

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

THEVEGANKIND LTD

(Company number 08610535)

(Adopted by special resolution passed on 10 June 2022)

## INTRODUCTION

### 1. INTERPRETATION

#### 1.1 The following definitions and rules of interpretation apply in these Articles:

**A Shares:** the A ordinary shares of £0.000001 each in the capital of the Company which have the rights set out in these Articles;

**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;

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

**Available Profits:** profits available for distribution within the meaning of part 23 of the Act;

**B Shares:** the B ordinary shares of £0.000001 each in the capital of the Company which have the rights set out in these Articles;

**Bad Leaver:** a Leaver in circumstances where he or she is dismissed by the Company due to (a) gross misconduct or (b) he or she competing or having competed with the Company in contravention of the restrictive covenants set out in the Shareholders' Agreement;

**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;

**C Shares:** the C ordinary shares of £0.000001 each in the capital of the Company which have the rights set out in these Articles;

**C Shareholders:** the holders of C Shares from time to time;

**Chairman:** the chairman of the board of Directors as appointed by the Directors from time to time;

**Civil Partner:** in relation to an individual Shareholder, a civil partner as defined in the Civil Partnerships Act 2004;

**Company:** means Thevegankind Ltd (company number 08610535);

**Company's Lien:** has the meaning given to it in article 25.1;

**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;

**Deemed Transfer Notice:** a Transfer Notice which is deemed to have been served by any of the provisions of these Articles;

**Deferred Shares:** deferred shares of £0.00001 which confer on the holder thereof no rights to vote, to receive a dividend or to participate in a Exit;

**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);

**Exit:** a Share Sale, a Disposal or a Listing;

**Exit Proceeds:** the Exit Value minus all Company costs, fees and expenses associated with such Exit;

**Exit Value:** the gross proceeds (or a bona fide valuation of the likely gross proceeds as estimated by the Independent Expert) of an Exit;

**Fair Value:** has the meaning given in article 18.2;

**Family Trust:** as regards any particular Shareholder who is an individual (or deceased or former Shareholder who is an individual) any trust (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made, or under a testamentary disposition or on an intestacy) under which no

immediate beneficial interest in any of the Shares in question is for the time being vested in any person other than the particular Shareholder and/or any of the Privileged Relations of that Shareholder (and so that for this purpose a person shall be considered to be beneficially interested in a Share if such Share or the income thereof is liable to be transferred or paid or applied or appointed to or for the benefit of any such person or any voting or other rights attaching thereto are exercisable by or as directed by any such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons);

**Financial Year:** an accounting reference period (as defined in section 391 of the Act) of the Company;

**Founder Director(s):** as the same is defined in article 6.2(b) below;

**Founders:** Scott McCulloch and Karris McCulloch and **Founder** shall mean either of them as the context allows;

**Good Leaver:** a Leaver who is not a Bad Leaver;

**Group:** the Company and its subsidiaries (if any) from time to time;

**holding company:** has the meaning given in section 1159 of the Act;

**Hurdle:** £14,000,000;

**Independent Expert:** an independent firm of accountants appointed by Directors (in each case acting as an expert and not as an arbitrator);

**Lead Investor:** Literacy Capital Plc;

**Lead Investor Director(s):** as the same is defined in article 6.4 below;

**Lead Investor Subscription Price:** £3.3822 per A Share;

**Leaver:** an individual who is, or has been, an employee of the Company who ceases to be an employee of the Company;

**Lien Enforcement Notice:** means a notice in writing which complies with the requirements of article 26.2;

**Listing:** the successful application and admission of all or any of the Shares, or securities representing such Shares (including American depositary receipts, American depositary shares and/or other instruments) to the Official List of the Financial Conduct Authority or on the AIM market operated by the London Stock Exchange plc, or the Nasdaq National Stock Market of the Nasdaq Stock Market Inc., or to any recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000);

**Model Articles:** the model articles for private companies limited by shares contained in Schedule 1 to The Companies (Model Articles) Regulations 2008 (SI 2008/3229), as amended prior to the Adoption Date;

**Original Shareholder:** has the meaning given in article 16.1;

**Permitted Transfer:** a transfer of Shares made in accordance with article 16;

**Permitted Transferee:** in relation to:

(a) a Shareholder who is an individual, any of his Privileged Relations or the trustee(s) of a Family Trust;

(b) a Shareholder which is an undertaking (as defined in section 1161(1) of the Act) any member of the same Group;

(c) in relation to a Shareholder which is an investment fund, any member of the same fund group;

(d) in relation to a Shareholder which is a corporate entity:

(i) any member of the same group of companies;

(ii) any member of the same fund group;

(iii) any nominee of such corporate entity; and

(e) in relation to SE, any member of SE's Group;

**Privileged Relation:** in relation to a Shareholder who is an individual (or a deceased or former Shareholder who is an individual) means a spouse, civil partner (as defined in the Civil Partnerships Act 2004), child or grandchild (including step or adopted or illegitimate child and their issue);

**Relevant Interest:** means an interest for which authority is required in accordance with section 175(5)(a) of the Act;

**Relevant Securities:** any Shares or other securities convertible into, or carrying the right to subscribe for Shares, issued by the Company after the Adoption Date, other than:

(a) the grant of any options under the Share Option Scheme (and the issue of Shares on the exercise of any such options); and

(b) any Shares or other securities issued by the Company in order for the Company to comply with its obligations under these Articles and/or the Shareholders' Agreement;

**Relevant Shares:** in relation to a Leaver, all the Shares held by him or her and including any Shares acquired by any such person after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Transfer Notice;

**Sale Shares:** has the meaning given in article 17.2(a);

**SE:** Scottish Enterprise, established by the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ;

**SE Group:** SE, any subsidiary for the time being of SE and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of SE or any subsidiary of such company, corporation or body and any other body to which the statutory functions of SE have been delegated or a SE Successor and the expression “member of the SE Group” shall be construed accordingly;

**SE Observer:** as the same is defined in article 6.5 below;

**SE Successor:** any party succeeding in whole or in part to the interests of SE;

**Seller:** has the meaning given in article 17.2;

**Shareholder:** a holder for the time being of any Share or Shares;

**Shareholders’ Agreement:** the shareholders’ agreement dated on or around the Adoption Date between the Company and its Shareholders (as the same may have been varied, supplemented, adhered to or superseded in accordance with its terms for the time being);

