

Company Number: 06837170

**PRIVATE COMPANY LIMITED BY SHARES**

**WRITTEN RESOLUTIONS**

**OF**

**ELLIS BRIGHAM HOLDINGS LIMITED**

**Circulation Date: 7 December 2017**

SATURDAY



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09/12/2017

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COMPANIES HOUSE

In accordance with the provisions of Chapter 2 of Part 13 Companies Act 2006, the following resolutions are passed as ordinary resolutions and special resolutions of the Company (as indicated):

**ORDINARY RESOLUTION**

1. THAT the existing Issued 8,751 ordinary shares of £1.00 each in the share capital of the Company held by Frederick Robert Brigham and Margaret Elizabeth Brigham as trustees of The F R Brigham 1997 Discretionary Settlement be and are hereby redesignated as being 8,751 A ordinary shares of £1.00 each and the existing issued 8,751 ordinary shares of £1.00 each in the share capital of the Company held by Ellis Brigham and Denise Brigham as trustees of The Ellis Brigham 1997 Discretionary Settlement be and are hereby redesignated as being 8,751 B ordinary shares of £1.00 each.
2. Subject to the passing of resolution 1, THAT the existing Issued 8,751 A ordinary shares of £1.00 each in the share capital of the Company be subdivided into 875,100 A ordinary shares of £0.01 each and the existing Issued 8,751 B ordinary shares of £1.00 be subdivided into 875,100 B ordinary shares of £0.01 each.

**SPECIAL RESOLUTION**

3. THAT the articles of association in the form of the draft annexed to this resolution be and hereby are adopted as the new articles of association of the Company.

**AGREEMENT**

Please read the notes at the end of this document before signifying your agreement to the resolutions.

The undersigned, being all the persons eligible to vote on the above resolutions on the circulation date hereby irrevocably agree to the resolutions.

FR. Brigham

Frederick Robert Brigham  
as trustee of the Frederick Robert Brigham  
discretionary settlement

7.12.17

Date

ME Brigham

Margaret Elizabeth Brigham  
as trustee of the Frederick Robert Brigham  
Discretionary Settlement

7.12.17

Date

.....  
Ellis Brigham  
as trustee of the Ellis Brigham  
Discretionary Settlement

.....  
Date

DM. Brigham

Denise Brigham  
as trustee of the Ellis Brigham  
Discretionary Settlement

7.12.17

Date


1. Once you have indicated your agreement to the resolutions, you may not revoke your agreement.
2. Unless, by 28 days beginning with the Circulation Date sufficient agreement has been received for the resolutions to pass, they will lapse. If you agree to the resolution, please ensure that your agreement reaches us before or during this date.

.....  
Frederick Robert Brigham  
as trustee of the Frederick Robert Brigham  
discretionary settlement

.....  
Date

.....  
Margaret Elizabeth Brigham  
as trustee of the Frederick Robert Brigham  
Discretionary Settlement

.....  
Date

  
.....  
Ellis Brigham  
as trustee of the Ellis Brigham  
Discretionary Settlement

.....  
7.12.17

.....  
Date

.....  
Denise Brigham  
as trustee of the Ellis Brigham  
Discretionary Settlement

.....  
Date

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Company No: 06837170

THE COMPANIES ACT 2006

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PRIVATE COMPANY LIMITED BY SHARES

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NEW ARTICLES OF ASSOCIATION

of

ELLIS BRIGHAM HOLDINGS LIMITED

(Adopted by special resolution passed on 7 December 2017)

