2 3 contain a statement of the right of each Purchasing Shareholder to request a certificate of fair value under **Article 6.3**,

6 2 4 contain a statement to the effect that each of the Transfer Shares in question is being offered to the Purchasing Shareholders at the lower of the price specified in the Transfer Notice and (if applicable) its fair value certified in accordance with **Article 6.3**;

6 2 5 state the period in which the offer may be accepted if no such certificate of fair value is requested (not being less than twenty-two days or more than forty-two days after the date of the Offer Notice), and

6 2 6 contain a statement to the effect that, if such a certificate of fair value is requested, the offer will remain open for acceptance until the expiry of a period of fourteen days commencing on the date of the notice of the certified fair value given to Purchasing Shareholders pursuant to **Article 6.3** or until the expiry of the period referred to in **Article 6.2.5** whichever is the later

For the purpose of this Article an offer shall be deemed to be accepted on the day on which the acceptance is received by the Company and may, if so specified in the acceptance, be accepted by a Purchasing Shareholder in respect of a lesser number of Transfer Shares than his full proportionate entitlement. If all the Purchasing Shareholders do not accept the offer in respect of their respective proportions in full the Transfer Shares not so accepted shall be used to satisfy any claims for additional Transfer Shares (notified in response to the invitation referred to in **Article 6.2.2**) as nearly as may be in proportion to the

number of Transfer Shares already held by the Purchasing Shareholders claiming additional Transfer Shares, provided that no Purchasing Shareholder shall be obliged to take more Transfer Shares than he shall have applied for. If any Transfer Shares shall not be capable of being offered to the Purchasing Shareholders in proportion to their existing holdings, except by way of fractions the same shall be offered to the Purchasing Shareholders, or some of them, in such proportions as the directors (with the consent of the Swarraton Director) may think fit.

- 6.3 Any Purchasing Shareholder may, not later than eight days after the date of the Offer Notice, serve on the Company a notice in writing requesting that the Auditors certify in writing the sum which in their opinion represents the fair value of each of the Transfer Shares comprised in the Transfer Notice as at the date of the Transfer Notice. If the Auditors decline such appointment at their discretion then a person nominated by the directors shall be instructed to give such certificate and any following reference in these Articles to the Auditors shall include any person so nominated. Forthwith upon receipt of such notice the Company shall instruct the Auditors to certify as aforesaid and the costs of producing such certificate shall be apportioned among the Proposing Transferor and the Purchasing Shareholders and borne by any one or more of them as the Auditors in their absolute discretion shall decide. In certifying the fair value as aforesaid the Auditors shall be entitled to obtain professional valuations in respect of any of the Company's assets and shall be considered to be acting as experts and not as arbitrators or arbiters and accordingly any provisions of law or statute relating to arbitration shall not apply. Forthwith upon receipt of the certificate of the Auditors, the Company shall by notice in writing inform all Shareholders of the certified fair value of each share and of the price per Transfer Share (being the lower of the price specified in the Transfer Notice and the certified fair value of each Transfer Share) at which the Transfer Shares comprised in the Transfer Notice are offered for sale.
- 6.4 If Purchasing Shareholders shall be found for all the Transfer Shares within the appropriate period specified in **Article 6.2**, the Company shall not later than seven days after the expiry of such appropriate period give notice in writing (hereinafter called "the Sale Notice") to the Proposing Transferor specifying the Purchasing Shareholders and the Proposing Transferor shall be bound upon payment of the price due in respect of all the Transfer Shares transfer the Shares to the Purchasing Shareholders.
- 6.5 If in any case the Proposing Transferor after having become bound in accordance with the provisions of this **Article 6** to transfer Shares makes default in transferring any Transfer Shares the Company may receive the purchase money on his behalf and may at the direction of the directors who have not been appointed by and/or who are not nominees of the Proposing Transferor authorise some person to execute a transfer of such Shares on behalf of and as attorney for the Proposing Transferor in favour of the Purchasing Shareholders. For the purposes of authorising an individual to execute a transfer as attorney a meeting of the board shall be treated as quorate and a resolution shall be capable of being duly passed without the need for

the directors appointed or nominated by the Proposing Transferor being present, represented or voting. The receipt of the Company for the purchase money shall be a good discharge to the purchasing Shareholders. The Company shall pay the purchase money into a separate bank account and shall hold the same on trust for the Proposing Transferor.

6.6 If the Company shall not give a Sale Notice to the Proposing Transferor within the time specified for that purpose in respect of sales to Purchasing Shareholders, he shall, during the period of ten days next following the expiry of the time so specified, be at liberty to transfer all or any of the Transfer Shares to any person or persons approved by the directors and the Swarraton Director provided that the price per share obtained upon such share transfer shall in no circumstances be less than the price per share specified in the Transfer Notice served in accordance with **Article 6.1** or as certified in accordance with **Article 6.3** (whichever shall be the lower) and the Proposing Transferor shall upon request furnish such information to the directors as they shall require in relation to the price per share obtained as aforesaid. The directors may require to be satisfied that such Shares are being transferred in pursuance of a bona fide sale for the consideration stated in the transfer without deduction, rebate or allowance whatsoever to the purchaser, and if not so satisfied, may refuse to register the instrument of transfer.

