

PRIVATE COMPANY LIMITED BY SHARES

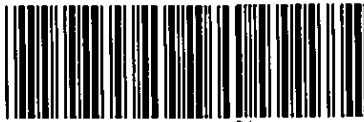
WRITTEN RESOLUTIONS

of

SUNFISH ENERGY LIMITED

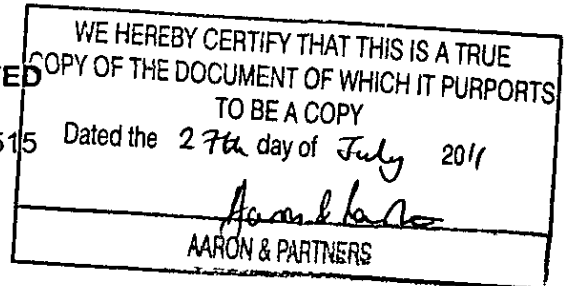
Company Number 07151515

("the Company")



A23 \*AP1YMW80\* 368  
29/07/2011  
COMPANIES HOUSE

FRIDAY



DATED 11 November 2010

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the resolutions set out below are passed as an ordinary resolution (in the case of resolution 1) and special resolutions (in the case of resolutions 2 and 3) ("the Resolutions")

ORDINARY RESOLUTIONS

- 1 **THAT**, in substitution for all existing and unexercised authorities and powers, the directors of the Company be and they are hereby generally and unconditionally authorised for the purpose of section 551 of the Act to exercise all or any of the powers of the Company to allot shares in the Company up to an aggregate nominal value of £360 consisting of 360 ordinary shares of £1 each, provided that this authority shall, unless previously renewed, varied or revoked by the Company in general meeting, expire on the date which is 12 months after the date of this resolution save that the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted and the Directors may allot shares in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired 20

SPECIAL RESOLUTIONS

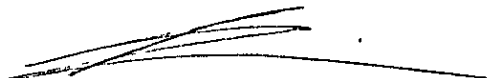
- 2 **THAT**, in accordance with section 570 of the Act, the directors of the Company be and they are hereby empowered to allot equity securities (as defined in section 560 of the Act) pursuant to the authority conferred upon them by resolution 1 above as if section 561(1) of the Act and/or the pre-emption rights contained in the articles of association of the Company (as at the date of this resolution or as amended, varied or superseded) did not apply 21
- 3 **THAT** the articles of association attached to these resolutions and initialled by a director of the Company by way of identification be adopted as the articles of association of the Company in substitution for and to the exclusion of the existing articles of association AN

## AGREEMENT

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

The undersigned, being persons entitled to vote on the Resolutions on 11/11 2010, hereby irrevocably agree to the Resolutions

Signed by **LUKE ROBINSON**



Date

11 November 2010

## NOTES

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

- **By Hand** delivering the signed copy to Sunfish Energy Limited, Flat 2, Mottrom House, 3-5 Whitfield Street, London, W1T 2SA
- **Post** returning the signed copy by post to Sunfish Energy Limited, Flat 2, Mottrom House, 3-5 Whitfield Street, London, W1T 2SA

If you do not agree to all the Resolutions, you do not need to do anything. You will not be deemed to agree if you fail to reply

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

3 Unless, by 9 December 2010, sufficient agreement has been received for the Resolutions to pass, they will lapse. If you agree to the Resolutions, please ensure that your agreement reaches us before or during this date

4 In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members

5 If you are signing this document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**

**SUNFISH ENERGY LIMITED**  
Company No 07151515

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**ARTICLES OF ASSOCIATION**

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Adopted by Special Resolution of the Company dated 11 November 2010



**AARON & PARTNERS** LLP

**SOLICITORS**

[www.aaronandpartners.com](http://www.aaronandpartners.com)