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## PART 1 – INTERPRETATION

### 1. PRELIMINARY

#### 1.1 In these Articles:–

<b>"Accountants"</b>	means the accountants of the Company from time to time;
<b>"Act"</b>	the Companies Act 2006, including any statutory modification or re-enactment of it for the time being in force;
<b>"Adoption Date"</b>	means the date of adoption of the Articles as the articles of association of the Company;
<b>"A Ordinary Shares"</b>	means the A ordinary shares of £0.01 each in the capital of the Company;
<b>"Articles"</b>	means the articles of association of the Company as amended from time to time;
<b>"Available Profits"</b>	the profits available for distribution within the meaning of Part 23 the Act;
<b>"Board"</b>	means the board of directors of the Company for the time being;
<b>"B Ordinary Shares"</b>	means the B ordinary shares of £0.01 each in the capital of the Company;
<b>"Brigham Trusts"</b>	<p>means together :</p> <p>(a) The Ellis Brigham 1997 Discretionary Settlement; and</p> <p>(b) The F R Brigham 1997 Discretionary Settlement,</p> <p>and each a <b>"Brigham Trust"</b></p>
<b>"Director"</b>	means a statutory director of the Company and "Directors" shall be construed accordingly'
<b>"Fair Market Value"</b>	has the meaning set out in article 11.3;
<b>"Family Member"</b>	the husband, wife, civil partner, widow, widower, child (including a child by adoption), and grandchild (including a grandchild by adoption) of the Shareholder;
<b>"Family Trust"</b>	<p>(a) a bare trust for the benefit of the Shareholder or any Family Member of the Shareholder;</p> <p>(b) a trust (whether arising under a settlement inter vivos or a testamentary disposition by whomsoever made</p>

or on an intestacy) provided that the principal person or persons who are beneficially interested under the trust is or are the Shareholder or Family Members of that Shareholder and the voting rights conferred by any Shares held by the trust are not exercisable by or subject to the consent of any person other than the trustee or trustees of the trust or the Shareholder or Family Members of that Shareholder and also the Board is satisfied that the trust is and is intended to remain a trust the sole or primary purpose of which is to benefit the Shareholder or Family Members of that Shareholder;

<b>"First Offer Period"</b>	has the meaning set out in article 11.7;
<b>"General Meeting"</b>	means a general meeting of the Shareholders of the Company holding Ordinary Shares;
<b>"Independent Expert"</b>	means an accountant (acting as expert and not as an 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;
<b>"Listing"</b>	the admission by the Financial Conduct Authority in its capacity as the UK Listing Authority of any part of the share capital of the Company to the Official List of London Stock Exchange plc or the admission by London Stock Exchange plc of any part of the share capital of the Company to trading on AIM or the admission by any recognised investment exchange (as such term is defined in the Financial Services and Markets Act 2000) of any part of the share capital of the Company and, in each case, such admission becoming effective;
<b>"Model Articles"</b>	means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended;
<b>"Ordinary Resolution"</b>	means a resolution of the holders of the Ordinary Shares which is passed by more than 50% thereof (as if the Ordinary Shares constituted one class of Shares);
<b>"Ordinary Shares"</b>	means the A Ordinary Shares and the B Ordinary Shares;
<b>"Personal Representatives"</b>	means the legal personal representatives (being either the executors of a will to whom a valid grant of probate has been made or, if a person dies intestate, the duly appointed administrator(s) of his estate) who have produced to the Company evidence of their appointment

	as such;
<b>"Preference Shareholder"</b>	means a holder of Preference Shares;
<b>"Preference Shares"</b>	means the cumulative redeemable preference shares of £1.00 each in the capital of the Company;
<b>"Preferred Dividend"</b>	has the meaning set out in article 7.2.1(b);
<b>"Redemption Date"</b>	has the meaning set out in article 7.2.5(b);
<b>"Redemption Notice"</b>	has the meaning set out in article 7.2.5(a);
<b>"Sale"</b>	means other than as a result of an intra group re-organisation, the completion of the sale (whether by one transaction or a series of related transactions) of 75 per cent. or more of the Ordinary Share capital of the Company;
<b>"Sale Price"</b>	has the meaning set out in article 11.2;
<b>"Sale Proceeds"</b>	means in the event of a Sale, the aggregate price to be paid for or properly attributable to the Ordinary Shares being sold (including cash and non-cash consideration and taking into account any indebtedness which any of the Shareholders might assume responsibility to repay as part of the terms of the Sale), after the deduction of all professional and other costs incurred in connection with or for the purposes of the Sale;
<b>"Sale Shares"</b>	has the meaning set out in article 11.1;
<b>"Second Offer Period"</b>	has the meaning set out in article 11.8;
<b>"Shareholder"</b>	any holder of Shares;
<b>"Shares"</b>	means the Ordinary Shares and the Preference Shares;
<b>"Third Offer Period"</b>	has the meaning set out in article 11.9;
<b>"Total Transfer Condition"</b>	has the meaning set out in article 11.6;
<b>"Transfer Notice"</b>	has the meaning set out in article 11.1; and
<b>"Vendor"</b>	has the meaning set out in article 11.1.