6.7 Any transfer or purported transfer of any Share (other than upon transmission of a share pursuant to regulation 29 of Table A upon the death of a Shareholder or upon a person becoming entitled to a share in consequence of the bankruptcy of a Shareholder) made otherwise than in accordance with the foregoing provisions of **Articles 6.1 to 6.6** (inclusive) shall be null and void and of no effect.

6.8 If and when required by notice in writing by the holder or holders of (in aggregate) a majority in nominal value of the Shares or A Ordinary Shares so to do (the "call notice")

6.8.1 a Shareholder who transfers or purports to transfer any share in the Company in breach of the foregoing provisions of these Articles shall be bound to give a Transfer Notice in respect of the Shares which he has transferred or purported to transfer in breach of these Articles, or

6.8.2 a Shareholder who causes or permits any of the events specified in **Article 6.9** or with regard to whom any of the events specified in **Article 6.9.4** occurs shall be bound to give a Transfer Notice in respect of all the Shares registered in the name of such Shareholder,

in the event of such Shareholder failing to serve a Transfer Notice pursuant to **Article 6.8.1** or **6.8.2** within thirty days of the date of the call notice such Shareholder shall be deemed to have given a Transfer Notice at the expiration of such period of thirty days and to have specified therein as the price per share the fair value of each share to be certified in accordance with **Article 6.3**. The provisions of **Article 6.2 to 6.7** (inclusive) and **Article 6.10** shall mutatis mutandis apply.

6 9 The events specified for the purposes of **Article 6.8.2** are

6 9 1 any direction (by way of renunciation nomination or otherwise) by a Shareholder entitled to an allotment or transfer of Shares to the effect that such Shares or any of them be allotted or issued or transferred to some person other than himself,

6 9 2 any sale, dealing with or other dispositions of any beneficial interest in a share (whether or not for consideration or otherwise but excluding any transmission of a share to any person becoming entitled to such share in consequence of the death or bankruptcy of a Shareholder) by whomsoever made and whether or not effected by an instrument in writing save where the disposition is by service of a Transfer Notice in accordance with these Articles,

6 9 3 the holding of a share as a bare nominee for any person,

6 9 4 in the case of a corporate Shareholder, such Shareholder entering into liquidation (except a Shareholders' voluntary liquidation for the purpose of reconstruction or amalgamation) or having a receiver appointed over all or any of its assets or having an administrator appointed in respect of it or anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to that corporate Shareholder

6 10 The directors may, in their absolute discretion and without assigning any reason therefore, decline to register any transfer of Shares which would otherwise be permitted under the foregoing provisions of this **Article 6** if it is a transfer of a Share on which the Company has a lien or of a Share (other than an A Ordinary Share or B Ordinary Share) to a person or other legal entity who is not already a Shareholder and of whom they shall not approve. The directors may also refuse to register a transfer of any Shares (other than an A Ordinary Share or B Ordinary Share) unless

6 10 1 it is lodged at the office or at such other place as the directors may appoint and is accompanied by the certificate for the Shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer, and

6 10 2 it is in respect of only one class of Shares, and

6 10 3 it is in favour of not more than two transferees

The directors shall register a transfer of Shares made pursuant to **Articles 6.1 to 6.7** (inclusive) subject to the provisions of this **Article 6 10**. Regulation 24 of Table A shall not apply to the Company

6 11 The provisions of **Articles 6.1 to 6.10** (inclusive) may be waived in any particular case if all the Shareholders give their consent in writing

- 6 12 For the purpose of ensuring that a transfer of Shares is permitted pursuant to the provisions of these Articles or that no circumstances have arisen whereby a Transfer Notice may be required to be given, the directors may from time to time require any Shareholder or the legal personal representative of any deceased Shareholder or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the directors may think fit regarding any matter which they may deem relevant to such purpose. Failing such information or evidence being furnished to the satisfaction of the directors within a reasonable time after request, the directors shall be entitled to refuse to register the transfer in question or (in case no transfer is in question) to require by notice in writing that a Transfer Notice be given in respect of the Shares concerned. In any case where the directors have duly required by notice in writing a Transfer Notice to be given in respect of any Shares and such Transfer Notice is not duly given within a period of thirty days from such notice such Transfer Notice shall be deemed to have been given at the end of the period of thirty days and such Transfer Notice shall be deemed to specify as the price per share the fair value of each share to be certified in accordance with **Article 6.3** and the provisions of **Articles 6.2 to 6.8** (inclusive) and **Article 6.10** shall mutatis mutandis apply.
- 6 13 In determining the fair value of each share comprised in any Transfer Notice under **Article 6.3** the Auditors shall value each share on the basis of the value of the Company as a going concern at the date of the Transfer Notice and multiplying such valuation of the Company by the fraction the numerator of which shall be the nominal value of each share comprised in the Transfer Notice and the denominator of which shall be the nominal value of all the Shares of the Company in issue at such date.
- 6 14 In **Articles 6 to 10** inclusive, reference to the transfer of a Share includes the transfer or assignment of a beneficial or other interest in that Share or the creation of a trust or encumbrance over that Share and reference to a Share includes a beneficial or other interest in a Share.
- 6 15 A Shareholder (the "**Original Shareholder**") may transfer all or any of his or its Shares to a Permitted Transferee without restrictions as to price or otherwise.
- 6 16 If a Permitted Transferee ceases to be within the required relationship with an Original Shareholder the Shares that had been transferred to that Permitted Transferee by that Original Shareholder shall be transferred to the Original Shareholder or a Permitted Transferee of that Original Shareholder without restriction as to price or otherwise. If such transfer is not made within 20 clear days the Permitted Transferee shall be deemed to have given a Transfer Notice pursuant to **Article 6.1**.
- 6 17 Where under the provision of a deceased Shareholder's will or laws as to intestacy, the persons legally or beneficially entitled to any Shares, whether immediately or contingently, are Permitted Transferees of the deceased Shareholder, the legal representative of the deceased