**Share Option Scheme:** the enterprise management incentive scheme of the Company which the Company intends to put in place for the benefit of its employees after the Adoption Date or such other tax efficient scheme as may be applicable pursuant to which the Company will grant options to its employees of up to 5% of the total Shares in issue from time to time;

**Shares:** the shares of any class in the capital of the Company;

**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 identities of the Shareholders and the proportion of Shares held by each of them following completion of the sale are the same as the identities of the Shareholders and their respective shareholdings in the Company immediately before the sale;

**subsidiary:** in relation to a holding company wherever incorporated, means a "subsidiary" (as defined in section 1159 of the Act) for the time being and any other company which for the time being is itself a subsidiary (as so defined) of a company which is itself a subsidiary of such holding company;

**Surplus Assets:** has the meaning given in article 11.1;

**Termination Date:**

(a) where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires;

(b) where a contract of employment is terminated by the employer and a payment is made in lieu of notice, the date on which notice of termination was served;

- (c) where a Leaver dies, the date of his or her death; or
- (d) in any other case, the date on which the employment is terminated;

**Transfer Notice:** has the meaning given in article 17.2;

**Transfer Price:** has the meaning given in article 18; and

**writing or written:** the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise, save that, in relation to a Transfer Notice (or Deemed Transfer Notice), "writing" or "written" shall not include the sending or supply of notices, documents or information in electronic form (other than by fax).

- 1.2 Headings in these Articles shall not affect the interpretation of these Articles.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and the plural shall include the singular.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 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).
- 1.6 A reference in these Articles to:
  - (a) an **Article** is a reference to the relevant numbered article of these Articles; and
  - (b) a **model article** is a reference to the relevant article,unless expressly provided otherwise.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

- 1.8 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.9 A reference in these Articles to a holder, or the holder(s), of Shares or any class of Shares as the case may be shall, in each case, be deemed to exclude any member holding Shares in treasury.
- 1.10 A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Act and for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), a company shall be treated as a member of another company even if its shares in that other company are registered in the name of:
- (a) another person (or its nominee), by way of security or in connection with the taking of security; or
  - (b) its nominee.

In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Act shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

## **2. ADOPTION OF THE MODEL ARTICLES**

- 2.1 The Model Articles (together with those provisions of Schedule 3 to The Companies (Model Articles) Regulations 2008 (SI 2008/3229) referred to in article 25) 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), 16, 22, 26(5), 38, 39, 49, 50 and 51 to 53 (inclusive) shall not apply to the Company.

- 2.3 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".

### 3. COMPANY'S OBJECTS

- 3.1 The objects of the Company are to promote the success of the Company:
- (a) for the benefit of its members as a whole; and
  - (b) through its business and operations, to have a material positive impact on (a) society and (b) the environment, taken as a whole.
- 3.2 A Director must act in the way he or she considers, in good faith, most likely to promote the success of the Company in achieving the objects set out in Article 3.1, and in doing so shall have regard (amongst other matters) to:
- 3.2.1 the likely consequences of any decision of the Directors in the long term and the impact any such decision may have on any affected stakeholders;
  - 3.2.2 the interests of the Company's employees;
  - 3.2.3 the need to foster the Company's business relationships with suppliers, customers and others;
  - 3.2.4 the impact of the Company's operations on the community and the environment and on affected stakeholders;
  - 3.2.5 the desirability of the Company maintaining a reputation for high standards of business conduct and the impact this has on affected stakeholders; and
  - 3.2.6 the need to act fairly as between members of the Company,
- (together, the matters referred to above shall be defined for the purposes of this Article 3 as the **Stakeholder Interests** and each a **Stakeholder Interest**).
- 3.3 For the purposes of a Director's duty to act in the way he or she considers, in good faith, most likely to promote the success of the Company, a Director shall not be required to regard the benefit of any particular Stakeholder Interest or group of Stakeholder Interests as more important than any other.
- 3.4 Nothing in this Article 3 express or implied, is intended to or shall create or grant any right or any cause of action to, by or for any person (other than the Company).
- 3.5 The Directors of the Company shall, for each financial year of the Company, prepare and circulate to its members an impact report. The impact report shall contain a balanced and comprehensive analysis of the impact the Company's business has



had, in a manner proportionate to the size and complexity of the business. The impact report shall contain such detail as is necessary to enable the members to have an understanding of the way in which the Company has promoted its success for the benefit of its members as a whole and, through its business and operations, sought to have a material positive impact on society and the environment, taken as a whole. If the Company is also required to prepare a strategic report under the Companies Act 2006, the Company may choose to publish the impact report as part of its strategic report and in accordance with the requirements applying to the strategic report.

## **DIRECTORS**

### **4. NUMBER OF DIRECTORS**

Unless otherwise determined by ordinary resolution, the number of Directors shall not exceed 5 but shall not be less than one.

### **5. PROCEEDINGS OF DIRECTORS**

- 5.1 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 5.2 (subject to article 5.3 and article 5.4). 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.
- 5.2 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.
- 5.3 A decision taken in accordance with article 5.2 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.
- 5.4 A decision may not be taken in accordance with article 5.2 if the Eligible Directors would not have formed a quorum at a Directors' meeting to vote on the matter in accordance with article 5.6 and article 5.7.
- 5.5 Meetings of the Directors shall take place at least 4 times in each year, with a period of not more than 14 weeks between any two meetings. Any Director may call a meeting of the Directors. At least 5 Business Days' advance notice of each such

meeting shall be given to each Director unless all the Directors agree to shorter notice.