Ref SSG

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

SUNFISH ENERGY LIMITED

Company No 07151515

ARTICLES OF ASSOCIATION

INTRODUCTION

1. Interpretation

1.1 In these Articles, unless expressly provided otherwise, the following words have the following meanings

"Act"	the Companies Act 2006,
"acting in concert"	has the meaning given to it in the City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended),
"Adoption Date"	the date of adoption of these Articles,
"Available Profits"	profits available for distribution within the meaning of part 23 of the Act,
"Business Day"	any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business,
"Call"	has the meaning given to it in <i>Article 21 8</i> ,
"Call Notice"	has the meaning given to it in <i>Article 21 8</i> ,
"Companies Acts"	has the meaning given to it in the Act,
"connected"	has the meaning given in section 252 of the Act,
"Controlling Interest"	an interest in Shares conferring on the holder or holders control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010,
"Directors"	the directors of the Company from time to time,
"Disposal"	the disposal by the Company of all, or a substantial part of, its business and assets,
"Eligible Director"	means a Director who would be entitled to vote on the matter at a meeting of Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter),
"Employee Trust"	a trust established by the Company whose beneficiaries are the bona fide employees of the Company,
"Fair Value"	has the meaning given in <i>Article 17 2</i> ,
"Financial Year"	an accounting reference period (as defined in section 391 of the Act) of the Company,
"First Offer Shareholders"	in respect of an offer of Ordinary Shares, the holders of Ordinary Shares,
"Independent Expert"	the auditors or principal accountants for the time being of the Company or, if they decline the instruction or are not permitted to act under any professional conduct rules or guidance, an independent firm of accountants appointed by the Company and the Seller or, in the absence of agreement between the Company and the

- Seller on the identity of the expert or its terms of appointment, an independent firm of accountants appointed, and whose terms of appointment are agreed, by the President, for the time being, of the Institute of Chartered Accountants of England and Wales (in each case acting as an expert and not as an arbitrator),
- “Lien Enforcement Notice” means a notice in writing which complies with the requirements of *article 21 4*,
- “Member of the Same Group” as regards any company, a company which is from time to time a holding company or a subsidiary of that company or a subsidiary of any such holding company,
- “Model Articles” the model articles for private companies limited by shares contained in Schedule 1 to The Companies (Model Articles) Regulations 2008 as amended prior to the Adoption Date,
- “Ordinary Shares” the ordinary shares of £1 00 each in the capital of the Company,
- “Sale Shares” has the meaning given in *Article 16 2 1*,
- “Seller” has the meaning given in *Article 16 2*,
- “Shareholder” a holder for the time being of any Share or Shares,
- “Shares” shares (of any class) in the capital of the Company and “Share” shall be construed accordingly,
- “Share Sale” the sale of (or the grant of a right to acquire or to dispose of) any Shares (in one transaction or as a series of transactions) which would, if completed, result in the buyer of those Shares (or grantee of that right) and persons acting in concert with him together acquiring a Controlling Interest, except where the Shareholders and the proportion of Shares held by each of them following completion of the sale are the same as the Shareholders and their shareholdings in the Company immediately before the sale,
- “Transfer Notice” has the meaning given in *Article 16 2*, and
- “Transfer Price” has the meaning given in *Article 17*
- 1 2 A reference in these Articles to
- 1 2 1 an Article is a reference to the relevant numbered article of these Articles, and
- 1 2 2 a model article is a reference to the relevant article, unless expressly provided otherwise
- 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 them not in force on the Adoption Date)
- 1 4 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles
- 1 5 In these Articles, words denoting the singular include the plural and vice versa and reference to one gender includes the other gender and neuter and vice versa
- 1 6 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of
- 1 6 1 any subordinate legislation from time to time made under it, and
- 1 6 2 any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts

## **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 7, 8, 9(1), 11(2) and (3), 12, 14(1) to (4) (inclusive), 21, 22, 26(5), 38, 39, 50 and 51 to 53 (inclusive) shall not apply to the Company
- 2 3 Model article 20 shall be amended by the insertion of the words "and the 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 article 29 shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2)," after the words "the transmittee's name"

## **DIRECTORS**

### **3. Number of directors**

- 3 1 Unless otherwise determined by ordinary resolution, the number of Directors shall not exceed five but shall not be less than two

### **4. Proceedings of directors**

- 4 1 Any decision of the Directors must be taken at a meeting of Directors in accordance with these Articles or must be a decision taken in accordance with *Article 4 2* (subject to *Article 4 3* and *Article 4 4*) All decisions made at any meeting of the Directors (or any committee of the Directors) shall be made only by resolution and resolutions at any meeting of the Directors (or committee of the Directors) shall be decided by a majority of votes
- 4 2 A unanimous decision of the Directors is taken when all Eligible Directors indicate to each other by any means that they share a common view on a matter
- 4 3 A decision taken in accordance with *Article 4 2* may take the form of a resolution in writing, where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement in writing
- 4 4 A decision may not be taken in accordance with *Article 4 2* if the Eligible Directors would not have formed a quorum at a Directors' meeting to vote on the matter in accordance with *Article 4 6* and *Article 4 7*
- 4 5 Meetings of the Directors shall take place at least 4 (four) times in each year, with a period of not more than 18 (eighteen) weeks between any two meetings Any Director may call a meeting of the Directors, or authorise the company secretary (if any) to give such notice At least 5 Business Days' advance notice of each such meeting shall be given to each Director
- 4 6 The quorum for any meeting (or, where specified below, part of a meeting) of the Directors shall be two Eligible Directors If the necessary quorum is not present within 30 minutes from the time appointed for the meeting, or if, during a meeting, such quorum ceases to be present, the meeting shall stand adjourned to such time and place as the