Shareholder may transfer any Shares to those Permitted Transferees, in each case without restriction as to price or otherwise. Shares previously transferred as permitted by this **Article 6.17** may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder without restriction as to price or otherwise.

- 6 18 On the death (subject to **Article 6.17**), bankruptcy or liquidation of a Permitted Transferee (other than a joint holder) his personal representatives or trustee in bankruptcy or its liquidator must within 20 clear days after the date of the grant of probate, the making of the bankruptcy order or the passing of a resolution or making of an order for winding up, execute and deliver to the Company a transfer of the Shares held by the Permitted Transferee without restriction as to price or otherwise. The transfer shall be to the Original Shareholder if still living (and not bankrupt or in liquidation) or, if so directed by the Original Shareholder, to any Permitted Transferee of the Original Shareholder. If the transfer is not executed and delivered within 10 clear days of such period or if the Original Shareholder has died or is bankrupt or is in liquidation, the personal representative or trustee in bankruptcy or liquidator will be deemed to have given a Transfer Notice pursuant to **Article 6.1**.
- 6 19 Notwithstanding the provisions of Articles 6, 7 and 8, both Swarraton and Naxos shall be entitled to transfer all of its Shares to any member of the British Venture Capital Association or to any venture capital fund managed by such a member or any associated group company or business provided always that prior to such transfer Swarraton or Naxos (such as the case may be) shall first notify and consult with the Shareholders.

## **7. TRANSMISSION OF SHARES**

In the application of regulations 29 to 31 of Table A to the Company

- 7 1 subject to **Article 6.17** any person becoming entitled to a share in consequence of the death or bankruptcy of a Shareholder shall give a Transfer Notice before he elects in respect of any share to be registered himself or to execute a transfer,
- 7 2 if a person so becoming entitled shall not have given a Transfer Notice in respect of any share within six months of the death or bankruptcy, the directors may at any time thereafter upon resolution passed by them give notice requiring such person within thirty days of such notice to give a Transfer Notice in respect of all the Shares to which he has so become entitled and for which he has not previously given a Transfer Notice and if he does not do so he shall at the end of such thirty days be deemed to have given a Transfer Notice pursuant to **Article 6.1** relating to those Shares in respect of which he has still not done so,
- 7 3 where a Transfer Notice is given or deemed to be given under this Article and no price per share is specified therein the Transfer Notice shall be deemed to specify the sum which shall, on the application of the directors, be certified in writing by the Auditors in accordance with **Article 6.3** as the fair value thereof.

## 8. COMPULSORY TRANSFERS

8 1 If an Employee Member is a Bad Leaver or a Good Leaver or an MM Leaver, Transfer Notices in respect of the relevant percentage of the Shares held by him shall at that time shall be deemed to have been served on his behalf (but subject to the provisions of **Article 6.17**)

8 2 For the purposes of **Article 8.1** the term "**relevant percentage**" means -

8 2 1 if the Employee Member is a Good Leaver and not a MM Leaver

8 2 1 1 50% of the Shares held by him at the time of issue of the Transfer Notice if he leaves on or after the first anniversary of the Prior Adoption Date but before the second anniversary of the Prior Adoption Date,

8 2 1 2 25% of the Shares held by him at the time of issue of the Transfer Notice if he leaves on or after the second anniversary of the Prior Adoption Date but before the third anniversary of the Prior Adoption Date, or

8 2 1 3 0% of the Shares held by him at the time of issue of the Transfer Notice if he leaves on or after the fourth anniversary of the Prior Adoption Date

8 2 2 if the Employee Member is a Bad Leaver and not a MM Leaver

8 2 2 1 75% of the Shares held by him at the time of issue of the Transfer Notice if he leaves on or after the first anniversary of the date of adoption of the Prior Adoption Date but before the second anniversary of the date of adoption of the Prior Adoption Date,

