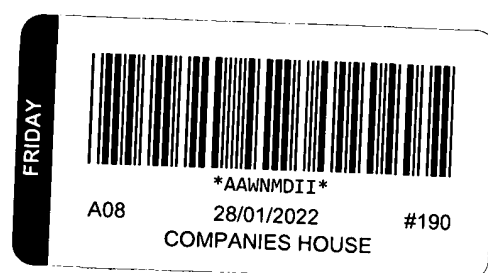


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24 January 2022

## Articles of Association

Celtic Engineering Holdings Limited (CRN: 06810132)



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**COMPANY NUMBER: 06810132**

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**CELTIC ENGINEERING HOLDINGS LIMITED**

**(Adopted by special resolution passed on 24 January 2022)**

## **INTRODUCTION**

### **1 Interpretation**

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

**acting in concert**

shall have the meaning set out in the City Code on Takeovers and Mergers for the time being;

**Allocation Notice**

has the meaning given in Article 26.10.2;

**Applicant**

has the meaning given in Article 26.10.2;

**Appointor**

has the meaning given in Article 14.1;

**Articles**

the Company's articles of association for the time being in force;

**Auditors**

means the auditors of the Company from time to time;

**Board**

means the board of Directors of the Company for the time being or, as the context may require, any duly authorised committee of the Directors;

**Business Day**

a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

**CA 2006**

the Companies Act 2006;

**Called Shares**

has the meaning given in Article 30.2.1;

**chairman**

has the meaning given in Article 6.1;

**Civil Partner**

in relation to a Shareholder, a civil partner as defined in the Civil Partnership Act 2004;

**Come Along Offer**

has the meaning given in Article 30.1.3;

**Company's Lien**

has the meaning given in Article 20.1;

**Conflict**

a situation 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, as defined in Article 8.1;

**Controlled Company**

a company in which a Shareholder has a Controlling Interest and **Controlled Companies** shall be construed accordingly;

**Controlling Interest**

an interest in shares in the Company conferring in aggregate more than fifty per cent (50%) of the total voting rights normally exercisable at a general meeting of the Company;

**Deemed Transfer Notice**

a Transfer Notice that is deemed to have been served under and in accordance with these Articles;

**Directors**

means the directors appointed to the Board from time to time (and **Director** shall be construed accordingly);

**Drag Along Option**

has the meaning given in Article 30.2.1;

**Drag Along Notice**

has the meaning given in Article 30.2.2;

**Eligible Director**

means a Director entitled to count in quorum and vote in respect of a matter;

**Equity Shares**

has the meaning given in Article 17.1;

**Excess Shares**

has the meaning given in Article 26.9;

**Excluded Shareholder**

means an Initial Shareholder who has a personal conflict of interest in the matter which is subject to Majority Consent;

**Fair Value**

means the value as agreed between the Board acting with Shareholder Consent and the Seller, or, in the absence of agreement within twenty-one (21) days of a Transfer Event, as determined by the Auditors in accordance with Article 29;

**Family Trust**

in relation to a Shareholder, a trust set up wholly for the benefit of that Shareholder and/or that Shareholder's Privileged Relations;

**Financial Year**

an accounting period of twelve (12) months in respect of which the Company prepares its accounts in accordance with the relevant provisions of the CA 2006;

**First Offer Period**

has the meaning given in Article 31.3;

**Group**

means the Company and its subsidiary undertakings from time to time and references to **member of the Group** or **Group Member** shall be construed accordingly;

**Initial Shareholders**

means Peter Sykes, Terry Williams and David Wright and **Initial Shareholder** shall mean any one of them;

**Interested Director**

has the meaning given in Article 8.1;

**Issue Price**

in respect of a Share in the capital of the Company, the aggregate of the amount paid up (or credited as paid up) in respect of the nominal value and any Share premium;

**Majority**

has the meaning given in Article 30.2.1;

**Majority Consent**

means the prior written consent of a majority (by reference to holdings of Ordinary Shares) of the Initial Shareholders, excluding an Excluded Shareholder.

**Model Articles**

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 and reference to a numbered Model Article is a reference to that article of the Model Articles;

**Ordinary Shares**

the ordinary share of £1.00 each in the capital of the Company, having the rights and being subject to the restrictions set out in the Articles;

**Permitted Transfer**

a transfer of Shares made in accordance with Article 27;

**Permitted Transferee**

in relation to a Shareholder, any of his Controlled Companies, Privileged Relations or the trustees of his Family Trust(s);

**Preference A Shares**

means preference A shares of £0.01 each in the capital of the Company, having the rights and being subject to the restrictions set out in the Articles;

**Preference Dividend**

has the meaning given in Article 17.5;

**Privileged Relation**

the spouse or Civil Partner of a Shareholder and the Shareholder's children and grandchildren (including step and adopted children and grandchildren) and **Privileged Relations** shall be construed accordingly;

**Proportionate Entitlement**

has the meaning given in Article 26.9;

**Proposed Buyer**

has the meaning given in Article 30.2.1;

**Proposed Sale Price**

has the meaning given in Article 26.1.3;

**Relevant Officer**

means any Director or other officer of the Company, but excluding, in each case, any person engaged by the Company as auditor (whether or not he is also a Director or other officer), to the extent he acts in his capacity as auditor;

**Relevant Loss**

means any loss or liability which has been or may be incurred by a Relevant Officer in connection with that Relevant Officer's duties or powers in relation to the Company, or any pension fund or employees' share scheme of the Company;

**Sale**

means the transfer of any interest in Shares to any person, whether by one or a series of transactions, resulting in that person alone, or together with persons acting in concert with such person, having the right to exercise a Controlling Interest;

**Sale Shares**

has the meaning given in Article 26.1.1;

**Second Offer Period**

has the meaning given in Article 31.4;

**Seller**

has the meaning given in Article 26.1;

**Share**

means a share of any class in the capital of the Company;

**Shareholder**

means a person or persons for the time being registered by the Company as the holder of any Share, and the term **holder** shall be construed accordingly.

**Shareholder Consent**

means the prior written consent of all Initial Shareholders.

**Tank Division Business**

means the oil storage tank repair and maintenance business of the Company's wholly owned subsidiary, Techno Engineering Limited (CRN:01993520) trading as Jenkins & Davies, including, but not limited to, tank upgrades, bottom replacements, shell insert repairs, fixed and floating roof repairs and replacements, tank re-levelling, the addition of fittings, minor repairs and consultancy;

**Total Transfer Condition**

has the meaning given in Article 26.1.4;

**Transfer Event**

has the meaning given in Article 28.1;

**Transfer Notice**

has the meaning given in Article 26.1;

**Transfer Price**

has the meaning given in Article 26.6; and

**Usual Business Hours**

means 9.00 am to 5.30 pm local time on any day which is not a Saturday, Sunday or public holiday in the place of receipt of a notice, document or other information served pursuant to Article 37 (which, in the case of service by email, shall be deemed to be the same place as is specified for service of notices, documents or other information on the relevant recipient by hand or post).