- 1.2 The Model Articles shall apply to the Company save insofar 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.



- 1.3 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 Act shall have the same meanings in these Articles but excluding any statutory modification of it not in force when these regulations become binding on the Company.
- 1.4 Words importing the singular only shall include the plural and vice versa, words importing the masculine gender shall include the feminine gender and words importing natural persons shall include also corporations.
- 1.5 The headings in these Articles are for convenience only and shall be ignored in construing the language or meaning of the Articles.
- 1.6 Articles 6(2), 11, 13, 16, 17(1), 49, 52 and 53 of the Model Articles shall not apply to the Company.
- 1.7 Article 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors)" before the words "properly incur".
- 1.8 Articles 31(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the Board may otherwise decide".

## **2. PRIVATE COMPANY**

- 2.1 The Company is a private company within the meaning of Section 4 of the Act and accordingly no Shares in, or debentures of, the Company shall be offered to the public (whether for cash or otherwise) and the Company shall not allot or agree to allot (whether for cash or otherwise) any Shares in, or debentures of, the Company with a view to all or any of those Shares or debentures being offered for sale to the public.

## **PART 2 – DIRECTORS**

### **3. APPOINTMENT OF DIRECTORS**

- 3.1 Unless and until the Company at a General Meeting shall otherwise determine, there shall not be any limitation as to the number of Directors.
- 3.2 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 :
- 3.2.1 by Ordinary Resolution; or
- 3.2.2 by a decision of the Board PROVIDED THAT such decision is ratified by an Ordinary Resolution.
- 3.3 If and so long as there is a sole Director for any reason, he may exercise all the powers and authorities vested in the Board by these Articles.

#### **4. PROCEEDINGS OF DIRECTORS**

- 4.1 Notice of every meeting of the Board shall be given to each Director at any address supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any Director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such meeting that notice was not given to him.
- 4.2 Meetings of the Board may be held by conference telephone or similar equipment as long as the participants can all hear each other.
- 4.3 The quorum for the transaction of the business of the Board shall be two, unless there is only one Director in office in which case the quorum shall be one.
- 4.4 A person who holds office only as an alternate director shall, if his appointer is not present, be counted in the quorum.
- 4.5 If no quorum is present within fifteen minutes from the time appointed for the meeting and provided notice of adjournment is given to any Chairman of the Board in office the meeting shall be adjourned and re-convened for the same time and place not less than seven days later, when that Director or those Directors present shall constitute a quorum.
- 4.6 In the event of any resolution being put to the Board then, on the voting of any such resolution, including any written resolution, each Director shall have one vote.
- 4.7 The Chairman of the Board shall not have a casting vote.

#### **5. DIRECTORS' CONFLICTS OF INTERESTS**

- 5.1 Subject always to compliance with article 14 of the Model Articles, 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 of interest which has been authorised by the Board 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 voided on such grounds.

### **PART 3 - SHARES**

#### **6. SHARE CAPITAL AND DIRECTORS' AUTHORITY TO ALLOT**

- 6.1 For the avoidance of doubt, sections 549 - 577 (inclusive) of the Act shall apply to the issue and allotment of A Ordinary Shares and B Ordinary Shares by the Company.
- 6.2 In accordance with section 551 of the Act, the Board of the Company is generally and unconditionally authorised to allot up to 1,500,000 Preference Shares up to an aggregate nominal amount of £1,500,000 provided that this authority shall, unless renewed, varied or revoked by the Company, expire on the fifth anniversary of the date of adoption of these Articles save that the Company may, before such expiry, make an offer or agreement which would or might require Preference Shares in the Company to be allotted and the Board may allot Preference Shares in the Company in pursuance of such offer or agreement

notwithstanding that the authority conferred by this article has expired. In accordance with section 570 of the Act, the Board is generally empowered to allot Preference Shares under this article 6.2 as if section 561(1) of the Act did not apply to any such allotment. In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to in respect of the allotment of Preference Shares made by the Company.

## **7. CLASS RIGHTS**

7.1 Subject to this article 7, whenever the capital of the Company is divided into different classes of Shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, only with the consent in writing of the holders of 75% of the issued Shares of that class. At the date hereof, the capital of the Company is divided into the following classes: A Ordinary Shares, B Ordinary Shares and Preference Shares.