8 2 2 2 50% of the Shares held by him at the time of issue of the Transfer Notice if he leaves on or after the second anniversary of the Prior Adoption Date but before the third anniversary of the date of adoption of these Articles,

8 2 2 3 25% of the Shares held by him at the time of issue of the Transfer Notice if he leaves on or after the third anniversary of the Prior Adoption Date but before the fourth anniversary of the Prior Adoption Date,

8 2 2 4 0% of the Shares held by him at the time of issue of the Transfer Notice if he leaves on or after the fifth anniversary of the Prior Adoption Date

8 2 3 if the Employee Member is a MM Leaver

8 2 3 1 15% of the Shares held by him at the time of issue of the Transfer Notice if he leaves on or after the first



anniversary of the Prior Adoption Date but before the second anniversary of the Prior Adoption Date,

8.2.3.2 0% of the Shares held by him at the time of issue of the Transfer Notice if he leaves on or after the second anniversary of the Prior Adoption Date

8.2.4 For the avoidance of doubt, where this **Article 8** refers to a relevant percentage of Shares held by a Shareholder, in respect of that Shareholder, such Shares shall be deemed to include any Shares transferred to Permitted Transferees in accordance with these Articles

8.3 For the purposes of **Articles 8.1** and **8.2**, the provisions of **Articles 6.2 to 6.7** (inclusive) shall mutatis mutandis apply subject to the price per share being as follows

8.3.1 Where the Employee is a Navetas Founder

8.3.1.1 in respect of 50% of the Shares in the Transfer Notice, the lower of par value or the Fair Value

PROVIDED THAT where the Employee is a Good Leaver and a Navetas Founder and leaves on or after the second anniversary of the Adoption Date the price per share shall be, in respect of 50% of the Shares in the Transfer Notice, the lower of £1,000 or the Fair Value, and

8.3.1.2 in respect of 50% of the Shares in the Transfer Notice the Fair Value

8.3.2 Where the Employee is James Donaldson or Malcolm McCulloch

8.3.2.1 in respect of service or deemed service of a Transfer Notice for any reason other than those set out in **Articles 8.3.2.2** and **8.3.2.3**, Fair Value,

8.3.2.2 in respect of service or deemed service of a Transfer Notice for Voluntary Resignation

(a) on or after the first anniversary of the Prior Adoption Date, the lower of Fair Value and Enhanced Value A,

(b) on or after the second anniversary of the Prior Adoption Date, the lower of Fair Value and Enhanced Value B,

(c) on or after the third anniversary of the Prior Adoption Date, the Fair Value

8.3.2.3 in respect of service or deemed service of a Transfer Notice for

- (a) bankruptcy,
- (b) summary dismissal (provided that such dismissal is not found to be substantively unfair by an industrial tribunal or, if appealed, the final appellate body from such industrial tribunal) in circumstances in which his employer is entitled to summarily dismiss,
- (c) resignation from employment by the Company (or member of the same Group) in circumstances where the Company (or a member of the same Group) would have been entitled to summarily dismiss,

the lower of nominal value and Fair Value

8.4 All voting rights attached to Shares held by

8.4.1 a Bad Leaver,

8.4.2 a Good Leaver,

8.4.3 an Employee Member who purports to transfer Shares in any manner other than as set out in Article 6 or whose Shares pass by way of Transmission,

shall at the time he became a Bad Leaver, Good Leaver or purported to deal with his Shares as set out in **Article 8.4.3** forthwith be suspended

8.5 Shares whose voting rights are suspended pursuant to **Article 8.4** ("**Restricted Shares**") shall confer on the holders of the right to receive notice of and attend all general meetings of the Company but shall have no right to vote either in person or by proxy. Such voting rights shall be automatically restored prior to an IPO. If a Bad Leaver or a Good Leaver transfers any Restricted Shares in the Company in accordance with these articles (either voluntarily or automatically), the voting rights attached to the Restricted Shares so transferred shall upon completion of the transfer (as evidenced by the transferee's name being entered in the Company's register of Members) automatically be restored.

8.6 If any person becomes a member of the Company (a "**New Member**") pursuant to the exercise of a pre-existing option or other rights to acquire Shares after that person has ceased to be an Employee, the provisions of **Article 8** shall apply to the New Member immediately on the New Member acquiring the Shares.