- 5.6 The quorum for any meeting (or, where specified below, part of a meeting) of the Directors shall be two Eligible Directors, which must include the Founder Director and the Lead Investor Director (to the extent that a Lead Investor Director has been appointed), unless where a Relevant Interest of a Lead Investor Director is being authorised by other Directors in accordance with section 175(5)(a) of the Act, such Lead Investor Director and any other interested Director shall not be included in the quorum required for the purpose of such authorisation but shall otherwise be included for the purpose of forming the quorum at the meeting or the Founder Director is not, in respect of any particular meeting (or part of a meeting), an Eligible Director in which case, subject to article 5.7, the quorum for such meeting (or part of the meeting, as the case may be) shall be the Investor Director and any one Eligible Director. 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 Directors determine.
- 5.7 For the purposes of any meeting (or part of a meeting) held pursuant to article 8 to authorise a Conflict (as defined in article 8.1), 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.
- 5.8 Questions arising at any meeting of the Directors shall be decided by a majority of votes. If there is an equality of votes, the Founders shall, between them, have a second or casting vote.
- 5.9 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.
- 5.10 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.

## **6. APPOINTMENT AND REMOVAL OF DIRECTORS**

- 6.1 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".

- 6.2 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:
- (a) 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
  - (b) save in the case of a Director appointed by a Founder in accordance with article 6.3 below, a majority of the other Directors resolve that he cease to be a Director.
- 6.3 Each Founder may, for so long as he or she holds Shares at any time appoint one person to be a Director (a **Founder Director**) and may remove such Director so appointed by him or her and may appoint another Director in his or her stead. The first such Directors appointed by the Founders shall be the Founders themselves.
- 6.4 The Lead Investor may, for so long as it holds not less than 15 per cent of the Shares in issue, at any time appoint one person to be a Director (a **Lead Investor Director**) and may remove such Director so appointed by him or her and may appoint another Director in his or her stead. The Investor Director shall be entitled at his request to be appointed to any committee of the board established from time to time and to the board of directors of any subsidiary of the Company.
- 6.5 SE shall be entitled at any time by the delivery of a written notice to the Company to appoint, remove and replace an observer (the **SE Observer**) who shall be entitled to receive all board papers (and papers of committees of the board) and notice of all board meetings (and meetings of committees of the board) and to attend and speak but not vote at all board meetings (and meetings of committees of the board) and to report to any member of the SE Group and (as relevant) their respective governing board, partners, manager and advisers on the affairs of the Company. For the avoidance of doubt, the SE Observer shall receive the same papers and notice of meetings of the board (and meetings of committees of the board) as the Directors.

## **7. TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY**

- 7.1 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 or her interest in accordance with the requirements of the Act, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:

- (a) 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;
- (b) 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 or she is interested;
- (c) 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 or she is interested;
- (d) may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or she or his or her firm shall be entitled to remuneration for professional services as if he or she were not a Director;
- (e) 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

7.2 shall not, save as he or she may otherwise agree, be accountable to the Company for any benefit which he or she (or a person connected with him or her) 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 or her duty under section 176 of the Act.

## 8. DIRECTORS' CONFLICTS

8.1 The Directors may, in accordance with the requirements set out in this article 8, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director (an **Interested Director**) breaching his or her duty under section 175 of the Act to avoid conflicts of interest (**Conflict**).

8.2 Any authorisation under this article 8 will be effective only if:

- (a) the matter in question shall have been proposed by any Director for consideration in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine;

- (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
- (c) 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.

8.3 Any authorisation of a Conflict under this article 8 may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
- (b) 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;
- (c) 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;
- (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the Directors think fit;
- (e) provide that, where the Interested Director obtains, or has obtained (through his or her 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 or she 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
- (f) permit the Interested Director to absent himself or herself from the discussion of matters relating to the Conflict at any meeting of the Directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.

8.4 Where the Directors authorise a Conflict, the Interested Director will be obliged to conduct himself or herself in accordance with any terms and conditions imposed by the Directors in relation to the Conflict.

8.5 The Directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.

8.6 A Director, notwithstanding his or her office, may be a Director or other officer of, employed by, or otherwise interested (including by the holding of shares) in his

appointor(s) (or any Permitted Transferee of such appointor(s)) and no authorisation under article 8.1 shall be necessary in respect of any such interest.

- 8.7 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 or she 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.

## **SHARES AND DISTRIBUTIONS**

### **9. SHARES**

- 9.1 Unless the context requires otherwise, references in these Articles to Shares of a particular class shall include Shares created and/or issued after the Adoption Date and ranking *pari passu* in all respects (or in all respects except only as to the date from which those Shares rank for dividend) with the Shares of that relevant class then in issue.
- 9.2 For the avoidance of doubt, Deferred Shares shall confer on their owners no right to vote, to receive dividends or to participate in an Exit or upon a liquidation event.
- 9.3 Subject to the Act but without prejudice to any other provision of these Articles, the Company may purchase its own shares in accordance with Chapter 4 of Part 18 of the Act, including (without limitation) out of capital up to any amount in a financial year not exceeding the lower of:
- (a) £15,000; and
  - (b) the nominal value of 5% of the Company's fully paid share capital at the beginning of each financial year of the Company.
- 9.4 The provisions under Article 17 of these Articles relating to pre-emption rights on a share transfer, shall not apply to the provisions set out in Article 9.3.

## **10. DIVIDENDS**

- 10.1 In respect of any Financial Year, the Available Profits of the Company shall be used to pay such dividends as the Company may determine to distribute.
- 10.2 Subject to Article 10.1 above, each dividend shall be distributed to the appropriate Shareholders pro rata according to the number of 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.
- 10.3 The Directors may declare dividends on a single class of share only or on both at their absolute discretion and may declare dividends of different amounts to holders of different classes of Shares.

## **11. LIQUIDATION**

- 11.1 On a distribution of assets on liquidation or a return of capital (other than a conversion, redemption or purchase of Shares), the surplus assets of the Company remaining after the payment of its liabilities (the "**Surplus Assets**") shall be applied (to the extent that the Company is lawfully permitted to do so):
- (a) first, in paying to the holders of the Deferred Shares, if any, a total of £1.00 for the entire class of Deferred Shares (which payment shall be deemed satisfied by payment to any one holder of Deferred Shares);
  - (b) second, in paying the following amounts:
    - (i) to the holders of C Shares pro-rata to the number of Shares held, a sum equal to zero point one per cent (0.1%) of the Surplus Assets which are equal to or less than the Hurdle; and
    - (ii) to the holders of A Shares and B Shares as if they constituted a single class and pro-rata to the number of Shares held, a sum equal to ninety nine point nine per cent (99.9%) of the Surplus Assets which are equal to or less than the Hurdle (following the payment made pursuant to paragraph 10.1(b)(i)),
  - (c) third, in paying the following amounts, once the Hurdle has been achieved, the balance of the Surplus Assets (if any) shall be distributed among the holders of Shares pro-rata to the number of Shares held,

provided that if there are insufficient Surplus Assets to pay such amounts in full, the Surplus Assets shall be distributed amongst the holders of the Shares pro rata to the

amount which such holders would otherwise have been entitled to receive under this article 11.1(c)).