Chairman determines. If a quorum is not present at any such adjourned meeting within 30 minutes from the time appointed, then the meeting shall proceed

- 4 7 For the purposes of any meeting (or part of a meeting) held pursuant to *Article 7* to authorise a Conflict (as defined in *Article 7 1*), if there is only one Eligible Director in office other than the conflicted Director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director
- 4 8 If the number of Directors in office for the time being is less than two, the Director in office must not take any decision other than a decision to
  - 4 8 1 appoint further Directors, or
  - 4 8 2 call a general meeting so as to enable the Shareholders to appoint further Directors
- 4 9 Questions arising at any meeting of the Directors shall be decided by a majority of votes. If there is an equality of votes, the Chairman (or other chairman of the meeting) shall not have a second or casting vote
- 4 10 Where decisions of the Directors are taken by electronic means, such decisions shall be recorded by the Directors in permanent form, so that they may be read with the naked eye
- 4 11 The Directors may make any rule which they think fit about how they take decisions and about how such rules are to be recorded or communicated to Directors

## **5. Appointment and removal of directors**

- 5 1 Model article 17(1) shall be modified by the inclusion, at the end of that model article, of the words "provided that the appointment does not cause the number of Directors to exceed the maximum number set out in article 3 1 of these Articles"
- 5 2 Model article 18 shall be modified by the addition of the following events upon the occurrence of which a person shall cease to be a Director
  - 5 2 1 he is convicted of a criminal offence (other than a minor motoring offence) and a majority of the other Directors resolve that he cease to be a Director, and
  - 5 2 2 in the case of an executive Director only, he shall cease to be employed by the Company

## **6. Transactions or other arrangements with the Company**

- 6 1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Companies Acts, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company
  - 6 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,
  - 6 1 2 shall be an Eligible Director for the purposes of any proposed decision of the Directors (or committee of the Directors) in respect of such existing or proposed transaction or arrangement in which he is interested,
  - 6 1 3 shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested,
  - 6 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,
  - 6 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, any body corporate in which the Company is otherwise (directly or indirectly) interested, and
  - 6 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) 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 Act

## **7. Directors' conflicts**

- 7 1 The Directors may, in accordance with the requirements set out in this *Article 7*, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director (an "**Interested Director**") breaching his duty under section 175 of the Act to avoid conflicts of interest ("**Conflict**")
- 7 2 Any authorisation under this *Article 7* will be effective only if
- 7 2 1 to the extent permitted by the Act, 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 reasonably determine,
- 7 2 2 any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director, and
- 7 2 3 the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted
- 7 3 Any authorisation of a Conflict under this *Article 7* may (whether at the time of giving the authorisation or subsequently)
- 7 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,
- 7 3 2 provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the Directors or otherwise) related to the Conflict,
- 7 3 3 provide that the Interested Director shall or shall not be an Eligible Director in respect of any future decision of the Directors in relation to any resolution related to the Conflict,
- 7 3 4 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the Directors think fit,
- 7 3 5 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
- 7 3 6 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
- 7 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
- 7 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
- 7 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 in accordance with these Articles or by the Company in general meeting (subject in each case to any terms and conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds



- 7 7 The Shareholders hereby authorise any Conflict which arises solely by virtue of the relevant Interested Director being
- 7 7 1 an employee of
- 7 7 1 1 the Company,
- 7 7 1 2 any company which is a subsidiary of the Company from time to time, or
- 7 7 1 3 any company of which the Company is a subsidiary from time to time (its holding company) or any other subsidiaries of any such holding company from time to time,
- and as a result, being a potential beneficiary under any Employee Trust, and/or
- 7 7 2 a director of any subsidiary of the Company which is acting as the trustee of any Employee Trust,
- and the provisions of *Article 8 3* shall apply as if he had received an authorisation with no conditions attaching to it

## **8. Secretary**

- 8 1 The Directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the Directors so decide, appoint a replacement, in each case by a decision of the Directors