## 9. GENERAL MEETINGS

The directors may call general meetings and regulation 37 of Table A shall not apply to the Company. The Swarraton Director or A Shareholders may

call a general meeting with 5 business days notice subject to the provisions of the Act

## **10. NOTICE OF GENERAL MEETINGS**

10 1 A notice convening a general meeting shall be required to specify the general nature of the business to be transacted only in the case of special business and regulation 38 of Table A shall be modified accordingly Paragraph (b) in regulation 38 of Table A shall be deleted and the words "in accordance with section 307 of the Companies Act 2006" shall be inserted after the words "if it is so agreed" in that regulation

10 2 All business shall be deemed special that is transacted at an extraordinary general meeting and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the profit and loss account, balance sheet, and the reports of the directors and Auditors, the appointment of, and the fixing of the remuneration of the Auditors and the giving or renewal of any authority in accordance with section 551 of the Act

10 3 Every notice convening a general meeting shall comply with the provisions of section 325 of the Act as to giving information to Shareholders in regard to their right to appoint proxies, and notices of and other communications relating to any general meeting which any Shareholder is entitled to receive shall be sent to the directors and to the auditor for the time being of the Company

## **11. PROCEEDINGS AT GENERAL MEETINGS**

11 1 No business shall be transacted at any general meeting unless a quorum of Shareholders is present throughout the meeting A quorum shall consist of three Shareholders present in person or by proxy or (in the case of a Shareholder being a corporation) by representative and must include a duly appointed representative of each A Ordinary Shareholder unless otherwise agreed by the relevant A Ordinary Shareholder in writing save that

11 1 1 if and for so long as all the Shares are of one class (subject to **Article 11.1.2**) two Shareholders present in person or by proxy holding Shares of that class shall be a quorum, and

11 1 2 if and for so long as the Company has only one person as a Shareholder, one Shareholder present in person or by proxy shall be a quorum

11 2 If a quorum is not present within half an hour from the time appointed for a general meeting the general meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other place as the directors may determine, and if at the adjourned general meeting a quorum is not present within half an hour from the time appointed therefore such adjourned general meeting shall be dissolved Regulation 41 of Table A shall not apply to the Company

- 11 3 A poll may be demanded at any general meeting by the Chairman or by any Shareholder present in person or by proxy and entitled to vote Regulation 46 of Table A shall be altered accordingly

## **12. VOTE OF SHAREHOLDERS**

- 12 1 Regulation 54 of Table A shall not apply to the Company Subject to any rights or restrictions for the time being attached to any class or classes of Shares, on a show of hands every Shareholder entitled to vote who (being an individual) is present in person or by proxy (not being himself a Shareholder entitled to vote) or (being a corporate body) is present by a representative or proxy (not being himself a Shareholder entitled to vote) shall have one vote and, on a poll, each Shareholder shall have one vote for each share of which he is the holder
- 12 2 A Shareholder shall not be entitled to appoint more than one proxy to attend and vote on the same occasion and accordingly the final sentence of regulation 59 of Table A shall not apply to the Company Any such proxy shall be entitled to cast the votes to which he is entitled in different ways

## **13. NUMBER OF DIRECTORS**

Regulation 64 of Table A shall not apply to the Company

## **14. ALTERNATE DIRECTORS**

- 14 1 An alternate director shall be entitled to receive notice of all meetings of the directors and of all meetings of committees of the directors of which his appointer is a Shareholder (subject to his giving to the Company an address within the United Kingdom at which notices may be served on him), to attend and vote at any such meeting at which the director appointing him is not personally present and generally to perform all the functions of his appointer at such meeting as a director in his absence An alternate director shall not be entitled to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointer as such appointer may by notice in writing to the Company from time to time direct Regulation 66 of Table A shall not apply to the Company
- 14 2 A director, or any such other person as is mentioned in regulation 65 of Table A, may act as an alternate director to represent more than one director, and an alternate director shall be entitled at any meeting of the directors or of any committee of the directors to one vote for every director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one for the purpose of determining whether a quorum is present and the final sentence of regulation 88 of Table A shall not apply to the Company
- 14 3 Save as otherwise provided in the regulations of the Company, an alternate director shall be deemed for the purposes specified in **Article 14.1** to be a director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the

director appointing him Regulation 69 of Table A shall not apply to the Company

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

- 15 1 The number of directors of the Company shall not be less than two nor more than eight
- 15 2 So long as Swarraton is a Shareholder it will have the right to have a nominee of its choice appointed to act as a director of the Company Such right may be exercised from time to time by written notice to the Company and Swarraton may also so remove such director and appoint a replacement,
- 15 3 So long as Naxos is a Shareholder of the Company it will have the right to have a nominee of its choice appointed to act as a director of the Company Such right may be exercised from time to time by written notice to the Company and Naxos may also so remove such director and appoint a replacement,
- 15 4 So long as a Navetas Founder is a Shareholder of the Company and an employee of or consultant to the Company or any of its subsidiaries, that Navetas Founder will have the right to appoint himself to act as a director of the Company Such right may be exercised from time to time by written notice to the Company,
- 15 5 So long as the University of Oxford holds at least 6% of the issued share capital of the Company it will have the right to appoint one director of the Company. Such right may be exercised from time to time by written notice to the Company and the University of Oxford may also so remove such director and a replacement,
- 15 6 So long as the ISE Founders are Shareholders of the Company and employees of or consultants to the Company or any of its subsidiaries, the ISE Founders will (acting together) have the right to appoint one of them as director of the Company Such right may be exercised from time to time by written notice to the Company and ISE Founders may also so remove such director and appoint one of them as a replacement,
- 15 7 Unless otherwise agreed by Swarraton or Naxos (as the case may be) in relation to any director appointed by that party, the quorum necessary for the transaction of business at any board meeting shall be 4 Directors provided that either the Swarraton Director or the Naxos Director is present, provided always that if at any time the Swarraton Director or the Naxos Director have not been appointed the quorum at that time shall not require the presence of that director
- 15 8 Regulations 76 to 79 (inclusive) of Table A shall not apply to the Company