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the CA 2006 shall have those meanings in these Articles, but excluding any statutory modification of them not in force on the date when these Articles become binding on the Company.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an Article is a reference to the relevant Article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

**2 Adoption of the Model Articles**

- 2.1 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles or regulations set out in any statute, or in any statutory instrument or other subordinate legislation.
- 2.2 Model Articles 6(2), 7, 8, 9, 10(3), 11, 12, 13, 14, 16, 17, 22, 26(5), 27, 28, 29, 38, 39, 42, 43, 44(2), 49, 50, 51, 52 and 53 shall not apply to the Company.
- 2.3 Model Article 20 shall be amended by the insertion of the words "(including alternate directors) and the company secretary" before the words "properly incur".
- 2.4 In Model Article 25(2)(c), the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 2.5 Model Articles 31(1)(a) to (c) (inclusive) shall be amended by the deletion, in each case, of the words "either" and "or as the Board may otherwise decide". Model Article 31(d) shall be amended by the deletion of the words "either" and "or by such other means as the Board decide".



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## **DIRECTORS**

### **3 Directors' Decisions**

- 3.1 Any decision of the Directors shall be taken as a majority decision, at a meeting of the Directors.
- 3.2 If at any time the Company only has one (1) Director and no provision of these Articles requires it to have more than one (1) Director, Article 3.1 does not apply and the sole Director may take decisions without regard to any of the provisions of the Articles relating to Directors' decision-making, for so long as he remains the sole Director.

### **4 Calling a Directors' Meeting**

- 4.1 Any Director may call a Directors' meeting by giving not less than five (5) Business Days' notice of the meeting to the other Directors, or by authorising the company secretary (if any) to give such notice. A Directors' meeting can be called on shorter notice if all of the Directors agree.
- 4.2 Notice of any Directors' meeting must specify its proposed date and time, where it is to take place, and, if it is anticipated that Directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting. The notice should be accompanied by:
  - 4.2.1 an agenda, specifying in reasonable detail, the matters to be raised at the meeting; and
  - 4.2.2 copies of any papers to be discussed at the meeting.
- 4.3 Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of Directors, unless all the Directors agree in writing.
- 4.4 Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.
- 4.5 Any Director may validly participate in a meeting of the Directors through telephone conference or similar methods of virtual meeting attendance, provided that all persons participating in the meeting are able to hear and speak to each other throughout such meeting. A Director so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in quorum and be entitled to vote. Subject to the CA 2006, all business transacted in such manner by the Directors (or a committee of the Directors) shall be deemed to be validly and effectively transacted, notwithstanding that a quorum of Directors is not physically present in the same place.
- 4.6 If the Directors cannot or do not decide upon where such a meeting shall be deemed to take place, then it shall be where the chairman of the meeting is located.

### **5 Quorum for Directors' Meetings**

- 5.1 At a Directors' meeting, no business shall be conducted unless a quorum is present at the beginning of the meeting and also when that business is voted on.
- 5.2 The quorum for Directors' meetings shall be any two (2) Directors, or if at any time the Company only has one (1) Director, that sole Director, in accordance with Article 3.2.
- 5.3 If a quorum is not present within thirty (30) minutes of the time specified for the relevant Directors' meeting in the notice of the meeting, then the meeting shall be adjourned for five (5) Business Days, at the same time and place.

## **6 Chairing of Directors' Meetings**

- 6.1 The Directors may appoint a Director to chair their meetings and the person so appointed for the time being is known as the **chairman**.
- 6.2 If the chairman is not participating in a Directors' meeting within ten (10) minutes of the time at which it was to start, the participating Directors must appoint one of themselves to chair it.
- 6.3 If the number of votes for and against a proposal are equal, the chairman (or other Director chairing the meeting) shall not have a casting vote.

## **7 Directors' Interests**

- 7.1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the CA 2006 and provided he has declared the nature and extent of his interest in accordance with the requirements of the CA 2006, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:
  - 7.1.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company, or in which the Company is otherwise (directly or indirectly) interested;
  - 7.1.2 shall be an Eligible Director for the purposes of any proposed decision of the Directors (or committee of Directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
  - 7.1.3 shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
  - 7.1.4 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director;
  - 7.1.5 may be a Director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, a body corporate in which the Company is otherwise (directly or indirectly) interested; and
  - 7.1.6 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the CA 2006)) derives from any such transaction or arrangement, or from any such office or employment, or from any interest in any such body corporate, and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit, nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the CA 2006.

## **8 Conflicts of Interest**

- 8.1 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 (**Interested Director**) breaching his duty under section 175 of the CA 2006 to avoid conflicts of interest (**Conflict**).
- 8.2 Any authorisation under this Article will be effective only if:
  - 8.2.1 to the extent permitted by the CA 2006, the matter in question shall have been proposed by any Director for consideration 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;

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- 8.2.2 any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director or any other Interested Director; and
  - 8.2.3 the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's and any other Interested Director's vote had not been counted.
  - 8.3 Any authorisation of a Conflict under this Article may (whether at the time of giving the authorisation or subsequently):
    - 8.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
    - 8.3.2 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the Directors think fit;
    - 8.3.3 provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a Director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs, where to do so would amount to a breach of that confidence; and
    - 8.3.4 permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the Directors and be excused from reviewing papers prepared by or for the Directors, to the extent they relate to such matters.
  - 8.4 Where the Directors authorise a Conflict, the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the Directors in relation to the Conflict, under Article 8.3 above.
  - 8.5 The Directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.
  - 8.6 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.
  - 8.7 In addition to the Directors' ability to authorise a Conflict pursuant to this Article, the Company may, by ordinary resolution, disapply the provisions of these Articles which would otherwise prevent a Director from being counted as participating in the decision-making process.
  - 8.8 There will not be a Conflict if the Directors' interest cannot reasonably be regarded as likely to give rise to a Conflict, or the Directors' interest arises from the following permitted causes:
    - 8.8.1 a guarantee given, or to be given, by or to a Director in respect of an obligation incurred by or on behalf of the Company;
    - 8.8.2 subscription, or an agreement to subscribe, for shares or other securities of the Company, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
    - 8.8.3 arrangements pursuant to which benefits are made available to employees and Directors or former employees and Directors of the Company, which do not provide special benefits for Directors or former Directors.

**9 Records of Decisions to be Kept**

Where decisions of the Directors are taken by electronic means, such decisions shall be recorded in a form that enables the Company to retain a copy of such decisions.

**10 Number of directors**

Unless otherwise determined by special resolution, the number of Directors (other than alternate directors) shall not be subject to any maximum or any minimum.

**11 Appointment of Directors**

- 11.1 Any person who is willing to act as a Director, and is permitted by law to do so, may be appointed to be a Director, by a decision of the Directors, acting with Majority Consent.
- 11.2 In any case where, as a result of death or bankruptcy, the Company has no Shareholders and no Directors, the transmittee(s) of the last Shareholder to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a natural person (including a transmittee who is a natural person), who is willing to act and is permitted to do so, to be a Director.
- 11.3 For the purposes of Article 11.2, where two (2) or more Shareholders die in circumstances rendering it uncertain who was the last to die, a younger Shareholder is deemed to have survived an older Shareholder.