## **SHARES AND DISTRIBUTIONS**

## **9. Dividends**

- 9 1 The Available Profits of the Company which the Company may determine to distribute in respect of any Financial Year will be distributed among the holders of the Ordinary Shares pro rata to their respective holdings of Ordinary Shares
- 9 2 Subject to the Companies Acts, the Directors may pay interim dividends provided that the Available Profits of the Company justify the payment
- 9 3 Each dividend shall be distributed to the appropriate Shareholders pro rata according to the number of Ordinary Shares held by them respectively and shall accrue daily (assuming a 365 day year) as well after as before the commencement of a winding up  
All dividends are expressed net and shall be paid in cash

## **10. Liquidation**

On a return of assets on liquidation, capital reduction or otherwise (other than a redemption or purchase of Shares), the assets of the Company remaining after the payment of its liabilities shall be applied (to the extent that the Company is lawfully able to do so) among the holders of the Ordinary Shares pro rata to the number of Ordinary Shares held

## **11. Exit provisions**

- 11 1 The proceeds of a Share Sale shall be distributed as set out in *Article 10*
- 11 2 On a Disposal, the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) as set out in *Article 10*, provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, each Shareholder shall (to the extent lawful and within its control) take any reasonable action required by the Directors (including, but without prejudice to the generality of this *Article 11 2*, such action as may be necessary to put the Company into voluntary liquidation so that *Article 10* applies)

## **12. Variation of class rights**

- 12 1 Whenever the share capital of the Company is divided into different classes of Shares, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding up) with the consent in writing of the holders of at least 75% in nominal value of the issued Shares of that class
- 12 2 The creation of a new class of Shares which has preferential rights to one or more existing classes of Shares shall not constitute a variation of the rights of those existing classes of Shares

## **13. Pre-emption rights on the issue of shares**

- 13 1 Pursuant to and in accordance with any authority given by ordinary resolution of the members and Section 551 of the Act, the directors may exercise generally and unconditionally the power of the Company to allot shares or any right to subscribe for or convert any securities into any shares ("Relevant Securities") and to offer or agree to allot such securities (notwithstanding that such offer or agreement would or might require such securities to be allotted by the Company after the said date)
- 13 2 Save as provided by Article 15 or as permitted by Section 551 of the Act, no Relevant Securities shall be allotted or offered or agreed to be allotted except by authority of the members in accordance with the said Section 551
- 13 3 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company

## **14 Transfers of shares: general**

- 14 1 In these Articles, reference to the transfer of a Share includes the transfer, assignment or other disposal of a beneficial or other interest in that Share, or the creation of a trust or encumbrance over that Share, and reference to a Share includes a beneficial or other interest in a Share
- 14 2 No Share shall be transferred, and the Directors shall refuse to register a transfer of any Share, unless it is made in accordance with these Articles. The Directors shall register any duly stamped transfer made in accordance with these Articles, unless they suspect that the proposed transfer may be fraudulent
- 14 3 If a Shareholder transfers (or purports to transfer) a Share other than in accordance with these Articles, he shall be deemed to have immediately served a Transfer Notice in respect of all Shares held by him

## **15 Permitted transfers of shares**

A transfer of any Shares approved by the Directors or the holders of at least 75% in number of the Ordinary Shares may be made without any price or other restriction and any such transfer shall be registered by the Directors

## **16. Pre-emption rights on the transfer of shares**

- 16 1 Except where the provisions of *Article 15* apply, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights in this *Article 16*
- 16 2 A Shareholder who wishes to transfer Shares (a "**Seller**") shall, before transferring or agreeing to transfer any Shares, give notice in writing (a "**Transfer Notice**") to the Company specifying
- 16 2 1 the number of Shares he wishes to transfer ("**Sale Shares**"),
- 16 2 2 the name of the proposed transferee, if any,