## **16. DISQUALIFICATION AND REMOVAL OF DIRECTORS**

Notwithstanding the provisions of **Article 15 1** the office of a director shall be vacated if

- 16 1 he ceases to be a director by virtue of any provision of the Act or these Articles or he becomes prohibited by law from being a director, or
- 16 2 he becomes bankrupt or makes any arrangement or composition with his creditors generally, or
- 16 3 he is, or may be, suffering from mental disorder and either
  - 16 3 1 he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983, or in Scotland an application for admission under the Mental Health (Scotland) Act 1960, or
  - 16 3 2 an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs, or
- 16 4 he resigns his office by notice to the Company, or
- 16 5 he shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated

and regulation 81 of Table A shall not apply to the Company

## **17. GRATUITIES AND PENSIONS**

Regulation 87 of Table A shall not apply to the Company and the directors may exercise any powers of the Company conferred by its Memorandum of Association to give and provide pensions, annuities, gratuities or any other benefits whatsoever to or for past or present directors or employees (or their dependants) of the Company or any subsidiary or associated undertaking (as defined in section 27(3) of the Companies Act 1989) of the Company and the directors shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers

## **18. PROCEEDINGS OF THE DIRECTORS**

- 18 1 Provided that he has declared to the directors, in accordance with the provisions of these Articles, the nature and extent of his interest (or of a person connected with him)

18 1 1 any director notwithstanding his office may have an interest of the following kind

- (i) as a party to or in any way directly or indirectly interested in or have any duty in respect of any existing or proposed contract or arrangement or transaction with a Relevant Undertaking or any other undertaking in which the Company is in any way interested,

- (ii) as a director, partner, member or employee or other office holder (other than the office of auditor) of any Relevant Undertaking or otherwise interested (including without limitation by the holding of shares or loan notes or options to acquire shares or loan notes) in any Relevant Undertaking,
- (iii) as a holder or being remunerated in respect of any office or place of profit (other than the office of auditor) under any Relevant Undertaking,
- (iv) acting (whether for himself or for any undertaking of which he is a director, partner, member or employee or other office holder) in a professional capacity for the Company or any Relevant Undertaking (other than as auditor) whether or not remunerated for this, or
- (v) an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest

18 1 2 an Investor Director, notwithstanding his office, may

- (i) be from time to time a director or other officer of, or employed by, another body corporate or firm in which an A Shareholder or any Investment Fund managed or advised by the same manager or adviser as an A Shareholder has invested,
- (ii) be a director or other officer of, or be employed by or be a member of the manager or other adviser to an A Shareholder, or
- (iii) be a unitholder, shareholder, partner, participant, or be otherwise interested in an A Shareholder or an Investment Fund managed or advised by the same manager or adviser to an A Shareholder

18 1 3 notwithstanding the provisions of **Article 18.1** where a situation arises in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict with the interests of the Company, which can reasonably be regarded as likely to give rise to a conflict of interest (a "Conflict Situation"), the director may take such additional steps as may be necessary or desirable for the purpose of managing such Conflict Situation, including compliance with any procedures laid down from time to time by the directors for the purpose of managing conflicts of interest generally and/or any specific procedures approved by the directors for the purpose of or in connection with the Conflict Situation or matter in question, including without limitation

- (i) declaring to the other directors the nature and extent of his interest in the Conflict Situation (except where **Article 18.1(c)(iv)** applies),

- (ii) absenting himself from any meetings of the directors at which the Conflict Situation or matter falls to be considered,
- (iii) not reviewing documents or information made available to the directors generally in relation to such Conflict Situation or matter and/or arranging for such documents or information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him to have access to such documents or information, and
- (iv) if he obtains (other than through his position as a director of the Company) information that is confidential to a third party, or in respect of which he owes a duty of confidentiality to a third party, or the disclosure of which would amount to a breach of applicable law or regulation, he may elect not to disclose it to the Company or to use it in relation to the Company's affairs in circumstances where to do so would amount to a breach of that confidence or a breach of applicable law or regulation

18 2 Without prejudice to the obligation of each director to declare an interest in accordance with the Act or these Articles and subject to the terms of any authorisation or restriction, imposed pursuant to Article 18 1, a director may vote at a meeting of the directors or of a committee of the directors on any resolution concerning a matter in which he has or may have an interest, whether direct or indirect, or in relation to which he has or may have a duty. Having so declared any interest he may have, the director shall be counted in the quorum present when any such resolution is under consideration and if he votes on such resolution his vote shall be counted