## **12. EXIT PROVISIONS**

12.1 On a Share Sale, the Exit Proceeds shall be distributed in the order of priority set out in article 11. The board shall not register any transfer of the Shares if the Exit Proceeds are not distributed in that manner, provided that, if the Exit Proceeds are not settled in their entirety upon completion of the Share Sale:

- (a) the board may register the transfer of the relevant Shares, provided that the proportion of the Exit Proceeds due to be paid on the date of completion of the Share Sale have been distributed in the order of priority set out in article 11; and
- (b) each Shareholder shall take any action required by an Investor Majority to ensure that the remaining balance of the Exit Proceeds is distributed in the order of priority set out in article 11.

In the event that the Exit Proceeds are distributed on more than one occasion (for any deferred or contingent consideration or otherwise), the consideration so distributed on any further occasion shall be paid by continuing the distribution from the previous distribution of consideration in the order of priority set out in this article 11.1.

12.2 The Directors shall not register any transfer of Shares pursuant to a Share Sale if the Exit Proceeds are not distributed in the manner set out in article 12.1 provided that, if the Exit Proceeds are not settled in their entirety upon completion of the Share Sale:

- (a) the Directors may register the transfer of the relevant Shares, provided that the Sale Proceeds due on the date of completion of the Share Sale have been distributed in the order set out in article 12.1; and
- (b) each Shareholder shall take any reasonable action (to the extent lawful and within its control) to ensure that the balance of the Sale Proceeds are distributed in the order of priority set out in article 12.1.

12.3 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) in the order of priority set out in article 12.1, provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of article 12.1, each Shareholder shall (to the extent lawful) take all



reasonable action required by the Directors to put the Company into voluntary liquidation so that article 11 applies.

### **13. VARIATION OF CLASS RIGHTS**

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.

### **14. PRE-EMPTION RIGHTS ON THE ISSUE OF FURTHER SHARES**

14.1 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.

14.2 Unless otherwise agreed by special resolution, if the Company proposes to allot any Relevant Securities, those Relevant Securities shall not be allotted to any person unless the Company has first offered them to all the Shareholders (on the date of the offer) (each an **Offeree**) and in the respective proportions that the number of Shares held by each such holder bears to the total number of Shares in issue at the relevant time (as nearly as possible without involving fractions) and on the same terms, and at the same price, as those Relevant Securities are being, or are to be, offered to any other person.

14.3 An offer made under article 14.2 shall:

- (a) be in writing and give details of the number, class and subscription price (including any share premium) of the Relevant Securities being offered;
- (b) remain open for a period of at least 10 Business Days from the date of service of the offer; and
- (c) stipulate that any Offeree who wishes to subscribe for a number of Relevant Securities in excess of the number to which he is entitled under article 14.2 shall, in his acceptance, state the number of excess Relevant Securities (**Excess Securities**) for which he wishes to subscribe.

14.4 If, on the expiry of an offer made in accordance with article 14.2, the total number of Relevant Securities applied for is less than the total number of Relevant Securities so offered, the Directors shall allot the Relevant Securities to the Offerees in

accordance with their applications, subject to a maximum of each Offeree's proportionate entitlement.

14.5 Any Relevant Securities not accepted by Offerees pursuant to an offer made in accordance with article 14.2 shall be used to satisfy any requests for Excess Securities made pursuant to article 14.3(c). If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants in the respective proportions that the number of Shares held by each such applicant bears to the total number of such Shares held by all applicants (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any Shareholder beyond that applied for by him).

14.6 If, after completion of the allotments referred to in article 14.4 and article 14.5, not all of the Relevant Securities have been allotted, the balance of such Relevant Securities shall be offered to any other person(s) as the Directors may determine, at the same price and on the same terms as the offer to the Shareholders.

## **15. TRANSFERS OF SHARES: GENERAL**

15.1 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 and reference to a Share includes both a legal and a beneficial or other interest in a Share unless otherwise indicated, but it does not include, in situations where the Holder subscribed for or purchased the Share as nominee for one or more beneficial owners:

- (a) the transfer, assignment or other disposal of a beneficial or other interest in, or the creation of a trust or encumbrance over or the renunciation or assignment of any rights to receive or subscribe for a beneficial or other interest in, a Share provided that the nominee that holds a legal interest in such Share remains the same;
- (b) the transfer, assignment or other disposal of a legal interest in, or the creation of a trust or encumbrance over or the renunciation or assignment of any rights to receive or subscribe for a legal interest in, a Share from the nominee to any person who has a beneficial or other interest in that Share, provided that notice of such transfer is given to the Company; or
- (c) the transfer, assignment or other disposal of a legal interest in, or the creation of a trust or encumbrance over or the renunciation or assignment of any rights to receive or subscribe for a legal interest in, a Share from the

nominee to any person who is to hold the Share as nominee for that beneficial owner in substitution for the then registered shareholder.

- 15.2 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. Subject to article 15.6, the Directors shall register any duly stamped transfer made in accordance with these Articles, unless they suspect that the proposed transfer may be fraudulent.
- 15.3 No Share shall be transferred by any person save pursuant to the provisions of article 16 prior to the third anniversary of the Adoption Date.
- 15.4 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.
- 15.5 Any transfer of a Share by way of sale which is required to be made under article 19, article 20 or article 21 shall be deemed to include a warranty that the transferor sells the Share with full title guarantee.
- 15.6 The Directors may, as a condition to the registration of any transfer of Shares, require the transferee to execute and deliver to the Company a deed, in favour of the Company agreeing to be bound by the terms of the Shareholders' Agreement in such form as the Directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor). If any condition is imposed in accordance with this article 15.6, the transfer may not be registered unless and until that deed has been executed and delivered to the Company's registered office by the transferee.
- 15.7 To enable the Directors to determine whether or not there has been any transfer (or purported transfer) of Shares the Directors may require:
- (a) any holder (or the legal representatives of a deceased holder); or
  - (b) any person named as a transferee in a transfer lodged for registration; or
  - (c) such other person as the Directors may reasonably believe to have information relevant to that purpose,

to provide the Company with any information and evidence that the Directors think fit regarding any matter which they deem relevant to that purpose.