- 16 2 3 the price per Sale Share (in cash), if any, at which he wishes to transfer the Sale Shares (the "**Proposed Sale Price**"), and
- 16 2 4 whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold (a "**Minimum Transfer Condition**")
- 16 3 Once given, a Transfer Notice is irrevocable
- 16 4 A Transfer Notice constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price
- 16 5 As soon as practicable following the later of
  - 16 5 1 receipt of a Transfer Notice, and
  - 16 5 2 the determination of the Transfer Price,
 the Directors shall (unless the Transfer Notice is withdrawn in accordance with Article 16 3) offer the Sale Shares for sale in the manner set out in the remaining provisions of this Article 16 at the Transfer Price. Each offer shall be in writing and give details of the number and Transfer Price of the Sale Shares offered
- 16 6 The Company shall offer the Sale Shares in the following order of priority
  - 16 6 1 first, to any Employee Trust that the Directors may nominate for the purpose or to a person or persons agreed between the Directors conditionally on that person commencing their employment and/or office with the Company, and
  - 16 6 2 second, to the holders of Ordinary Shares,
 in each case on the basis set out in Article 16 8 to Article 16 16 (inclusive)
- 16 7 An offer of Sale Shares made in accordance with Article 16 6 1 shall remain open for acceptance for a period from the date of the offer to the date 15 Business Days after the offer (both dates inclusive). Any Sale Shares not allocated within that period shall be dealt with in accordance with Article 16 8 and Article 16 9
- 16 8 Subject to Article 16 7, the Directors shall offer the Sale Shares in the order of priority referred to in Article 16 6 (as appropriate) to the holders of Ordinary Shares (other than the Seller), inviting them to apply in writing within the period from the date of the offer to the date 15 Business Days after the offer (both dates inclusive) (the "**First Offer Period**") for the maximum number of Sale Shares they wish to buy
- 16 9 If
  - 16 9 1 at the end of the First Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Directors shall allocate the Sale Shares to each holder of Ordinary Shares who has applied for Sale Shares in the proportion which his existing holding of Shares bears to the total number of Ordinary Shares held by all holders of Ordinary Shares (other than the Seller). 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 Directors). No allocation shall be made to a Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy,
  - 16 9 2 not all Sale Shares are allocated following allocations in accordance with Article 16 9 1, but there are applications for Sale Shares that have not been satisfied, the Directors shall allocate the remaining Sale Shares to such applicants in accordance with the procedure set out in Article 16 9 1. The procedure set out in this Article 16 9 2 shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied, and
  - 16 9 3 at the end of the First Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Directors shall allocate the Sale Shares to the holders of Ordinary Shares in accordance with their applications. The balance (the "**Initial Surplus Shares**") shall be dealt with in accordance with Article 16 10

16 10 At the end of the First Offer Period, the Directors shall offer the Initial Surplus Shares (if any) to the holders of Ordinary Shares (other than the Seller), inviting them to apply in writing within the period from the date of the offer to the date 15 Business Days after the offer (both dates inclusive) (the "**Second Offer Period**") for the maximum number of Initial Surplus Shares they wish to buy

16 11 If

16 11 1 at the end of the Second Offer Period, the number of Initial Surplus Shares applied for is equal to or exceeds the number of Initial Surplus Shares, the Directors shall allocate the Initial Surplus Shares to each Second Offer Shareholder who has applied for Initial Surplus Shares in the proportion which his existing holding of Ordinary Shares bears to the total number of Ordinary Shares held by all the holders of Ordinary Shares (other than the Seller) Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Initial Surplus Shares being allocated, in which case, the allocation of any such fractional entitlements shall be determined by the Directors) No allocation shall be made to a Shareholder of more than the maximum number of Initial Surplus Shares which he has stated he is willing to buy,

16 11 2 not all Initial Surplus Shares are allocated following allocations in accordance with *Article 16 11 1*, but there are applications for Initial Surplus Shares that have not been satisfied, the Directors shall allocate the remaining Initial Surplus Shares to such applicants in accordance with the procedure set out in *Article 16 11 1* The procedure set out in this *Article 16 11 2* shall apply on any number of consecutive occasions until either all Initial Surplus Shares have been allocated or all applications for Initial Surplus Shares have been satisfied, and

16 11 3 at the end of the Second Offer Period, the total number of Initial Surplus Shares applied for is less than the number of Initial Surplus Shares, the Directors shall allocate the Initial Surplus Shares to the the holders of Ordinary Shares in accordance with their applications The balance (the "**Second Surplus Shares**") shall, subject to *Article 16 12*, be offered to any other person in accordance with *Article 16 16*

16 12 Where the Transfer Notice contains a Minimum Transfer Condition

16 12 1 any allocation made under *Article 16 7* to *Article 16 11* (inclusive) shall be conditional on the fulfilment of the Minimum Transfer Condition, and

16 12 2 if the total number of Sale Shares applied for under *Article 16 7* to *Article 16 11* (inclusive) is less than the number of Sale Shares, the Board shall notify the Seller and all those Shareholders to whom Sale Shares have been conditionally allocated stating that the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect

16 13 Where either

16 13 1 the Transfer Notice does not contain a Minimum Transfer Condition, or

16 13 2 allocations have been made in respect of all the Sale Shares,  
the Directors shall, when no further offers or allocations are required to be made under *Article 16 7* to *Article 16 11* (inclusive), give notice in writing of the allocations of Sale Shares (an "**Allocation Notice**") to the Seller and each Shareholder to whom Sale Shares have been allocated (each an "**Applicant**") The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant and the place and time for completion of the transfer of the Sale Shares (which shall be at least 5 Business Days, but not more than 15 Business Days, after the date of the Allocation Notice)