18 3 In relation to any interest permitted by this **Article 18** (save as otherwise agreed by him) a director (or a person connected with him) may retain for his own absolute use and benefit all remuneration, profits or advantages accruing to him under or in consequence of his acts and no such contract, arrangement or transaction shall be avoided on the grounds of any such interest or benefit nor shall the receipt of such remuneration, profits or advantages constitute a breach of the director's duty under the Act or otherwise

18 4 Subject to the Act, the Company may by ordinary resolution ratify any contract, transaction or arrangement, or other proposal, not properly authorised by reason of a contravention of any provisions of this article

18 5 For the purposes of this article

18 5 1 a conflict of interest includes a conflict of interest and duty and a conflict of duties,

18 5 2 section 252 of the Act shall determine whether a person is connected with a director,



18 5 3 "Relevant Undertaking" shall mean the Company, any Subsidiary Undertaking, any Parent Undertaking of the Company, any undertaking promoted by the Company and any undertaking in which the Company is otherwise interested,

18 5 4 a general notice to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified, and

18 5 5 reference to a director shall include a former director to the extent of his continuing duties

18 6 The quorum for the transaction of business of the directors shall throughout the meeting be 4 including the Swarraton Director and the Naxos Director or their alternates, provided that if at any time there shall be no such director in office, the quorum at that time shall not require the presence of that director

18 7 The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit Unless all directors indicate their willingness to accept shorter notice of a meeting of the directors, at least 7 clear days' prior notice of the time and place of each meeting of the directors shall be given Questions arising at any meeting shall be determined by a majority of votes and in the case of an equality of votes the chairman of the meeting shall not have a second or casting vote

18 8 Any or all of the Directors may take part in a meeting of the Directors

18 8 1 by way of a conference telephone or similar equipment that allows all persons participating in the meeting to hear and speak to each other, or

18 8 2 by a series of telephone calls from the chairman of the meeting

Each Director taking part in this way shall be counted as being present at the meeting A meeting which takes place by a series of calls from the chairman shall be treated as taking place where the chairman is calling from Otherwise meetings shall be treated as taking place where most of the participants are or, if there is no such place, where the chairman of the meeting is

18 9 A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors Notice of every meeting of the directors shall be given to every director in accordance with the provisions referred to in **Article 18.7 and 18.11** but the non-receipt of notice by any director shall not of itself invalidate the proceedings at any meeting of the directors

18 10 Any director including an alternate director may participate in a meeting of the directors or a committee of the directors of which he is a Shareholder by means of a conference telephone or similar means of communications equipment whereby all persons participating in the meeting can hear each other and participation in this manner shall be deemed to constitute presence in person at such meeting and, subject to these articles and the Act, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is

18 11 Regulation 88 of Table A shall be amended by substituting for the sentence

"It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom "

the following sentence

"Notice of every meeting of the directors shall be given to each director and his alternate director, including directors and alternate directors who may for the time being be absent from the United Kingdom and have given the Company an address within the United Kingdom for service "

18 12 The words "of filling vacancies, or" shall be omitted from regulation 90 of Table A

18 13 The penultimate sentence of regulation 88 of Table A shall not apply to the Company

18 14 Regulations 94 to 97 (inclusive) of Table A shall not apply to the Company

## **19. DRAG ALONG**

19 1 If a bona fide third party who is not an Associate of a Shareholder (the "Purchaser") makes an arms' length offer to the Shareholders (the "Offer") to acquire all of their Shares for cash (or for assets for which there is a ready market for sale in exchange for cash) then Shareholders who wish to accept the Offer (the "Accepting Shareholders") and who hold between them at least 50% of the issued A Ordinary Shares and at least 50% of the issued Shares (other than the A Ordinary Shares) may give written notice to the Company signed by or on behalf of all of them (the "Drag Along Notice") stating

19 1 1 the identity of the Purchaser,

19 1 2 that they wish to accept the Offer,

19 1 3 the price per Share payable under the Offer (the "Selling Share Price"), and

19 1 4 any other conditions attaching to the Offer (the "Selling Share Terms")

19 2 Not later than the date five clear days after the date of service of the Drag Along Notice, the directors shall serve a copy of it on all Shareholders who have not signed it

19 3 If not later than the date 45 clear days after the date of service of the Drag Along Notice the directors or another Shareholder has not made or procured to be made a legally binding offer on the same or on substantially similar terms for all the issued Shares then held by the Accepting Shareholders, then all shareholders who have not already accepted the Offer (the "Called Shareholders") will be deemed to have accepted the Offer referred to in the Drag Along Notice and must transfer their Shares to the Purchaser on or before the 20th clear day following the expiry of the 45 clear day period against payment or delivery to them of the consideration as allocated between the Shareholders and subject always to **Article 19.5** but without requiring the Called Shareholders to assume any other obligation