**12 Retirement**

The Directors shall not be required to retire by rotation.

**13 Termination**

The office of any Director shall be vacated if the Directors, acting with Majority Consent, request his resignation in writing and the provisions of Model Article 18 shall be extended accordingly.

**14 Alternate Directors**

- 14.1 Any director (**Appointor**) may appoint as an alternate any other Director, or any other person approved by resolution of the Directors, to:
  - 14.1.1 exercise that Director's powers; and
  - 14.1.2 carry out that Director's responsibilities,in relation to the taking of decisions by the Directors, in the absence of the alternate's Appointor.
- 14.2 Any appointment or removal of an alternate must be affected by notice in writing to the Company, signed by the Appointor, or in any other manner approved by the Directors.
- 14.3 The notice must:
  - 14.3.1 identify the proposed alternate; and
  - 14.3.2 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.

## **15 Rights and Responsibilities of Alternate Directors**

- 15.1 An alternate director may act as alternate director to more than one (1) Director and has the same rights in relation to any decision of the Directors as the alternate's appointor.
- 15.2 Except as the Articles specify otherwise, alternate directors:
  - 15.2.1 are deemed for all purposes to be Directors;
  - 15.2.2 are liable for their own acts and omissions;
  - 15.2.3 are subject to the same restrictions as their Appointors; and
  - 15.2.4 are not deemed to be agents of or for 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.
- 15.3 A person who is an alternate director but not a Director:
  - 15.3.1 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); and
  - 15.3.2 may participate in a decision of the Directors (but only if his Appointor is an Eligible Director in relation to that decision but does not participate).
- 15.4 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 (1) Director for the purposes of determining whether a quorum is present.
- 15.5 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as his Appointor, but shall not be 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.

## **16 Termination of Alternate Directorship**

- 16.1 An alternate director's appointment as an alternate terminates:
  - 16.1.1 when the alternate's Appointor revokes the appointment by notice to the Company in writing, specifying when it is to terminate;
  - 16.1.2 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;
  - 16.1.3 on the death of the alternate's Appointor; or
  - 16.1.4 when the alternate's Appointor's appointment as a Director terminates.

## **SHARES**

### **17 Share Capital**

- 17.1 The Company shall have two (2) classes of Share; Ordinary Shares and Preference A Shares (Equity Shares).

17.2 The Equity Shares shall constitute separate classes of shares.

17.3 The rights attaching to the Equity Shares shall be as follows:

***Income***

17.4 The profits of the Company available by law for distribution shall, if so declared:

17.4.1 in respect of the period from 1 February 2020 to 30 June 2022, be applied in distributing such profits amongst the holders of the Preference A Shares, *pari passu*, according to the number of Preference A Shares held by them respectively; and

17.4.2 thereafter, in respect of the period from 1 January 2022 to 30 June 2022, and any subsequent Financial Year, be applied in distributing such profits amongst the holders of the Ordinary Shares, *pari passu* according to the number of Ordinary Shares held by them, respectively.

17.5 The Preference A Shares shall also confer on the holders of such Preference A Shares a right to a dividend, of such sum as represents the net proceeds of sale (as determined by the Directors) following a sale of the Tank Maintenance Division by the Company (or any subsidiary of the Company) subject to such sale taking place on or before 31 December 2025 (**Preference Dividend**). The Preference Dividend shall be distributed to the holders of the Preference A Shares *pari passu* according to the number of Preference A Shares held by them, respectively.

***Capital***

17.6 On a return of capital, a return of assets on liquidation or capital reduction or otherwise, the surplus assets of the Company remaining after the payment or discharge of its liabilities (as the case may be) shall be distributed amongst the holders of the Ordinary Shares, *pro rata* to the number of Ordinary Shares held. The holders of the Preference A Shares shall be entitled to receive a return of capital equal to the nominal amount paid up thereon, but otherwise the Preference A Shares shall not carry any rights to a return of capital.

***Voting***

17.7 Subject to the remaining provisions of these Articles, the holders of the Ordinary Shares shall have the right to receive notice of, and attend, speak and vote at any general meeting of the Company and any holder of Ordinary Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by duly authorised representative or by proxy, shall be entitled:

17.7.1 on a show of hands: to one (1) vote and;

17.7.2 on a poll or written resolution: to one (1) vote for each Ordinary Share held by him.

17.8 For the avoidance of doubt, the holders of the Preference A Shares shall not be entitled to receive notice of and attend and vote at any general meeting of the Company or on any written resolution of the Company, except in relation to a variation of the rights attaching to the Preference A Shares in accordance with Article 19.

**18 Power to Issue Different Classes of Share**

Subject to the Articles, but without prejudice to the rights attached to any existing Share, the Company may issue Shares, with such rights or restrictions, as may be determined by a special resolution.

## **19 Variation of rights**

- 19.1 Whenever the share capital of the Company is divided into different classes of Share, the rights attaching to any such class may only be varied or abrogated either:
- 19.1.1 with the consent in writing of the holders of more than three-fourths of the issued Shares of that class; or
  - 19.1.2 with the sanction of a special resolution passed at a separate general meeting of the Shareholders of that class. To every such separate general meeting all the provisions of these Articles relating to general meetings of the Company (and to the proceedings at such general meetings) shall mutatis mutandis apply.

## **20 Lien**

- 20.1 The Company has a lien (**Company's Lien**) over every Share, whether or not fully paid, registered in the name of the person indebted or under any liability to the Company, whether he is the sole registered holder or one of several joint holders, for all monies payable by him, (either alone or jointly with any other person) to the Company, whether payable immediately or at some time in the future.
- 20.2 The Company's Lien over a Share:
- 20.2.1 takes priority over any third party's interest in that Share; and
  - 20.2.2 extends to any dividend or other money payable by the Company in respect of that Share and (if the lien is enforced and the Share is sold by the Company) the proceeds of sale of that Share.
- 20.3 The Directors may at any time decide that a Share which is or would otherwise be subject to the Company's Lien shall not be subject to it, either wholly or in part.