15.8 If any such information or evidence referred to in article 15.7 is not provided to enable the Directors to determine to their reasonable satisfaction that no breach has occurred, or that as a result of the information and evidence provided the Directors are reasonably satisfied that a breach has occurred, the Directors shall immediately notify the holder of such Shares of that fact in writing and, if the holder fails to remedy that situation to the reasonable satisfaction of the Directors) within 10 Business Days of receipt of such written notice, then:

- (a) the relevant Shares shall cease to confer on the holder of them any rights:
  - (i) to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise), including in respect of any resolution of any class of Shares;
  - (ii) to receive dividends or other distributions otherwise attaching to those Shares; or
  - (iii) to participate in any future issue of Shares issued in respect of those Shares; and
- (b) the Directors may, by notice in writing to the relevant holder, determine that a Transfer Notice shall be deemed to have been given in respect of some or all of his Shares with effect from the date of service of the notice (or such later date as may be specified in such notice).

The Directors may reinstate the rights referred to in article 15.8(a) at any time and, in any event, such rights shall be reinstated in respect of any Shares transferred pursuant to article 15.8(b) on completion of such transfer.

15.9 Unless expressly provided otherwise in these Articles, if a Transfer Notice is deemed to have been given under these Articles, the Deemed Transfer Notice shall be treated as having specified that the Seller wishes to transfer all the Shares held by him (including any Shares acquired after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Transfer Notice).

15.10 Any Transfer Notice (but not a Drag Along Notice (as defined in article 20) or an Offer Notice (as defined in article 21)) served in respect of the transfer of any Share which has not completed before the date of service of a Deemed Transfer Notice shall automatically be revoked by the service of a Deemed Transfer Notice.

15.11 The Directors may, as a condition to the registration of any transfer of Shares, require the transferee to execute and deliver to the Company a deed, in favour of the Company agreeing to be bound by the terms of the Shareholders' Agreement in such form as the Directors may reasonably require (but not so as to oblige the

transferee to have any obligations or liabilities greater than those of the proposed transferor). If any condition is imposed in accordance with this article 15.11, the transfer may not be registered unless and until that deed has been executed and delivered to the Company's registered office by the transferee.

## **16. PERMITTED TRANSFERS OF SHARES**

16.1 A Shareholder (the **Original Shareholder**) may transfer all or any of his or its Shares to a Permitted Transferee.

16.2 Where Shares are held by the trustee(s) of a Family Trust, the trustee(s) may transfer Shares to:

- (a) the Original Shareholder;
- (b) any Privileged Relation(s) of the Original Shareholder;
- (c) subject to article 16.3, the trustee(s) of another Family Trust of which the Original Shareholder is the settlor; or
- (d) subject to article 16.3, to the new (or remaining) trustee(s) upon a change of trustee(s) of a Family Trust,

without any price or other restriction.

16.3 A transfer of Shares may only be made to the trustee(s) of a Family Trust if the Directors are satisfied:

- (a) with the terms of the trust instrument and, in particular, with the powers of the trustee(s);
- (b) with the identity of the proposed trustee(s);
- (c) that the proposed transfer will not result in 50% or more of the aggregate of the Company's equity share capital being held by trustees of that and any other trusts; and
- (d) that no costs incurred in connection with the setting up or administration of that Family Trust are to be paid by the Company.

16.4 If the Original Shareholder is a company, and a Permitted Transfer has been made, the Permitted Transferee shall, within 20 Business Days of ceasing to be a member of the same group of companies as the Original Shareholder, transfer the Shares held by it to:

- (a) the Original Shareholder; or

- (b) a member of the same group of companies as the Original Shareholder,

(which in either case is not in liquidation), without any price or other restriction. If the Permitted Transferee fails to make a transfer in accordance with this article 16.4, a Transfer Notice shall be deemed to have been given in respect of such Shares on the expiry of the period set out in this article 16.4.

- 16.5 If the Original Shareholder is an individual and a Permitted Transfer has been made to a Privileged Relation of the Original Shareholder, the Permitted Transferee (or the transmittee(s) of any such person), shall within 20 Business Days of ceasing to be a Privileged Relation of the Original Shareholder (whether by reason of death, divorce or otherwise) either:

- (a) execute and deliver to the Company a transfer of the Shares held by him to the Original Shareholder (or to any Permitted Transferee of the Original Shareholder) for such consideration as may be agreed between them; or
- (b) give a Transfer Notice to the Company in accordance with article 17,

failing which a Transfer Notice shall be deemed to have been given in respect of such Shares on the expiry of the period set out in this article 16.5.

- 16.6 If a Permitted Transferee who was a member of the same fund group as the Original Shareholder ceases to be a member of the same fund group, the Permitted Transferee must not later than 5 Business Days after the date on which the Permitted Transferee so ceases, transfer all the Shares held by it to the Original Shareholder or a member of the same fund group as the Original Shareholder (which in either case is not in liquidation) without restriction as to price or otherwise failing which it will be deemed to give a Transfer Notice in respect of such Shares.

- 16.7 Notwithstanding any other provision of this article 16, a transfer of any Shares approved by the Directors may be made without any price or other restriction and any such transfer shall be registered by the Directors.

## **17. PRE-EMPTION RIGHTS ON THE TRANSFER OF SHARES**

- 17.1 Except where the provisions of article 16, article 20 or article 21 apply, no Shareholder may transfer their Shares within three years of the Adoption Date and any transfer of Shares by a Shareholder shall be subject to the pre-emption rights in this article 17.