16 14 On the date specified for completion in the Allocation Notice, the Seller shall, against payment from an Applicant, transfer the Sale Shares allocated to such Applicant, in accordance with any requirements specified in the Allocation Notice

16 15 If the Seller fails to comply with *Article 16 5*

16 15 1 the Chairman (or, failing him, any other Director or some other person nominated by a resolution of the Directors) may, as agent and attorney on behalf of the Seller)

- 16 15 1 1 complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants,
  - 16 15 1 2 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
  - 16 15 1 3 (subject to the transfer being duly stamped) enter the Applicants in the register of Shareholders as the holders of the Shares purchased by them, and
  - 16 15 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 Shares (or an indemnity, in a form reasonably satisfactory to the Directors, in respect of any lost certificate, together with such other evidence (if any) as the Board may reasonably require to prove good title to those Shares) to the Company
- 16 16 Where a Transfer Notice lapses pursuant to *Article 16 12 2* or an Allocation Notice does not relate to all the Sale Shares, then, subject to *Article 16 7*, the Seller may, at any time during the 15 Business Days following the date of lapse of the Transfer Notice, or the date of service of the Allocation Notice as the case may be, transfer the Sale Shares (in the case of a lapsed offer) or the Second Surplus Shares (as the case may be) to any person at a price at least equal to the Transfer Price (save that the personal representatives of a deceased Seller may transfer Sale Shares to a beneficiary of the Seller's will or intestacy for no consideration) The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this *Article 16 16* shall continue to be subject to any Minimum Transfer Condition
- 16 17 The Seller's right to transfer Shares under *Article 16 16* does not apply if the Directors reasonably consider that
- 16 17 1 the transferee is a person (or a nominee for a person) which the Directors determine to be a competitor (or a Member of the Same Group as a competitor) of the business of the Company,
  - 16 17 2 the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee, or
  - 16 17 3 the Seller has failed or refused to promptly provide information available to him and reasonably requested to enable it to form the opinion referred to in *Article 16 17 2*

## 17. Valuation

- 17 1 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 Directors (any Director with whom the Seller is connected not voting), and the Seller or, in default of agreement within 15 Business Days of the date of service of the Transfer Notice, the Fair Value of each Sale Share
- 17 2 The Fair Value shall be the price per Sale Share determined by the Independent Expert on the following bases and assumptions
- 17 2 1 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 (or deemed served),
  - 17 2 2 if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so,
  - 17 2 3 that the Sale Shares are capable of being transferred without restriction,
  - 17 2 4 valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent, and
  - 17 2 5 reflecting any other factors which the Independent Expert reasonably believes should be taken into account
- 17 3 If any difficulty arises in applying any of these assumptions or bases then the Independent Expert shall resolve that difficulty in whatever manner it shall in its absolute discretion think fit

- 17 4 The Directors will give the Independent Expert access to all accounting records or other relevant documents of the Company, subject to it agreeing such confidentiality provisions as the Directors may reasonably impose
- 17 5 The parties are entitled to make submissions to the Independent Expert including oral submissions and shall provide (or procure that others provide) the Independent Expert with such assistance and documents as the Independent Expert may reasonably require for the purpose of reaching a decision
- 17 6 The Independent Expert shall act as expert and not as arbitrator and its determination shall be final and binding on the parties (in the absence of fraud or manifest error)
- 17 7 The Independent Expert shall be requested to determine the Fair Value within 20 Business Days of its appointment and to deliver its certificate to the Company. Forthwith upon receipt, the Company shall deliver a copy of the certificate to the Seller
- 17 8 The cost of obtaining the Independent Expert's certificate shall be borne by the parties in such other proportions as the Independent Expert directs unless
- 17 8 1 the Seller withdraws the relevant Transfer Notice in accordance with Article 16 3, or
- 17 8 2 in respect of a Deemed Transfer Notice, the Fair Value is less than the price per Sale Share offered to the Seller by the Directors before the appointment of the Independent Expert,
- in which case the Seller shall bear the cost