## **21 Enforcement of the Lien**

- 21.1 Subject to the provisions of this Article, if:
- 21.1.1 a Lien Enforcement Notice has been given in respect of a Share; and
  - 21.1.2 the person to whom the notice was given has failed to comply with it,
- the Company may sell that Share in such manner as the Directors decide.
- 21.2 A Lien Enforcement Notice:
- 21.2.1 may only be given in respect of a Share which is subject to the Company's Lien and in respect of a sum payable to the Company for which the due date for payment has passed;
  - 21.2.2 must specify the Share concerned;
  - 21.2.3 must require payment of the sum within fourteen (14) clear days of the notice (that is, excluding the date on which the notice is given and the date on which that fourteen (14) day period expires);
  - 21.2.4 must be addressed either to the holder of the Share or to a Permitted Transferee or transmittee of that holder; and
  - 21.2.5 must state the Company's intention to sell the Share if the notice is not complied with.
- 21.3 Where Shares are sold under this Article:

- 21.3.1 the Directors may authorise any person to execute an instrument of transfer of the Shares to the purchaser, or to a person nominated by the purchaser; and
- 21.3.2 the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of, the process leading to the sale.
- 21.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied:
  - 21.4.1 first, in payment of so much of the sum for which the lien exists as was payable at the date of the Lien Enforcement Notice; and
  - 21.4.2 second, to the person entitled to the Shares at the date of the sale, but only after the certificate for the Shares sold has been surrendered to the Company for cancellation, or an indemnity in a form reasonably satisfactory to the Directors has been given for any lost certificates, and subject to a lien equivalent to the Company's Lien over the Shares before the sale for any money payable by that person (or his estate, or any joint holder of the Shares) after the date of the Lien Enforcement Notice.
- 21.5 A statutory declaration by a Director (or the company secretary) that the declarant is a Director (or the company secretary) and that a Share has been sold to satisfy the Company's Lien on a specified date:
  - 21.5.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share; and
  - 21.5.2 subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the Share.

## **22 Share Transfers: General**

- 22.1 In these Articles, reference to the transfer of a Share includes:
  - 22.1.1 any direction (by way of renunciation or otherwise) by a holder entitled to an allotment or transfer of Shares, that a Share be allotted or issued or transferred to some person other than himself; and
  - 22.1.2 any sale or any other disposition of any legal or equitable interest in a Share (including any voting right attaching to it): (i) whether or not by the relevant holder; (ii) whether or not for consideration; and (iii) whether or not effected by an instrument in writing.
- 22.2 No transfer of any Share shall be made or registered unless such transfer complies with the provisions of these Articles and the Directors shall sanction any transfer so made unless:
  - 22.2.1 the registration thereof would permit the registration of a transfer of Shares on which the Company has a lien;
  - 22.2.2 the transfer is to a minor; or
  - 22.2.3 the Directors are otherwise entitled to refuse to register such transfer pursuant to these Articles.
- 22.3 The Directors may, as a condition to the registration of any transfer of Shares in the Company (whether to a Permitted Transferee or otherwise) require the transferee:
  - 22.3.1 to provide the Company with the required particulars under section 790K of the CA 2006, if the transferee is a registrable person or relevant legal entity within the meaning of section 790C of the CA 2006; and



- 22.3.2 to execute and deliver to the Company a deed under which the transferee agrees to be bound by the terms of any agreement in force between the Shareholders, in such form as the Board may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor under any such agreement or other document),

and if any such condition is imposed in accordance with this Article 22.3, the transfer may not be registered unless: (i) the Company has received all of the required particulars under section 790K of the CA 2006; and (ii) that deed has been executed and delivered to the Company's registered office by the transferee.

- 22.4 The Directors may also, for the purposes of ensuring that a transfer of Shares is duly authorised under these Articles, or that no circumstances have arisen whereby a Transfer Notice is required to be or ought to have been given under these Articles, or whether an offer is required to be or ought to have been made under Article 30, require any member or the legal personal representatives of any deceased member, to any person named as transferee in any transfer lodged for registration, or such other person as the Board may reasonably believe to have information relevant to such purpose, to furnish the Company with such information and evidence as the Board may reasonably think fit, regarding any matter which they deem relevant to such purpose, including but not limited to, names, addresses and interests of all persons respectively having interests in the Shares from time to time, registered in the holder's name.
- 22.5 Failing such information or evidence being furnished to enable the Board to determine to its reasonable satisfaction that no such Transfer Notice is required to be or ought to have been given, or that no offer is required to be or ought to have been made under Article 30:
- 22.5.1 where the purpose of the enquiry by the Board was to establish whether a Transfer Notice is required to be or ought to have been given, then a Transfer Notice shall be deemed to have been given by the holder of the relevant Shares in respect of such Shares; or
- 22.5.2 where the purpose of the enquiry by the Board was to establish whether an offer is required to be or ought to have been made under Article 30, then the Shares held by or on behalf of the person or persons connected with each other or acting in concert with each other, who has or have (as the case may be) obtained a Controlling Interest, shall cease to entitle the relevant holder or holders (or any proxy) to voting rights (whether on a show of hands or on a poll and whether exercisable at a general meeting of the Company or at a separate meeting of the class in question) otherwise attaching to such Shares, or to any further Shares issued in right of such Shares, or in pursuance of an offer made to the relevant holders, to the extent that will result in such person or persons aforesaid only being able to control that percentage of the voting rights attaching to the Shares that such person or persons were in a position to control, prior to the obligation to procure the making of an offer arising.
- 22.6 Any transfer of Shares by way of a sale under these Articles shall be deemed to include a warranty that the transferor sells the Shares with full title guarantee.

## **23 Transmission of Shares**

- 23.1 Subject to the other provisions of these Articles, if title to a Share passes to a transmittee, the Company may only recognise the transmittee as having any title to that Share. A transmittee who produces such evidence of entitlement to Shares as the Directors may properly require:
- 23.1.1 may, subject to the other provisions of these Articles, and to any other agreement to which the holder was party at the time of his death, choose either to become the holder of those Shares or to have them transferred to another person; and

- 23.1.2 subject to the other provisions of these Articles, and to any other agreement to which the holder was party at the time of his death, and pending any transfer of the Shares to another person, has the same rights as the holder had,

but transmitters do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of Shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those Shares.

## **24 Exercise of Transmitters' Rights**

- 24.1 Subject to the other provisions of these Articles, transmitters who wish to become the holders of Shares to which they have become entitled must notify the Company in writing of that wish.
- 24.2 Subject to the other provisions of these Articles, and to any other agreement to which the holder was party at the time of his death, if the transmitter wishes to have a Share transferred to another person, the transmitter must execute an instrument of transfer in respect of it.

## **25 Transmitters Bound by Prior Notices**

If a notice is given to a Shareholder in respect of Shares and a transmitter is entitled to those Shares, the transmitter is bound by the notice if it was given to the Shareholder before the transmitter's name has been entered in the register of members.