- 17.2 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:
- (a) subject to article 15.9, the number of Shares he wishes to transfer (**Sale Shares**);
  - (b) the name of the proposed transferee, if any; and
  - (c) subject to article 19.4, the price per Sale Share (in cash), if any, at which he wishes to transfer the Sale Shares (the **Proposed Sale Price**).
- 17.3 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price.
- 17.4 As soon as practicable following the later of:
- (a) receipt of a Transfer Notice (or in the case of a Deemed Transfer Notice, the date such notice is deemed to be served); and
  - (b) the determination of the Transfer Price,
- the Directors shall offer the Sale Shares for sale in the manner set out in the remaining provisions of this article 17 at the Transfer Price. Each offer shall be in writing and shall give details of the number and Transfer Price of the Sale Shares offered.
- 17.5 The Directors shall offer the Sale Shares to all the Shareholders or persons in the priority set out in article 17.6 (other than the Seller), inviting them to apply in writing within the period from the date of the offer to the date 20 Business Days after the offer (both dates inclusive) (the **Offer Period**) for the maximum number of Sale Shares they wish to buy.
- 17.6 The Sale Shares shall be offered in the following order of priority:
- (a) if they are A Shares:
    - (i) first, to the holders of A Shares on a pro rata basis; and
    - (ii) second, to the rest of the Shareholders on a pro rata basis;
  - (b) if they are B Shares:
    - (i) first, to the holders of B Shares on a pro rata basis; and
    - (ii) second, to the rest of the Shareholders on a pro rata basis.
  - (c) if they are C Shares:

- (i) first, to the holders of C Shares on a pro rata basis; and
- (ii) second, to the rest of the Shareholders on a pro rata basis.

17.7 If:

- (a) at the end of the 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 Shareholder who has applied for Sale Shares in the proportion which his existing holding of Shares bears to the total number of Shares of the class being offered held by all Shareholders (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;
- (b) not all Sale Shares are allocated following allocations in accordance with article 17.7(a), 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 17.7(a). The procedure set out in this article 17.7(b) 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
- (c) at the end of the 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 Shareholders in accordance with their applications. The balance (the **Surplus Shares**) shall be offered to any other person in accordance with article 17.11.

17.8 Where 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 17.5 and article 17.5, 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 10 Business Days, but not more than 30 Business Days, after the date of the Allocation Notice).

17.9 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.



17.10 If the Seller fails to comply with article 17.9:

- (a) the Chairman (or, failing him, any other Director or some other person nominated by a resolution of the Directors) may, as agent on behalf of the Seller:
  - (i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
  - (ii) 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
  - (iii) (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
- (b) 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.

17.11 Where an Allocation Notice does not relate to all the Sale Shares, then, subject to article 17.12, the Seller may, at any time during the 20 Business Days following the date of service of the Allocation Notice, transfer the remaining Sale Shares to any person at a price at least equal to the Transfer Price.

17.12 The Seller's right to transfer Shares under article 17.11 does not apply if the Directors reasonably consider that:

- (a) the transferee is a person (or a nominee for a person) whom the Directors determine to be a competitor of the business of the Company;
- (b) 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
- (c) 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 17.12(b).

## **18. VALUATION**

18.1 The Transfer Price for each Sale Share the subject of a Transfer Notice (or Deemed Transfer Notice) shall, save where expressly provided otherwise in these Articles, be

the price per Sale Share (in cash) agreed between the Directors and the Seller or, in default of agreement within 5 Business Days of the date of service of the Transfer Notice (or, in the case of a Deemed Transfer Notice, the date on which the board of Directors first has actual knowledge of the facts giving rise to such deemed service), the Fair Value of each Sale Share.

- 18.2 The Fair Value shall be the price per Sale Share determined by the Independent Expert on the following bases and assumptions:
- (a) 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);
  - (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - (c) that the Sale Shares are capable of being transferred without restriction;
  - (d) 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
  - (e) reflecting any other factors which the Independent Expert reasonably believes should be taken into account.
- 18.3 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.
- 18.4 The Directors will give the Independent Expert access to all accounting records or other relevant documents of the Group, subject to it agreeing such confidentiality provisions as the Directors may reasonably impose.
- 18.5 The parties 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.
- 18.6 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).
- 18.7 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.

- 18.8 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 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.

## **19. COMPULSORY TRANSFERS**

- 19.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder (or equivalent procedure in any jurisdiction outside England and Wales) shall be deemed to have given a Transfer notice in respect of that Share at such time as the Directors may determine.
- 19.2 If a Shareholder which is a body corporate either suffers or resolves to appoint a liquidator, administrator or administrative receiver over it, or any material part of its assets (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or suffers or takes any equivalent action in any jurisdiction outside England and Wales, that Shareholder shall be deemed to have given a Transfer Notice in respect of all Shares held by it at such time as the Directors may determine and such Transfer Notice to include any Shares transferred by such Shareholder pursuant to the provisions of article 16.
- 19.3 A Leaver other than a Bad Leaver shall be deemed to have served a Deemed Transfer Notice on the relevant Termination Date in respect of the Relevant Shares held by him or her (a **Compulsory Transfer**) and any Transfer Notice served in respect of any such Shares before the relevant Termination Date shall automatically lapse.
- 19.4 Where a Leaver is a Bad Leaver, his or her Relevant Shares shall automatically convert into Deferred Shares at the rate of 1 Deferred Share for every 1 Share so converted on the relevant Termination Date.
- 19.5 Notwithstanding any other provisions of these Articles, the Transfer Price in respect of a Compulsory Transfer shall be the aggregate Fair Value of the Leaver's Relevant Shares.

19.6 Forthwith upon a Transfer Notice being deemed to be served under article 19 the Relevant Shares (**Restricted Shares**) shall cease to confer on the holder of them any rights:

- (a) to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise), including in respect of any resolution of any class of Shares;
- (b) to receive dividends or other distributions otherwise attaching to those Shares; or
- (c) to participate in any future issue of Shares issued in respect of those Shares.

The Directors may reinstate the rights referred to in article 19.6 at any time and, in any event, such rights shall be reinstated in respect of any Shares transferred pursuant to article 19 on completion of such transfer.