**18. Drag and tag along**

- 18 1 If the holder(s) for the time being of at least 80% in nominal value of the equity shares in issue ("the Majority Shareholders") wish to transfer their shares in the Company pursuant to any bona fide offer on arm's length terms (the "Offer") to any party or parties (the "Purchaser"), then the Majority Shareholders shall also have the option to require all of the other holders of shares, and any persons who become holders of shares upon exercise of any options, warrants or other rights to subscribe for shares which exist at the date of the Offer, to transfer all their shares in the Company to the Purchaser, or as the Purchaser directs, by giving a notice (the "Drag Along Notice") to that effect to all such other holders (the "Called Shareholders")
- 18 2 A separate Drag Along Notice shall be given in respect of each class of issued shares in the Company specifying that the Called Shareholders are, or will be, required to transfer their shares of a specified class pursuant to Article 18 1 free from all liens, charges and encumbrances at the price per share equal to the price per share at which the Majority Shareholders are proposing to transfer shares of the same class as that specified in the Drag Along Notice
- 18 3 If the Called Shareholders (or any of them) shall make default in transferring their shares pursuant to Article 18 1, the following provisions shall apply
- 18 3 1 each of the Directors severally shall be deemed to have been appointed attorney of each Called Shareholder in default with full power to execute, complete and deliver, in the name and on behalf of that Called Shareholder, transfers of their shares to the Purchaser against payment of the price to the Company,
- 18 3 2 on payment of the price to the Company the Purchaser shall be deemed to have obtained a good receipt for such payment and on execution and delivery of the relevant transfer(s) the Purchaser shall, from the date of such payment, be entitled to insist upon his name being entered in the Register of Members as the holder by transfer of the relevant Called Shareholder's shares so transferred to him,
- 18 3 3 the Company shall forthwith pay the price into a separate bank account in the Company's name and shall hold such price in trust for the relevant Called Shareholder

- 18.4 If the effect of any transfer of shares by holder(s) of shares in the Company (the "Proposed Transferors") would, if completed, result in the transferee together with persons acting in concert or connected with that transferee obtaining 80% or more in nominal value of the issued equity shares, the Proposed Transferor shall procure the making, by the proposed transferee of the Proposed Transferor's Shares, of a Tag Along Offer (as defined below) to all of the other holders of shares of the Company. Every holder or recipient of such offer, on receipt of a Tag Along Offer, shall be bound within 30 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 Tag Along Offer has been made and completed the Directors shall not sanction the making and registration of the relevant transfer or transfers. A separate Tag Along Offer shall be made in respect of each class of shares.
- 18.5 For the purposes of Article 18.4, "Tag Along Offer" means an unconditional offer, open for acceptance for not less than 30 days, to purchase shares of a specified class held by the recipients of a Tag Along Offer at a price per share equal to the highest price per share (exclusive of stamp duty, stamp duty reserve tax and commission) paid or to be paid by any transferee referred to in Article 18.4 (or any person with whom such transferee is connected with or with whom such transferee is acting in concert) for shares of the same class as that specified in the Tag Along Offer (inclusive of the shares (if applicable) giving rise to the obligation to make the Tag Along Offer) within the period of six months prior to and on the proposed date of completion of such transfer of shares.
- 18.6 In the event of disagreement, the calculation of the relevant Drag Along Notice or Tag Along Offer price required pursuant to Articles 18.1 or 18.4 shall be referred to the Independent Expert whose decision shall be final and binding upon the parties (save in the case of manifest error).

## DECISION-MAKING BY SHAREHOLDERS

### 19. General meetings

- 19.1 No business other than, subject to Article 19.2, the appointment of the chairman of the meeting is to be transacted at a general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.
- 19.2 The Chairman shall chair general meetings. If there is no Chairman in office for the time being, or the Chairman is unable to attend any general meeting, the Directors present (or, if no Directors are present, the meeting) must appoint another Director present at the meeting (or, if no Directors are present, a Shareholder) to chair the meeting and the appointment of the chairman of the meeting must be the first business of the meeting.

### 20. Voting

- 20.1 Subject to any other provisions in these Articles concerning voting rights each Ordinary Share shall carry the right to receive notice of and to attend, speak and vote at all general meetings of the Company.
- 20.2 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 20.3 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.
- 20.4 Model article 45(1) shall be amended by  
 20.4.1 the deletion of model article 45(1)(d) and its replacement with the words "is delivered to the company in accordance with the Articles not less than 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 the general meeting (or adjourned meeting) to which they relate", and

20 4 2 the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid unless the Directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that model article

20 5 If there is an equality of votes, the Chairman (or other chairman of the meeting) shall not have a second or casting vote

## **21 Lien, calls on shares and forfeiture**

21 1 The Company has a lien (the Company's Lien) over every Share which is registered in the name of a person indebted or under any liability to the Company, whether he is the sole registered holder of the Share 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