7.2 The rights attaching to the Shares are as follows:

### **7.2.1 As regards income**

- (a) Notwithstanding anything contained in Model Articles 30 to 35 (inclusive), in respect of any financial year, the Available Profits of the Company shall be used to pay dividends as set out in articles 7.2.1(b) – 7.2.1(g) and thereafter the Available Profits of the Company may be used to pay dividends as set out in article 7.2.1(h).
- (b) *For so long as any Preference Shares remain unredeemed, the Company shall, without need for a resolution of the Board or the Company, and before application of any Available Profits to reserves or for any other purpose, pay (in accordance with article 7.2.1(c)) in respect of each Preference Share a fixed, cumulative, preferential dividend ('Preferred Dividend') at an annual rate of 3% above the base rate from time to time of the Bank of England of the issue price per Preference Share to the person registered as its holder on the due date (such date determined in accordance with this article 7.2.1).*
- (c) Subject to article 7.2.1(d), the Preferred Dividend shall be paid from the date of the issue of the Preference Share until the date of redemption of the Preference Share, payable in cash annually, the first such payment to be made on 30 June 2018.
- (d) All unpaid arrears and accruals of the Preferred Dividend shall be paid on the date of a Sale or Listing (or immediately prior to, but conditional always upon, such Sale or Listing) or, if earlier, on the date of redemption of the Preference Shares in accordance with article 7.2.5.
- (e) Unless otherwise agreed by the holder of the Preference Shares, the Company shall not declare or pay any further dividend of any type unless and until all arrears and accruals of the Preferred Dividend have been paid.

- (f) Unless the Company has insufficient Available Profits, the Preferred Dividend shall, notwithstanding that such dividend is expressed to be cumulative, be paid immediately on the due date.
- (g) If, as a result of not having sufficient Available Profits, the Company is not lawfully permitted to pay the Preferred Dividend in full on the due date, it shall pay the Preferred Dividend to the extent it is lawfully able to do so. The unpaid amount shall:
  - (i) be a debt due from the Company; and
  - (ii) accrue interest daily (assuming a 365 day year) at the rate of 4% above the base lending rate of the Bank of England from time to time in respect of the period from the due date to the actual date of payment (both dates inclusive), compounded to the end of each calendar month and such interest shall, to the extent outstanding for the time being, be paid on the date of payment of the Preferred Dividend in respect of which the relevant interest accrues.
- (h) Once all the Preferred Dividends have been paid, any Available Profits remaining that the Company determines to distribute may be distributed among the holders of the Ordinary Shares on a pro rata and pari passu basis to their respective holding of Ordinary Shares.

#### 7.2.2 As regards capital

On a distribution of capital, whether on a liquidation, capital reduction or otherwise (other than a conversion or purchase of Shares), the surplus assets of the Company remaining after the payment of its liabilities shall (to the extent that the Company is lawfully able to do so), be paid in the following order of priority:

- (a) first, in paying to the holders of the Preference Shares in respect of each Preference Share held the amount paid up on that Preference Share, together with a sum equal to any arrears and accruals of the Preferred Dividend in respect of that Preference Share calculated down to (and including) the date of the return of capital and, if there is a shortfall of assets remaining to satisfy such payments in full, the proceeds shall be distributed to the holders of the Preference Shares pro rata to the aggregate amounts due under this article 7.2.2(a) to each such Preference Share held; and
- (b) second, in distributing the balance amongst the holders of the Ordinary Shares on a pro rata and pari passu basis to their respective holding of Ordinary Shares.

#### 7.2.3 As regards voting

- (a) The holders of the Ordinary Shares shall have the right to receive notice of and to attend and vote at any General Meeting or written resolution of the Company.

- (b) The holders of the Preference Shares shall not be entitled to receive notice of or attend or vote at any General Meeting or written resolution of the Company.

#### 7.2.4 As regards Sale

On a Sale, the Sale Proceeds shall be applied between the Shareholders as follows:

- (a) first, in paying to the holders of the Preference Shares in respect of each Preference Share held the amounts paid up on each Preference Share, together with a sum equal to any arrears and accruals of the Preferred Dividend in respect of that Preference Share calculated down to (and including) the date of Sale and, if there is a shortfall of assets remaining to satisfy such payments in full, the Sale Proceeds shall be distributed to the holders of the Preference Shares pro rata to the aggregate amounts due under this article 7.2.4(a) to each such Preference Share held; and
- (b) second, in paying to the holders of the Ordinary Shares any balance of the Sale Proceeds amongst all the holders of Ordinary Shares pro rata to the number of Ordinary Shares held by them respectively.