## **26 Pre-emption Rights on the Transfer of Ordinary Shares**

- 26.1 Except where the provisions of Article 27, Article 28 or Article 30 apply, a Shareholder (**Seller**) wishing to transfer his Ordinary Shares shall give notice in writing (**Transfer Notice**) to the Company, giving details of the proposed transfer, including:
- 26.1.1 the number of Ordinary Shares he wishes to transfer (**Sale Shares**);
- 26.1.2 the name of the proposed buyer;
- 26.1.3 the price (in cash) at which he wishes to sell the Sale Shares (**Proposed Sale Price**); and
- 26.1.4 whether or not the Transfer Notice is conditional upon all, and not some only, of the Sale Shares so specified being sold (**Total Transfer Condition**) and, in the absence of such stipulation, it shall be deemed not to be so conditional.
- 26.2 Where any Deemed Transfer Notice is deemed to have been given in accordance with these Articles, the provisions of Article 28.4 shall apply.
- 26.3 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares in accordance with the provisions of these Articles.
- 26.4 No Transfer Notice once given (or deemed to be given) in accordance with these Articles shall be withdrawn, unless the Seller is obliged to procure the making of an offer under Article 30 and is unable so to procure. In that event, the Seller shall be entitled to withdraw such Transfer Notice, without liability to any person, prior to completion of any transfer.
- 26.5 If a Shareholder serves a Transfer Notice under Article 26.1 (or is deemed to have served a Transfer Notice under any provision of these Articles) any Permitted Transferee of that Shareholder to whom Ordinary Shares have been transferred in accordance with Article 27 is also deemed to have served a Transfer Notice under Article 28 on the same date as the Shareholder's Transfer Notice is served (or is deemed to have been served).
- 26.6 The **Transfer Price** for each Sale Share the subject of a Transfer Notice shall, save where expressly provided otherwise in these Articles, be the price per Sale Share (in cash) agreed

between the Seller and the Board or, in default of agreement within fourteen (14) Business Days of the date of service of the Transfer Notice, the Fair Value of each Sale Share determined in accordance with Article 29. The Transfer Price for each Sale Share of a Permitted Transferee the subject of a Deemed Transfer Notice under Article 26.5 shall be the same as the Transfer Price for each Sale Share of the Shareholder.

- 26.7 Following the determination of the Transfer Price, the Board shall offer the Sale Shares for sale in the manner set out in the remaining provisions of this Article at the Transfer Price.
- 26.8 As soon as practicable following the determination of the Transfer Price, the Board shall give notice in writing to each of the holders of Ordinary Shares (excluding any Shareholder whose shares are, at the date of the Transfer Notice, the subject of a Deemed Transfer Notice), informing them that the Sale Shares are available for sale and the Transfer Price. Such notice shall invite each holder to state, in writing, within twenty (20) Business Days from the date of such notice, which date shall be specified therein, whether he is willing to purchase any, and, if so, how many, of the Sale Shares.
- 26.9 In the event of competition, the Sale Shares offered shall be sold to the holders accepting the offer in proportion, as nearly as may be, to their existing holdings of Ordinary Shares (**Proportionate Entitlement**). It shall be open to each such holder to specify if he is willing to purchase Sale Shares in excess of his Proportionate Entitlement (**Excess Shares**) and, if the holder does so specify, he shall state the number of Excess Shares he is willing to purchase.
- 26.10 Within three (3) days of the expiry of the offers to be made pursuant to Article 26.8, or sooner if all the Sale Shares have been accepted, in the manner provided, the Board shall allocate the Sale Shares in the following manner:
  - 26.10.1 if the total number of Shares applied for is equal to or less than the available number of Sale Shares, the Company shall allocate the number applied for in accordance with the applications; or
  - 26.10.2 if the total number of Shares applied for is more than the available number of Sale Shares, each holder shall be allocated his Proportionate Entitlement (or such lesser number of Sale Shares for which he may have applied) in the order of priorities set out in Article 26.9, and applications for Excess Shares shall be allocated in accordance with such applications or, in the event of competition, as nearly as may be to each holder applying for Excess Shares, provided that such holder shall not be allocated more Excess Shares than he shall have stated himself willing to take,
 

and in either case, the Company shall forthwith give notice of each such allocation (**Allocation Notice**) to the Seller and each of the persons to whom Sale Shares have been allocated (**Applicant**) and shall specify in the Allocation Notice the place and time (being not later than fourteen (14) days after the date of the Allocation Notice) at which the sale of the Sale Shares shall be completed.
- 26.11 Fractional entitlements shall be rounded down to the nearest whole number, save where such rounding would result in not all Sale Shares being allocated, in which case, the allocation of any such fractional entitlements shall be determined by the Board.
- 26.12 On the date specified for completion in the Allocation Notice, the Seller shall, against payment from an Applicant, execute and deliver a transfer of the Sale Shares allocated to such Applicant, in accordance with any requirements specified in the Allocation Notice, together with the relevant share certificate(s) (or an indemnity in lieu thereof) and such other documents as the Applicant may reasonably require to show good title to the Sale Shares, or to enable him to be registered as the holder of the Sale Shares.
- 26.13 If the Seller fails to comply with Article 26.12:

- 26.13.1 the chairperson (or, failing the chairperson, any other Director or some other person nominated by a resolution of the Directors) may, as agent on behalf of the Seller:
- (a) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
  - (b) receive the Transfer Price and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Transfer Price); and
  - (c) (subject to the transfers being duly stamped) enter the Applicants in the register of members as the holders of the Sale Shares purchased by them; and
- 26.13.2 the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered his certificate(s) for the relevant Sale Shares or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate, together, in either case, with such other evidence (if any) as the Board may reasonably require to prove good title to those Sale Shares, to the Company.
- 26.14 If the Seller included in the Transfer Notice a Total Transfer Condition and the total number of Shares applied for by Applicants is less than the number of Sale Shares, then the Allocation Notice shall refer to such provision and shall contain a further invitation, open for ten (10) Business Days, to those persons to whom Sale Shares have been allocated, to apply for further Sale Shares and completion of the sales in accordance with the preceding paragraphs of this Article shall be conditional upon such provision being complied with in full.
- 26.15 In the event of all the Sale Shares not being sold under the preceding paragraphs of this Article, the Seller may, at any time within three (3) calendar months after receiving confirmation from the Company that the pre-emption provisions contained in this Article have been exhausted, transfer any Sale Shares which have not been sold to any person or persons at any price, not less than the Transfer price, provided that:
- 26.15.1 if the Transfer Notice contained a Total Transfer Condition, the Seller shall not be permitted to sell hereunder only some of the Sale Shares comprised in the Transfer Notice to such person;
  - 26.15.2 any such sale shall be a bona fide sale to a third party and the Board may require to be satisfied in such manner as it may reasonably require that the Sale Shares are not being sold for less than the Transfer Price, to a bona fide third party purchaser, without any deduction, rebate or allowance whatsoever, and, if not so satisfied, may refuse to register the transfer.
- 26.16 The Board shall refuse registration of the proposed transfer if the Seller was obliged to procure the making of an offer in accordance with Article 30, until such time as such offer has been made and, if accepted, completed.
- 26.17 Preference A Shares may be transferred in accordance with Article 27.11.

## **27 Permitted Transfers**

- 27.1 Notwithstanding the provisions of any other Article, the transfers set out in this Article shall be permitted during a Shareholders' lifetime, without restriction, and the provisions of Article 26 and Article 30 shall not apply.
- 27.2 Any Shareholder, being a body corporate, shall be entitled to transfer all or any of its Shares to another body corporate, which is for the time being its subsidiary, or holding company, or another subsidiary of its holding company (each such body corporate being a Group Company), but if a Group Company, whilst it is a holder of Shares in the Company, shall cease to be a Group

Company in relation to that corporate Shareholder, or if any of the events set out in Article 28.1.3 occur in relation to that body corporate, it shall, within fifteen (15) Business Days of so ceasing to be a Group Company, transfer the Shares held by it to such corporate body, or any other Group Company of such corporate body, and failing such transfer, the holder shall be deemed to have given a Transfer Notice, pursuant to Articles 26 and 28.