21 2 The provisions of articles 52(2) and (3), 55, 56(2), 57(2), (3) and (4), 59, 60, 61 and 62 for public companies set out in Schedule 3 to The Companies (Model Articles) Regulations 2008 (SI 2008/3229) shall apply to the Company, save that each reference in those articles to a "member" or "members" shall be deemed to be references to a "Shareholder" or "Shareholders" (as the case may be)

21 3 Subject to the provisions of this *Article 21 3*, if

21 3 1 a Lien Enforcement Notice has been given in respect of a Share, and

21 3 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 4 A Lien Enforcement Notice

21 4 1 may only be given in respect of a Share which is subject to the Company's Lien, in respect of which a sum is payable and the due date for payment of that sum has passed,

21 4 2 must specify the Share concerned,

21 4 3 must require payment of the sum within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires),

21 4 4 must be addressed either to the holder of the Share or to a transmittee of that holder, and

21 4 5 must state the Company's intention to sell the Share if the notice is not complied with

21 5 Where Shares are sold under this *Article 21 5*

21 5 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 5 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 6 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 6 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 6 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 7 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 7 1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share, and
- 21 7 2 subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the Share
- 21 8 Subject to the Articles and the terms on which Shares are allotted, the Directors may send a notice (a "**Call Notice**") to a Shareholder requiring the Shareholder to pay the Company a specified sum of money (a "**Call**") which is payable to the Company at the date when the Directors decide to send the Call Notice
- 21 9 A Call Notice
- 21 9 1 may not require a Shareholder to pay a Call which exceeds the total amount of his indebtedness or liability to the Company,
- 21 9 2 must state when and how any Call to which it relates is to be paid, and
- 21 9 3 may permit or require the Call to be made in instalments
- 21 10 A Shareholder must comply with the requirements of a Call Notice, but no Shareholder is obliged to pay any Call before 14 clear days (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) have passed since the notice was sent
- 21 11 Before the Company has received any Call due under a Call Notice the Directors may
- 21 11 1 revoke it wholly or in part, or
- 21 11 2 specify a later time for payment than is specified in the notice,
- 21 11 3 by a further notice in writing to the Shareholder in respect of whose Shares the Call is made
- 21 12 A Call Notice need not be issued in respect of sums which are specified, in the terms on which a Share is issued, as being payable to the Company in respect of that Share
- 21 12 1 on allotment,
- 21 12 2 on the occurrence of a particular event, or
- 21 12 3 on a date fixed by or in accordance with the terms of issue
- 21 13 If a person is liable to pay a Call and fails to do so by the Call payment date
- 21 13 1 the Directors may issue a notice of intended forfeiture to that person, and
- 21 13 2 until the Call is paid, that person must pay the company interest on the Call from the Call payment date at the relevant rate
- 21 14 A notice of intended forfeiture
- 21 14 1 may be sent in respect of any Share in respect of which a Call has not been paid as required by a Call Notice,
- 21 14 2 must be sent to the holder of that Share (or all the joint holders of that Share) or to a transmittee of that holder,
- 21 14 3 must require payment of the Call and any accrued interest and all expenses that may have been incurred by the Company by reason of such non-payment by a date which is not less than 14 clear days after the date of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires),
- 21 14 4 must state how the payment is to be made, and
- 21 14 5 must state that if the notice is not complied with, the Shares in respect of which the Call is payable will be liable to be forfeited

## ADMINISTRATIVE ARRANGEMENTS

### 22. Notices

- 22 1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient
- 22 1 1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five Business Days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider),
- 22 1 2 if properly addressed and delivered by hand, when it was given or left at the appropriate address,
- 22 1 3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied, and
- 22 1 4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website
- For the purposes of this *Article* 22, no account shall be taken of any part of a day that is not a working day
- 22 2 In proving that any notice, document or other information was properly addressed, it shall suffice to show that the notice, document or other information was addressed to an address permitted for the purpose by the Act

### 23. Indemnity and insurance

- 23 1 Subject to *Article* 23 2, but without prejudice to any indemnity to which a Relevant Officer is otherwise entitled
- 23 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
- 23 1 1 1 in the actual or purported execution and/or discharge of his duties, or in relation thereto, and
- 23 1 1 2 in relation to the Company's activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act), including (in each case) 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
- 23 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* 23 1 and otherwise may take any action to enable such Relevant Officer to avoid incurring such expenditure
- 23 2 This *Article* 23 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law
- 23 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
- 23 4 In this *Article* 23
- 23 4 1 "**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, and

23 4 2 **"Relevant Officer"** means any director or other officer or former 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