#### 7.2.5 Redemption of Preference Shares

- (a) Subject to the provisions of the Act, the Preference Shareholder shall at any time after the date of adoption of these Articles have the right to redeem all or any of the Preference Shares for the time being outstanding and fully paid up by giving written notice ("**Redemption Notice**") to the Company.
- (b) Any Redemption Notice shall specify the particular Preference Shares to be redeemed and the date fixed for redemption which must be no less than two months from the date upon which the Redemption Notice is given ("**Redemption Date**").
- (c) On the Redemption Date, the holders of the Preference Shares concerned shall be bound to deliver to the Company either the certificates for such of the Preference Shares concerned as are held by him in order that the same may be cancelled or an indemnity in a form reasonably satisfactory to the Board in respect of any lost certificates. Upon such delivery the Company shall pay to the holder (or, in the case of joint holders, to the holder whose name stands first in the register of members of the Company in respect of such Preference Shares) the amount due to such Preference Shareholder in respect of such redemption as set out in this article 7.2.5 against the delivery of a proper receipt for the redemption monies payable in respect thereof. If any certificate so delivered to the Company includes any Preference Shares not falling to be redeemed on the relevant Redemption Date a fresh certificate for such Preference Shares shall be issued by the Company to the holder(s) delivering such certificate to the Company as soon as practicable thereafter and in any event within 14 days thereafter.

- (d) There shall be paid on the redemption of each Preference Share an amount equal to the amount paid up on each such Preference Share together with all arrears and accruals of the Preferred Dividend payable thereon in accordance with article 7.2.1(b) (whether earned or declared or not) and interest pursuant to article 7.2.1(g) (ii) calculated up to and including the Redemption Date.
- (e) If on any Redemption Date the Company is prohibited from redeeming some or all of the Preference Shares the Company shall redeem the maximum amount of Preference Shares it is lawfully able to redeem and unless otherwise redeemed the balance shall be redeemed forthwith on the first day (whether in one or more instalments) as may then be consistent with the Act to redeem the Preference Shares.

## **8. TRANSFER OF SHARES**

- 8.1 Subject always to articles 9 and 10, the Board may in its absolute discretion and without assigning any reason therefor decline to transfer any Share whether or not it is a fully paid Share.
- 8.2 A reference in these Articles to a transfer of Shares shall include a transfer of any interest in Shares (whether legal, beneficial or otherwise) and these Articles shall take effect accordingly.

## **9. PERMITTED TRANSFERS OF SHARES**

- 9.1 Notwithstanding article 8, the Board shall register the transfer of any Ordinary Share or Preference Share:
  - 9.1.1 to any person or persons acting in the capacity of trustee or trustees of a Family Trust or a Brigham Trust or upon any change of trustees of a Family Trust or a Brigham Trust to the new trustee or trustees (so that any such transfer shall be registered pursuant to this article 9.1 only if such Share is to be held upon the terms of the Family Trust or the relevant Brigham Trust (as the case may be));
  - 9.1.2 by the trustee or trustees of a Family Trust or a Brigham Trust to any person beneficially interested under the Family Trust or the relevant Brigham Trust or to the settlor or to another Family Trust of which he is the settlor;
  - 9.1.3 to the Personal Representatives of a deceased Shareholder or to trustees to be held upon a Family Trust and by the Personal Representatives of a deceased Shareholder;
  - 9.1.4 to a Family Member of the Shareholder; and
  - 9.1.5 to a transferee of Ordinary Shares following completion of the pre-emption procedure in article 11 below.
- 9.2 In addition to the permitted transfers in article 9.1, the Board shall register the transfer of any Preference Share to an existing Shareholder.

9.3 In addition to the permitted transfers in article 9.1, the Board shall register the transfer of any Ordinary Share to an existing Shareholder who holds the same class of Shares as the transferring Shareholder.

9.4 For the avoidance of doubt, if the provisions of this article 9 apply, then the Shareholders shall not be required to follow the procedure set out in article 11, this article 9 shall prevail.