- 27.3 Any Shareholder who is an individual, may at any time transfer Shares held by him to a person or persons shown to the reasonable satisfaction of the Board to be:
  - 27.3.1 a Controlled Company of his; or
  - 27.3.2 a Privileged Relation of his; or
  - 27.3.3 trustees of a Family Trust in relation to that individual or his Privileged Relations, provided the identity of the trustees has been approved in writing by the Board, such approval not to be unreasonably withheld or delayed.
- 27.4 Subject to Article 27.11, no transfer of Shares shall be made by a holder under Article 27.3 if the proposed transfer will result in fifty per cent (50%) or more of the Shares originally held by the member being held by that holder's Family Trust or Privileged Relations.
- 27.5 Where Shares are held by trustees under a Family Trust:
  - 27.5.1 those shares may, on any change of trustees, be transferred by the outgoing trustees to the new trustees of that Family Trust, provided the identity of the new trustees has been approved in writing by the Board (such approval not to be unreasonably withheld or delayed); and
  - 27.5.2 if any of those Shares cease to be held under a Family Trust, the trustees shall be deemed to have given a Transfer Notice in respect of all the shares then held by those trustees pursuant to Articles 26 and 28.
- 27.6 Subject to Article 27.5.2, any Shareholder holding Shares as a result of a Permitted Transfer made by any Shareholder in accordance with this Article may, at any time, transfer his shares back to the original Shareholder or to another Permitted Transferee of such original Shareholder, without being required to follow the steps set out in Article 26. No Shares shall be transferred by any person who previously acquired those Shares by way of a transfer under Article 27.3, save to another Permitted Transferee of the original holder of such Shares.
- 27.7 If a Permitted Transfer has been made to a Privileged Relation of the Shareholder, that Privileged Relation shall, within fifteen (15) Business Days of ceasing to be a Privileged Relation of the Shareholder (for any reason other than death or bankruptcy) execute and deliver to the Company a transfer of the Shares held by him to the original Shareholder (or, if so directed by the original Shareholder, to another Permitted Transferee of the original Shareholder) for such consideration as may be agreed between them, failing which he shall be deemed to have given a Transfer Notice in respect of the Shares in accordance with Articles 26 and 28.
- 27.8 On the death or bankruptcy of a Privileged Relation (other than a joint holder), his personal representatives or trustee in bankruptcy (as the case may be) shall offer the Shares held by the Privileged Relation for transfer to the original Shareholder or, if so directed by the original Shareholder, to another Permitted Transferee of the original Shareholder, within fifteen (15) Business Days after the grant of probate or the making of the bankruptcy order (as the case may be), for such consideration as may be agreed between the original Shareholder and the personal representatives or trustee in bankruptcy (as the case may be). If:
  - 27.8.1 a transfer of the Shares has not been executed and delivered within fifteen (15) Business Days of the grant of probate or the making of the bankruptcy order (as the case may be); or

27.8.2 the original Shareholder is himself the subject of a bankruptcy order,

the personal representatives or trustee in bankruptcy (as the case may be) shall be deemed to have given a Transfer Notice in respect of the Shares in accordance with Articles 26 and 28.

- 27.9 If a Permitted Transfer has been made to the trustees of a Family Trust, the trustees of that Family Trust shall, within fifteen (15) Business Days of that Family Trust ceasing to be wholly for the benefit of the original Shareholder and/or his Privileged Relations, execute and deliver to the Company a transfer of the Shares held by them or the Family Trust to the original Shareholder or, if so directed by the original Shareholder, to another Permitted Transferee of the original Shareholder, for such consideration as may be agreed between them, failing which the trustees shall be deemed to have given a Transfer Notice in respect of the Shares in accordance with Articles 26 and 28.
- 27.10 If a Permitted Transfer has been made to a Controlled Company, within fifteen (15) Business Days of that Controlled Company ceasing to be a Controlled Company of the original Shareholder, or any of the events set out in Article 28.1.3 occurring in relation to that Controlled Company, the Controlled Company shall execute and deliver to the Company a transfer of the Shares held by it to the original Shareholder, or, if so directed by the original Shareholder, to another Permitted Transferee of the original Shareholder, for such consideration as may be agreed between them, failing which, the Controlled Company shall be deemed to have given a Transfer Notice in respect of the Shares in accordance with Articles 26 and 28.
- 27.11 Any Shareholder may transfer their Preference A Shares, to their Permitted Transferees or another Shareholder only, but without being subject to the restriction in Article 27.4.

## **28 Compulsory Transfers**

28.1 In this Article, **Transfer Event** means, in relation to any Shareholder:

- 28.1.1 any Shareholder who is an individual becoming bankrupt or making any arrangement or composition with his creditors generally;
- 28.1.2 any Shareholder who is an individual dying;
- 28.1.3 any Shareholder which is a body corporate:
- (a) having a receiver, manager or administrative receiver appointed over all or any part of its undertaking or assets; or
  - (b) having an administrator appointed in relation to it; or
  - (c) entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or
  - (d) having any equivalent action taken in any jurisdiction;
- 28.1.4 a member attempting to deal with or dispose of any Share or any interest in any Share, otherwise than in accordance with these Articles or the terms of any agreement in force between the Shareholders; and
- 28.1.5 failure by a member to make a transfer of Shares required by the provisions of Article 27.
- 28.2 Upon the happening of any Transfer Event, the member in question and any other member who has acquired Shares, either: (i) from him; or (ii) from the former member from whom the member in question took transfer of his or its Shares under a permitted transfer pursuant to Article 27 (directly or by means of a series of two (2) or more permitted transfers) shall be deemed to have immediately given a Transfer Notice in respect of all the Shares then held by

them and which, in the case of a transferee of Shares, were the Shares received directly or indirectly either: (i) from the member who is the immediate subject of the Transfer Event; or (ii) the former member from whom the member in question took transfer of his or its Shares. Such a Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice, insofar as it relates to the same Shares, except for Shares which have then been validly transferred pursuant to that Transfer Notice.