19.7 Notwithstanding any other provision of these Articles, the Directors may determine, with the consent of the Lead Investor Director (if one has been appointed), that:

- (a) a Compulsory Transfer shall not apply to any Relevant Shares held by a Leaver; and
- (b) that any transfer by a Shareholder who is also an employee of the Company or a Leaver be deemed a Permitted Transfer pursuant to clause 16.

## 20. DRAG ALONG

20.1 If the holders of at least 50.1% of the Shares in issue for the time being (including the Founders) (the **Selling Shareholders**), wish to transfer all of their interests in Shares (**Sellers' Shares**) to a bona fide purchaser on arm's-length terms (**Proposed Buyer**), the Selling Shareholders shall have the option (**Drag Along Option**) to require all the other holders of Shares on the date of the request, if any (**Called Shareholders**) to sell and transfer all their interest in Shares with full title guarantee to the Proposed Buyer (or as the Proposed Buyer may direct) in accordance with the provisions of this article 20.

20.2 The Selling Shareholders may exercise the Drag Along Option by giving notice in writing to that effect (a **Drag Along Notice**), at any time before the completion of the transfer of the Sellers' Shares, to the Proposed Buyer and each Called Shareholder. A Drag Along Notice shall specify:

- (a) that the Called Shareholders are required to transfer all their Shares (**Called Shares**) pursuant to this article 20;

- (b) the identity of the Proposed Buyer (and, if relevant, the transferee(s) nominated by the Proposed Buyer);
- (c) the consideration payable for the Called Shares calculated in accordance with article 20.4; and
- (d) the proposed date of completion of transfer of the Called Shares.

20.3 Once given, a Drag Along Notice may not be revoked save with the prior consent of the Directors. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not completed the transfer of all the Sellers' Shares to the Proposed Buyer (or as the Proposed Buyer may direct) within 60 Business Days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

20.4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be that to which they would be entitled if the total consideration proposed to be paid by the Proposed Buyer were distributed to the holders of the Called Shares and the Sellers' Shares in accordance with the provisions of article 12.1 and provided always that, an offer shall be regarded as at the same consideration per Called Share only if the consideration offered for each A Share is at least equal to the Lead Investor Subscription Price multiplied by the numerator of four (**Minimum Exit**), should such consideration for the Lead Investor be less than the Minimum Exit, then notwithstanding anything else within this Article 20, the written consent of the Lead Investor shall be required to proceed with the Drag Along Notice.

20.5 No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in this article 20.

20.6 Completion of the sale and purchase of the Called Shares shall take place on the same date as, and conditional upon the completion of, the sale and purchase of the Sellers' Shares unless all of the Called Shareholders and the Selling Shareholders otherwise agree.

20.7 Within 90 Business Days of the Selling Shareholders serving a Drag Along Notice on the Called Shareholders, the Called Shareholders shall deliver stock transfer forms for their Shares in favour of the Proposed Buyer (or as the Proposed Buyer may direct), together with the share certificate(s) in respect of those Shares (or a suitable indemnity in respect thereof) to the Company. On the expiration of that 90 Business Day period the Company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts they are respectively due pursuant to article 20.4 to the extent the Proposed Buyer has put the Company in the requisite funds. The

Company's receipt for the amounts due pursuant to article 20.4 shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders pursuant to article 20.4 in trust for the Called Shareholders without any obligation to pay interest.

- 20.8 To the extent that the Proposed Buyer has not, on the expiration of the 90 Business Day period, put the Company in funds to pay the amounts due pursuant to article 20.4, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificate(s) (or suitable indemnity) for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this article 20 in respect of their Shares.
- 20.9 If any Called Shareholder fails to deliver to the Company a duly executed stock transfer form (or forms) in respect of the Called Shares held by him (together with the share certificate(s) in respect of those Called Shares (or a suitable indemnity in respect thereof)) the defaulting Called Shareholder shall be deemed to have appointed any person nominated for the purpose by the Selling Shareholders to be his agent to execute and deliver all necessary transfers on his behalf, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares. After the Proposed Buyer (or person(s) nominated by the Proposed Buyer) has been registered as the holder of any such Called Shares, the validity of such proceedings shall not be questioned by any person. Failure to produce a share certificate shall not impede the registration of any transfer of Shares under this article 20.
- 20.10 Upon any person, following the issue of a Drag Along Notice, becoming a Shareholder (or increasing an existing shareholding) including, without limitation, pursuant to the exercise of any option, warrant or other right to acquire or subscribe for, or to convert any security into, Shares, whether or not pursuant to the Share Option Scheme (a **New Shareholder**), a Drag Along Notice shall be deemed to have been served upon the New Shareholder, on the same terms as the previous Drag Along Notice, who shall then be bound to sell and transfer all such Shares acquired by him to the Proposed Buyer (or as the Proposed Buyer may direct) and the provisions of this article 20 shall apply mutatis mutandis to the New Shareholder, save that completion of the sale of such Shares shall take place forthwith upon the later of the Drag Along Notice being deemed served on the New Shareholder and the date of completion of the sale of the Called Shares. References in this Article 23.11 to a person becoming a Shareholder (or increasing an existing shareholding) shall include the Company, in respect of the acquisition of any of its own Shares.

- 20.11 A transfer of Called Shares to a Proposed Buyer (or as the Proposed Buyer may direct) pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the pre-emption provisions of article 17.
- 20.12 Any Transfer Notice or Deemed Transfer Notice served in respect of the transfer of any Share which has not completed before the date of service of a Drag Along Notice shall automatically be revoked by the service of a Drag Along Notice.

## **21. TAG ALONG**

- 21.1 The provisions of article 21.2 to article 21.5 shall apply if, in one or a series of related transactions, one or more Sellers propose to transfer any of the Shares (**Proposed Transfer**) which would, if carried out, result in any person (**Buyer**), and any person acting in concert with the Buyer, acquiring a Controlling Interest in the Company.

- 21.2 Before making a Proposed Transfer, a Seller shall procure that the Buyer makes an offer (**Offer**) to:

- (a) the other Shareholders to purchase all of the Shares held by them; and
- (b) the holders of any securities of the Company that are convertible into Shares (**Convertible Securities**), to purchase any Shares arising from the conversion of such Convertible Securities at any time before the Proposed Transfer,

for a consideration in cash per Share that is at least equal to the highest price per Share offered or paid by the Buyer, or any person acting in concert with the Buyer, in the Proposed Transfer or in any related previous transaction in the 6 months preceding the date of the Proposed Transfer (**Specified Price**).