## **10. TRANSFER OF PREFERENCE SHARES**

10.1 Subject to the permitted transfer provisions contained in article 9, the Preference Shares shall be non-transferable, save with the prior consent of the majority of the holders of Ordinary Shares. Any purported transfer of Preference Shares otherwise than in accordance with the foregoing provisions of these Articles shall be void and have no effect.

## **11. TRANSFER PROCEDURE FOR ORDINARY SHARES**

### **11.1 Transfer notices**

Save as otherwise provided in these Articles every member who desires to transfer Ordinary Shares shall give to the Company notice in writing of such desire ("Transfer Notice"). On service of a Transfer Notice, this shall appoint the Company acting as the agent of the Shareholder who wishes to transfer the Ordinary Shares (the "Vendor") for the sale of the Ordinary Shares specified in the relevant Transfer Notice (the "Sale Shares") at the Sale Price.

### **11.2 Sale Price**

The price of the Ordinary Shares being transferred ("Sale Price") shall be:

11.2.1 the price agreed by the Vendor and the Board; or

11.2.2 Fair Market Value (determined in accordance with article 11.3).

### **11.3 "Fair Market Value" shall be:**

11.3.1 the price agreed by the Vendor and the Board; or

11.3.2 if the Vendor and the Board are unable to agree Fair Market Value within 28 days of a Transfer Notice being given, the price which the Accountants (or the Independent Expert if applicable pursuant to article 11.3.3) shall certify to be in their opinion a fair market value thereof (determined on the following bases and assumptions):

- (i) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer as at the date the Transfer Notice was served;
- (ii) that the Sale Shares are capable of being transferred without restriction;
- (iii) valuing the Sale Shares as a rateable proportion of the total value of all the issued Ordinary Shares without any premium or discount being attributable to the percentage of the issued Ordinary Share capital of the Company which they represent but taking into account the economic rights of each class of Shares on a return of capital (as set out in article 7.2.2); and

- (iv) reflecting any other factors which the Accountants reasonably believe should be taken into account.

11.4 If the Accountants are asked to certify Fair Market Value their certificate shall be delivered to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Vendor. The cost of obtaining the certificate shall be paid by the Company or, in the event that Fair Market Value is lower than that initially offered by the Board in any discussions pursuant to article 11.3.1, the Vendor. In the event that the Vendor and the Board do not agree the Accountant's determination of the Fair Market Value within 10 days of receipt then either the Vendor or the Board may ask an Independent Expert to determine Fair Market Value on the basis of article 11.3.2 above. The certificate and the decision of the Independent Expert as to the Fair Market Value shall be final and binding. The cost of obtaining the Independent Expert's certificate shall be paid by the Company or, in the event that Fair Market Value is lower than that initially certified by the Accountants, the Vendor.

11.5 **Pre-emptive offers-general**

Once the Sale Price has been agreed or determined then the Sale Shares shall be offered for sale as set out below. All offers made by the Company shall give details of the number, and Sale Price, of the Sale Shares.

11.6 **Right of Vendor to reject partial sales**

A Transfer Notice may contain a condition (a "Total Transfer Condition") that unless all the Sale Shares comprised therein are sold pursuant to this article 11, none shall be sold. Any such provision shall be binding on the Company.

11.7 **Transfer procedure – First Offer**

Upon Sale Shares becoming available, the Company shall offer such Ordinary Shares to those Shareholders (other than the Vendor) who hold the same class of Share as the Vendor, pro rata as nearly as may be to the respective numbers of Shares held by such Shareholders. Any offer made by the Company under this sub-article will invite the relevant Shareholders to state in writing the maximum number of the Sale Shares offered to them they wish to purchase and will remain open for twenty one days (the "First Offer Period").

11.8 **Transfer procedure – Second Offer**

If at the end of the First Offer Period there are any Sale Shares which have not been allocated the Company will offer such Shares to such Shareholders as have stated in writing under article 11.7 their willingness to purchase all (or more) of the Sale Shares previously offered to them. Such remaining Shares shall be offered pro rata as nearly as may be to the respective numbers of Ordinary Shares then held by such members. The Company shall also have the right (but not the obligation) to purchase all or part of the Sale Shares, subject to the provisions of the Act. Any further offer shall remain open for a further period of twenty-one days. ("Second Offer Period").