- 28.3 Notwithstanding any other provision of these Articles, any member holding Ordinary Shares in respect of which a Deemed Transfer Notice is given shall not be entitled to exercise any voting rights at general meetings of the Company in respect of those Ordinary Shares, between the date of the relevant Deemed Transfer Notice and the expiry of three (3) months after the date of the Deemed Transfer Notice given in respect of those Ordinary Shares or, if earlier, the entry in the register of members of the Company of another person as the holder of those Ordinary Shares.
- 28.4 The Shares the subject of any Deemed Transfer Notice shall be offered for sale in accordance with Article 26 as if they were Sale Shares in respect of which a Transfer Notice had been given save that:
  - 28.4.1 a Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event or, if later, the date of notification to the Company that the relevant event is a Transfer Event;
  - 28.4.2 the Company shall be offered the opportunity to buy back the Shares first, before they are next offered to the other Shareholders, in accordance with Articles 26.7 – 26.13;
  - 28.4.3 the price for the Shares shall be the Transfer Price as defined at Article 26.6;
  - 28.4.4 all the Shares registered in the name of the Seller and his Permitted Transferees shall be included for transfer;
  - 28.4.5 a Deemed Transfer Notice shall be deemed not to contain a Total Transfer Condition and shall be irrevocable;
  - 28.4.6 in the case of Transfer Event arising under Article 28.1.2, with the prior written approval of the Board not to be unreasonably withheld, the transmitters of the Seller may apply to be registered as the holders of such Sale Shares as have not been previously acquired pursuant to Article 28.4.2;
  - 28.4.7 if Article 28.4.6 does not apply and there are any Sale Shares for which purchasers are not found, with the prior written approval of the Board, not to be unreasonably withheld, the Seller may sell all or any of those Sale Shares to any person (including any member) at any price per Sale Share which is not less than the Transfer Price; and
  - 28.4.8 the Sale Shares shall be sold together with all rights attaching thereto as at the date of the Transfer Event.

## **29 Valuation**

- 29.1 In the event that the Auditors are required to determine the price at which Shares are to be transferred pursuant to these Articles, such price shall be the amount the Auditors shall, on the application of the Board (which application shall be made as soon as practicable following the time it becomes apparent that a valuation pursuant to this Article is required), certify in writing to be the price which, in their opinion, represents a fair value for such Shares as between a willing seller and a willing buyer, as at the date of the Transfer Notice (or Deemed Transfer Notice) is given.
- 29.2 In making such determination, the Auditors shall not take any account of whether the Sale Shares comprise a majority or a minority interest in the Company, nor the fact that

transferability is restricted by these Articles or otherwise (and shall assume that the entire issued share capital of the Company is being sold and comprises only Ordinary Shares).

- 29.3 The Auditors shall be requested to determine the Fair Value within twenty (20) Business Days of their appointment and to notify the Company and the Seller in writing of their determination.
- 29.4 The Auditors shall act as expert and not as arbitrator and their written determination shall be final and binding on the Company and the Shareholders for the purposes of these Articles, in the absence of manifest error or fraud.
- 29.5 The cost of obtaining the Auditors' valuation shall be borne by the Company unless, in the case of a determination required pursuant to the provisions of Article 28.4, the amount determined by the Auditors is less than that suggested by the Board, in which event, the costs of the Auditors shall be borne by the Seller.

### **30 Change of Control**

#### **30.1 Come Along**

- 30.1.1 Subject to Article 30.1.2, if the effect of any transfer of Shares would, if completed, result in the transferee, together with persons acting in concert or connected with that transferee, obtaining a Controlling Interest, the Seller shall procure the making, by the proposed transferee of the Seller's Shares, of a Come Along Offer, to all of the other holders of Shares in the Company. Every holder or recipient of such offer, on receipt of a Come Along Offer, shall be bound within twenty-eight (28) days of the date of such offer (which date shall be specified therein) either to accept or reject such offer in writing (and in default of so doing shall be deemed to have rejected the offer). Until such Come Along Offer has been made and completed, the Board shall not sanction the making and registration of the relevant transfer or transfers.
- 30.1.2 The provisions of Article 30.1.1 and Article 30.2.1 shall not apply to any transfer of Shares pursuant to Article 27.
- 30.1.3 In this Article, **Come Along Offer** means an unconditional offer, open for acceptance for not less than twenty (20) Business Days, to purchase all Shares held by the recipients of a Come Along Offer, free from all liens, charges and Encumbrances, at a price per Share equal to the highest price per Share paid or to be paid by any transferee (or any person with whom such transferee is connected or is acting in concert) for Shares (inclusive of the Shares giving rise to the obligation to make the Come Along Offer) within the period of one (1) year prior to and on the proposed date of completion of the transfer of such Shares.
- 30.1.4 In the event of disagreement, the calculation of the relevant Come Along Offer price shall be referred to an independent accountant (acting as expert and not as arbitrator) nominated by the parties concerned (or in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales) whose decision shall (in the absence of fraud or manifest error) be conclusive and binding on the Company and upon all its Shareholders for the purposes of these Articles.

#### **30.2 Drag Along**

- 30.2.1 If more than seventy per cent (70%) of the Shareholders (**Majority**) wish to transfer all (but not some only) of their Shares in the Company to a bona fide third party purchaser on arm's length terms (**Proposed Buyer**), the Majority may require all of the other holders of Shares to transfer all their Shares (**Called Shares**) to the Proposed Buyer (or as the Proposed Buyer directs) in accordance with the provisions of this Article (**Drag Along Option**).



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- 30.2.2 The Majority may exercise the Drag Along Option by giving written notice to that effect to the Called Shareholders (**Drag Along Notice**) at any time before the transfer of the Majority's Shares to the Proposed Buyer. The Drag Along Notice shall specify:
- (a) that the relevant Called Shareholder is required to transfer all of his Called Shares pursuant to this Article, free from all liens, charges and Encumbrances;
  - (b) the identity of the Proposed Buyer;
  - (c) the purchase price payable for the Called Shares, which shall, for each Called Share, be an amount at least equal to the price per Share offered by the Proposed Buyer for the Majority's Shares; and
  - (d) the proposed date of the transfer.
- 30.2.3 Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Majority have not sold their Shares to the Proposed Buyer within forty-five (45) Business Days of serving the Drag Along Notice. The Majority may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 30.2.4 Completion of the sale of the Called Shares shall take place on the Completion Date. Completion Date means the date proposed for completion of the sale of the Majority's Shares unless:
- (a) the Majority and the Called Shareholders agree otherwise, in which case, the Completion Date shall be the date agreed in writing by them; or
  - (b) that date is less than seven (7) Business Days after the date on which the Drag Along Notice is served, in which case, the Completion Date shall be ten (10) Business Days after service of the Drag Along Notice.
- 30.2.5 Neither the proposed sale of the Majority's Shares to the Proposed Buyer, nor the sale of the Called Shares by the Called Shareholders, shall be subject to the rights of pre-emption set out in Article 26.
- 30.2.6 On or before the Completion Date, the Called Shareholders shall execute and deliver stock transfer form(s) for the Called Shares, together with the relevant share certificate(s) (or a suitable indemnity for any lost share certificate(s)) to the Company. On the Completion Date, the Company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts due pursuant to Article 30.2.2(c) to the extent that the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the price shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders in trust for the Called Shareholders without any obligation to pay interest.
- 30.2.7 To the extent that the Proposed Buyer has not, on the Completion Date, put the Company in funds to pay the purchase price due in respect of the Called Shares, the Called Shareholders shall be entitled to the return of the stock transfer form(s) and share certificate(s) (or suitable indemnity) for the relevant Called Shares, and shall have no further obligations under the Drag Along Notice served, which shall be deemed to have lapsed.
- 30.2.8 If any Called Shareholder does not, on or before the Completion Date, execute and deliver (in accordance with Article 30.2.6) transfer(s) in respect of all of the Called Shares held by him, that Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Majority to be his agent, to execute all necessary transfer(s) on his behalf, against receipt by the Company (on trust

for such holder) of the purchase price payable for the Called Shares, and to deliver such transfer(s) to the Proposed Buyer (or as he may direct) as the holder thereof. After the Proposed Buyer (or its nominee) has been registered as the holder of the Called Shares, the validity of such proceedings shall not be questioned by any such person. Failure to produce a share certificate shall not impede the registration of Shares under this Article.