- 21.3 The Offer shall be made by written notice (**Offer Notice**), at least 20 Business Days before the proposed sale date (**Sale Date**). To the extent not described in any accompanying documents, the Offer Notice shall set out:

- (a) the identity of the Buyer;
- (b) the Specified Price and other terms and conditions of payment;
- (c) the Sale Date; and
- (d) the number of Shares proposed to be purchased by the Buyer (**Offer Shares**).

- 21.4 If the Buyer fails to make the Offer to all of the persons listed in article 21.2 in accordance with article 21.2 and article 21.3, the Seller(s) shall not be entitled to

complete the Proposed Transfer and the Company shall not register any transfer of Shares effected in accordance with the Proposed Transfer.

- 21.5 If the Offer is accepted by any Shareholder (**Accepting Shareholder**) in writing within 20 Business Days of receipt of the Offer Notice, the completion of the Proposed Transfer shall be conditional on completion of the purchase of all the Offer Shares held by Accepting Shareholders.
- 21.6 The Offer shall complete the purchase of all Shares for which the Offer is accepted at the same time as the purchase of the Proposing Transferor's Shares.

## **22. C SHARES HURDLE**

- 22.1 If the consideration received pursuant to an Exit is not wholly in cash, the board (acting reasonably) shall determine the equivalent cash amount for the purposes of calculating whether the Hurdle has been exceeded.

## **DECISION-MAKING BY SHAREHOLDERS**

### **23. GENERAL MEETINGS**

- 23.1 No business other than, subject to article 23.2, 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.
- 23.2 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.

### **24. VOTING**

- 24.1 Subject to article 9.2, each Share in the Company shall carry the right to receive notice of and to attend, speak and vote at all general meetings of the Company. For the avoidance of doubt, the Deferred Shares shall carry no right to receive notice of or to attend, speak or vote at any meeting of the Company.



24.2 Model article 44(3) shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that model article.

24.3 Model article 45(1) shall be amended by:

- (a) 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
- (b) 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.

## **25. COMPANY'S LIEN OVER SHARES**

25.1 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.

25.2 The Company's Lien over a share:

- (a) takes priority over any third party's interest in that Share; and
- (b) extends to any dividend or other money payable by the Company in respect of that Share and (if the lien is enforced and the Share is sold by the Company) the proceeds of sale of that Share.

25.3 The Directors may at any time decide that a Share which is or would otherwise be subject to the Company's Lien shall not be subject to it, either wholly or in part.

## **26. ENFORCEMENT OF THE COMPANY'S LIEN**

26.1 Subject to the provisions of this article 26, if:

- (a) a Lien Enforcement Notice has been given in respect of a Share; and
- (b) 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.

26.2 A Lien Enforcement Notice:

- (a) may only be given in respect of a Share which is subject to the Company's Lien and in respect of a sum payable to the Company for which the due date for payment has passed;
- (b) must specify the Share concerned;
- (c) 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);
- (d) must be addressed either to the holder of the Share or to a transmittee of that holder; and
- (e) must state the Company's intention to sell the Share if the notice is not complied with.

26.3 Where Shares are sold under this article 26:

- (a) 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
- (b) 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.

26.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the Company's Lien) must be applied:

- (a) 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
- (b) 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.

26.5 A statutory declaration by a Director or the company secretary that the declarant is a Director or the company secretary and that a Share has been sold to satisfy the Company's Lien on a specified date:

- (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share; and
- (b) subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the Share.

## **ADMINISTRATIVE ARRANGEMENTS**

### **27. MEANS OF COMMUNICATION TO BE USED**

27.1 Any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
- (b) if sent by fax, at the time of transmission; or
- (c) if sent by pre-paid first class post, recorded delivery or special delivery to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or
- (d) if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the fifth Business Day after posting; or
- (e) if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
- (f) if sent or supplied by e-mail, one hour after the notice, document or information was sent or supplied; or
- (g) 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; and
- (h) if deemed receipt under the previous paragraphs of this article 27.1 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 on the day when business next starts in the place of deemed receipt. For the purposes of this article, all references to time are to local time in the place of deemed receipt.

27.2 To prove service, it is sufficient to prove that:

- (a) if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or

- (b) if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or
- (c) if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted; or
- (d) if sent by e-mail, the notice was properly addressed and sent to the e-mail address of the recipient.

27.3 In proving that any notice, document or information was properly addressed, it will suffice to show that the notice, document or information was addressed to an address permitted for the purpose by the Act.

## **28. INDEMNITY AND INSURANCE**

28.1 Subject to article 28.2, but without prejudice to any indemnity to which a Relevant Officer is otherwise entitled:

- (a) 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 thereto 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
- (b) 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 28.1 and otherwise may take any action to enable such Relevant Officer to avoid incurring such expenditure.

28.2 This article 28 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.

28.3 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.

28.4 In this article 28:

- (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 or any pension fund or employees' share scheme of the Company; and
- (b) **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.

## 29. DATA PROTECTION

- 29.1 Each of the Shareholders and Directors (from time to time) consents to the processing of his personal data by the Company, its Shareholders and Directors (each a **Recipient**) for the purposes of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information amongst themselves. A Recipient may process such personal data either electronically or manually.
- 29.2 The personal data that may be processed for such purposes under this article 29 shall include any information which may have a bearing on the prudence or commercial merits of investing in, or disposing of any Shares (or other investment or security) in, the Company. Save as required by law, court order or any regulatory authority, that personal data shall not be disclosed by a Recipient or any other person, except to:
- (a) a member of the same group of companies as the Recipient (each a **Recipient Group Company**);
  - (b) employees, directors and professional advisers of that Recipient or any Recipient Group Company; and
  - (c) funds managed by any of the Recipient Group Companies.
- 29.3 Each of the Shareholders and Directors consent (from time to time) to the transfer of such personal data to persons acting on behalf of any Recipient and to the offices of any Recipient, both within and outside the European Economic Area, for the purposes stated above, where it is necessary or desirable to do so.