19 4 If a Called Shareholder fails to transfer his Shares as required by **Article 19.3** the provisions of **Article 6.5** will apply as if references to the Proposing Transferor were to the Called Shareholder, references to the Purchasing Shareholders were to the Purchaser and references to the purchase money were references to the consideration payable for the shares of the Called Shareholder

19 5 The Offer shall not be subject to **Articles 6.1 to 6.6**

19 6 If any person becomes a member of the Company (a "New Member") pursuant to the exercise of a pre-existing option or other rights to acquire shares after a Drag-Along Notice has been served, the New Member will be bound to transfer all shares acquired by him to the Purchaser or as the Purchaser may direct. The provisions of **Articles 19.1 to 19.7** shall apply (with necessary changes) to the New Member, save that if the shares are acquired after the sale of shares by the Called Shareholders has been completed, completion of the sale of the New Member's Shares shall take place immediately on the New Member acquiring the Shares

## **20. TAG ALONG**

20 1 The provisions of **Article 20.2** will apply if a Shareholder (a "Proposed Seller") proposes to transfer any Shares (a "Proposed Transfer") which would, if put into effect, result in any person (a "Proposed Transferee") acquiring a Controlling Interest in the Company or

20 1 1 from the Adoption Date up to and including the fifth anniversary of the Adoption Date, acquiring a majority of the A Ordinary Shares, or

20 1 2 from the fifth anniversary of the Adoption Date, acquiring 50% or more of the A Ordinary Shares

20 2 A Proposed Seller must, before making a Proposed Transfer procure the making by the Proposed Transferee of an offer to the other Shareholders to acquire all of their Shares for a consideration per share the value of which is at least equal to the consideration per share offered to the Proposed Seller

20 3 The offer referred to in **Article 20.2** must specify the price of the Proposed Transfer and any other principal terms and conditions of the Proposed Transfer and must be expressed to be capable of acceptance for a period of not less than 25 clear days and if it is accepted by any Shareholder (an "Accepting Shareholder") within that period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Shares held by Accepting Shareholders

## **21. THE SEAL**

21 1 If the Company has a seal it shall only be used with the authority of the directors or of a committee of the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined every instrument to which the seal is affixed shall be signed by one director and by the secretary or another director. The obligation under regulation 6 in Table A relating to the sealing of share certificates shall apply only if the Company has a seal. Regulation 101 of Table A shall not apply to the Company

## **22. CAPITALISATION OF PROFITS**

22 1 The words "special resolution" shall be substituted for the words "ordinary resolution" in regulation 110 of Table A

## **23. NOTICES**

23 1 Where a notice is sent by first class post, proof of the notice having been posted in a properly addressed prepaid envelope shall be conclusive evidence that the notice was given and shall be deemed to have been given at the expiration of 24 hours after the envelope containing the same is posted

23 2 If at any time by reason of the suspension or curtailment of postal services within the United Kingdom the Company is unable effectively to convene a general meeting by notices sent through the post, a general meeting may be convened by a notice advertised in at least one national daily newspaper and such notice shall be deemed to have been duly served on all Shareholders entitled thereto at noon on the day when the advertisement appears. In any such case the Company shall send confirmatory copies of the notice by post if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom again becomes practicable

## **24. WINDING UP**

24 1 In regulation 117 of Table A, the words "with the like sanction" shall be inserted immediately before the words "determine how the division"

## **25. INDEMNITY**

- 25 1 Subject to the provisions of the Act every director (including an alternate director) or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the lawful execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under sections 660 to 661 or section 1157 of the Act in which relief is granted to him by the court, and no director (including an alternate director) or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the lawful execution of the duties of his office or in relation thereto. Regulation 118 of Table A shall not apply to the Company
- 25 2 The directors shall have power to purchase and maintain at the expense of the Company for the benefit of any director (including an alternate director) or officer of the Company insurance against any liability as is referred to in section 232(2) of the Act and, subject to the provisions of the Act, against any other liability which may attach to him or loss or expenditure which he may incur in relation to anything done or alleged to have been done or omitted to be done as a director, (including as an alternative director) officer
- 25 3 The directors may authorise the directors of companies within the same group of companies as the Company to purchase and maintain insurance at the expense of the Company for the benefit of any director (including an alternate director), other officer or auditor of such company in respect of such liability, loss or expenditure as is referred to in **Article 25.2**

## **26. VARIATION OF CLASS RIGHTS**

- 26 1 If at any time the share capital of the Company is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of the issue of the Shares for that class) may, whether or not the Company is being wound-up, be varied with the consent in writing of the holders of three-fourths in number of the issued Shares of that class. To every such separate general meeting the provisions of the regulations of the Company relating to general meetings shall apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third in number of the issued Shares of the class and that any holder of Shares of the class present in person or by proxy may demand a poll. If any such separate general meeting shall be adjourned owing to the absence of a quorum and if at the adjourned meeting a quorum shall not be present within half-an-hour from the time appointed for such adjourned meeting the holder or holders of Shares of the class concerned who are present shall constitute a quorum and shall have power to decide upon all matters which could properly have been disposed of at the meeting from which the adjournment took place