### **31 Issue of Shares**

- 31.1 New Shares shall only be issued in such class, amount and denomination as resolved by an ordinary resolution.
- 31.2 All new Shares shall, before they are issued, whether for cash or otherwise, be offered for subscription to the current holders of Ordinary Shares in proportion, as nearly as may be, to their respective holdings of Ordinary Shares.
- 31.3 The offer referred to in Article 31.1 shall be made by notice in writing, specifying the number and class of Share offered, the proportionate entitlement of the relevant member, the price per Share and limiting a period, not being less than fourteen (14) days (**First Offer Period**) within which the offer, if not accepted will be deemed to be declined.
- 31.4 After the expiration of the First Offer Period, the Board shall offer Shares which have been declined (or are deemed to have been declined) to the persons who have, within the First Offer Period accepted all the Shares offered to them. Such further offer shall be on the same terms as the first offer and shall invite each of the holders to state in writing within a period (**Second Offer Period**) of not less than fourteen (14) days whether he is willing to take any, and if so what maximum, number of the Shares so offered.
- 31.5 At the expiration of the Second Offer Period, the Board shall (against any required payment therefor) allot the Shares so offered to or amongst the persons who have notified their willingness to take such Shares and, in the event of competition, in proportion as nearly as may be to the number of Ordinary Shares held by such persons respectively. The Board shall make such arrangements as they shall think fit concerning entitlements to fractions, overseas Shareholders and Shareholders unable by law or regulation to receive or accept any offer pursuant to this Article. No member shall be obliged to take more than the maximum number of Shares he has indicated his willingness to take.
- 31.6 Any Shares not accepted by the foregoing procedure shall be at the disposal of the Board, who may allot, grant options over or otherwise dispose of them to such persons at such time and generally on such terms and conditions as they determine, provided that no Shares shall be issued at a discount and provided further that, in the case of Shares not accepted as aforesaid, such Shares shall not be disposed of on terms which are more favourable to the subscribers thereof than the terms on which they were offered to the members.
- 31.7 Sections 561 and 562 of the CA 2006 shall not apply to the Company.
- 31.8 No Shares shall be allotted on terms that the right to take up the Shares so allotted may be renounced in favour of, or assigned to, another person and no person entitled to allotment of a Share may direct that such Share may be allotted or issued to any other person.

### **DECISION MAKING BY SHAREHOLDERS**

#### **32 Quorum for General Meetings**

- 32.1 The quorum at any general meeting of the Company shall be any two (2) Shareholders, present in person or by proxy.
- 32.2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.

- 32.3 If a general meeting is adjourned because a quorum is not present, and at the adjourned meeting, a quorum is not present within thirty (30) minutes from the time appointed for that adjourned meeting, the holders then present shall form a quorum, and Model Article 41 shall be modified accordingly.

### **33 Voting**

A resolution put to the vote of a general meeting must be decided on a show of hands, unless a poll is duly demanded, in accordance with the Articles.

### **34 Written Resolutions**

In the case of a corporation, the signature of any director or the company secretary of such corporation shall be sufficient for the purposes of any resolution in writing, as is referred to in Chapter 2 of Part 13 of the CA 2006.

### **35 Poll Votes**

- 35.1 A poll may be demanded at any general meeting by the chairman of the meeting, or by any Shareholder who is present in person by proxy or by duly authorised representative (if a corporation) and who, in any such case, has the right to vote at the meeting.
- 35.2 Model Article 44(3) shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that Model Article.

### **36 Proxies**

- 36.1 Model Article 45(1)(d) shall be deleted and replaced with the words "is delivered to the Company in accordance with the Articles not less than forty eight (48) hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of general meeting (or adjourned meeting) to which they relate".
- 36.2 Model Article 45(1) shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid" as a new paragraph at the end of that Model Article.

## **ADMINISTRATIVE ARRANGEMENTS**

### **37 Means of Communication to be Used**

- 37.1 Subject to Article 37.2, any notice, document or other information shall be deemed received by the intended recipient:
- 37.1.1 if delivered by hand: on signature of a delivery receipt;
  - 37.1.2 if sent by pre-paid first class post or other next working day delivery service providing proof of postage: at 9.00 am on the second Business Day after posting, or at the time recorded by the delivery service; or
  - 37.1.3 if sent by email: at the time of transmission.

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- 37.2 If deemed receipt under Article 37.1 would occur outside Usual Business Hours, the notice, document or other information shall be deemed to have been received when Usual Business Hours next recommence.
- 37.3 To prove service, it is sufficient to prove that:
- 37.3.1 if delivered by hand: the notice was delivered to the correct address;
  - 37.3.2 if sent by post: the envelope containing the notice was properly addressed, paid for and posted; or
  - 37.3.3 if sent by email: the notice was properly addressed and sent to the email address of the recipient notified to the Company.
- 37.4 In proving that any notice, document or information was properly addressed, it will suffice to show that the notice, document or information was addressed to an address permitted for the purpose by the CA 2006.

### **38 The Seal**

- 38.1 Any common seal may only be used by the authority of the Directors.
- 38.2 The Directors may decide by what means and in what form any common seal is to be used.
- 38.3 Unless otherwise decided by the Directors, if the Company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.
- 38.4 For the purposes of this Article, an authorised person is:
- 38.4.1 any Director of the Company;
  - 38.4.2 the company secretary (if any); or
  - 38.4.3 any person authorised by the Directors for the purpose of signing documents to which the common seal is applied.

### **39 Indemnity and Insurance**

- 39.1 Subject to Article 39.2, but without prejudice to any indemnity to which a Relevant Officer is otherwise entitled, each Relevant Officer of the Company shall be indemnified out of the Company's assets against:
- 39.1.1 all costs, charges, losses, expenses and liabilities incurred by him as a Relevant Officer in the actual or purported execution and/or discharge of his duties, or in relation to them; and
  - 39.1.2 any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour, or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part, or in connection with any application in which the court grants him, in his capacity as a Relevant Officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's affairs,
- and the Company may provide any Relevant Officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in Article 39.1 and otherwise may take any action to enable any such Relevant Officer to avoid incurring such expenditure.

- 39.2 This Article does not authorise any indemnity, to the extent that such indemnity would be prohibited or rendered void by any provision of the CA 2006 or by any other provision of law and any such indemnity is limited accordingly.
- 39.3 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any Relevant Officer in respect of any Relevant Loss.