11.9 **Transfer procedure – Third Offer**

If at the end of the Second Offer Period there are any Sale Shares which have not been allocated the Company will offer such Shares to all other holders of Ordinary Shares (other



than those who have been offered under articles 11.7 and 11.8) pro rata as nearly as may be to the respective numbers of Ordinary Shares held by such members. Any offer made by the Company under this sub-article will invite the relevant members to state in writing the maximum number of the Sale Shares offered to them they wish to purchase and will remain open for twenty one days ("Third Offer Period").

- 11.10 If at the end of the Third Offer Period there are any Sale Shares which have not been allocated the Company will offer such Shares to such members who hold Ordinary Shares as have stated in writing their willingness to purchase all (or more) of the Sale Shares previously offered to them under article 11.9. Such remaining Shares shall be offered pro rata as nearly as may be to the respective numbers of Ordinary Shares then held by such Shareholders who have offered. The Company shall again also have the right (but not the obligation) to purchase all or part of the Sale Shares, subject to the provisions of the Act. Any further offer shall remain open for a further period of twenty-one days. Thereafter the Company shall continue to make offers on the same terms while any Shareholder continues to state in writing his willingness to purchase all Shares offered to him.

**11.11 Transfers free of pre-emption**

If the Company does not find purchasers for all of the Sale Shares under the terms of this article 11, then for the avoidance of doubt, the Vendor shall not be permitted to transfer those Sale Shares to a third party (not being a Shareholder) without the prior written consent of the Board and a majority of the holders of the Ordinary Shares and, if approved, any such transfer of the Sale Shares shall be at a price which is no less than the Sale Price and provided further that if the Sale Shares were the subject of a Total Transfer Condition such a sale may only be made of all the Sale Shares and not part only.

**11.12 Effect of non-compliance**

Any purported transfer of Sale Shares otherwise than in accordance with the foregoing provisions of these Articles shall be void and have no effect.

**PART 4 - DECISION-MAKING BY ORDINARY SHAREHOLDERS**

**12. PROCEEDINGS AT MEETINGS OF ORDINARY SHAREHOLDERS**

- 12.1 The quorum at any General Meeting or adjourned General Meeting shall be two voting Shareholders (of which one must be a holder of A Ordinary Shares and one must be a holder of B Ordinary Shares) or a duly authorised representative of such holders present in person or by proxy.
- 12.2 If and so long as the Company shall have one voting Shareholder only, that person alone present in person or by proxy or by a duly authorised representative shall be a quorum.
- 12.3 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.
- 12.4 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 time and place as the Board may

determine and if at the adjourned General Meeting a quorum is not present within half an hour from the time appointed therefor those present shall constitute a quorum.

#### **Votes**

- 12.5 On a show of hands every holder of Ordinary Shares who (being an individual) is present in person or (being a corporation) is present by a representative not being himself a Shareholder, shall have one vote, and on a poll every holder of Ordinary Shares who is present in person or by proxy or (being a corporation) is present by a representative or by proxy shall (except as hereinafter provided) have one vote for every Ordinary Share in the capital of the Company of which he is the holder.
- 12.6 A poll may be demanded at any General Meeting by a qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 12.7 Article 44(3) of the Model Articles 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 article.

#### **PART 5 – ADMINISTRATIVE ARRANGEMENTS**

##### **13. BORROWING POWERS**

The Board may exercise all the powers of the Company to borrow money and to mortgage or charge all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company and, subject to the Act, to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

##### **14. INDEMNITY & INSURANCE**

- 14.1 Subject to article 14.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled :

14.1.1 each relevant officer shall be indemnified out of the Company's assets against 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, including any liability incurred by him in defending any civil or criminal proceedings in connection with the business or affairs of the Company (UNLESS there is a finding of fraud; material dishonesty; material breach of trust; or material breach of duty, on the part of the officer by the court, tribunal or governing/regulatory body (as the case may be) in which case the indemnity herein shall not apply) 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 (or any associated company's) affairs; and

14.1.2 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 14.1.2 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

- 14.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.
- 14.3 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.
- 14.4 In this article:
- 14.4.1 a "relevant officer" means any director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor);
  - 14.4.2 a "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, any associated company or any pension fund or employees' share scheme of the Company or associated company; and
  - 14.4.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.