

(Company No. 09368431)

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

**SPECIAL RESOLUTION**

of

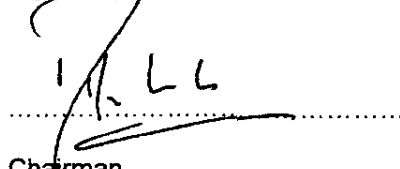
**QIO TECHNOLOGIES LTD (the "Company")**

The following resolution was passed as a special resolution of the Company on 18<sup>th</sup> January 2018

**SPECIAL RESOLUTIONS**

1. THAT the new articles of association attached to these resolutions be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association

Signed by

A handwritten signature in black ink, appearing to be 'J. L. L.', is written over a horizontal dotted line.

Chairman

FRIDAY



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**THE COMPANIES ACT 2006**

**COMPANY LIMITED BY SHARES**

**NEW**

**ARTICLES OF ASSOCIATION**

**of**

**QIO TECHNOLOGIES LTD**

(Adopted by a special resolution passed on 18 January 2018)

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

**NEW**

**ARTICLES OF ASSOCIATION**

**of**

**QIO TECHNOLOGIES LTD**

(Adopted by a special resolution passed on 18 January 2018)

**1. Introduction**

- 1.1 The model articles for private companies limited by shares contained or incorporated in Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these articles (the "**Model Articles**") shall apply to the Company, save insofar as they are varied or excluded by, or are inconsistent with, the following Articles.
- 1.2 In these Articles and the Model Articles any reference to any statutory provision shall be deemed to include a reference to each and every statutory amendment, modification, re-enactment and extension thereof for the time being in force.
- 1.3 In these Articles:
- (a) article headings are used for convenience only and shall not affect the construction or interpretation of these Articles;
  - (b) words denoting the singular include the plural and vice versa and reference to one gender includes the other gender and neuter and vice versa;
  - (c) Articles 8(2), 9(4), 10(3), 11(2), 13, 14, 17(2), 17(3), 19, 21, 26(5), 27, 28, 29, 30(5) to (7) (inclusive), 44(4), 51, 52 and 53 of the Model Articles shall not apply to the Company;
  - (d) reference to "**issued Shares**" of any class shall exclude any Shares of that class held as Treasury Shares from time to time, unless stated otherwise; and
  - (e) reference to the "**holders**" of Shares or a class of Share shall exclude the Company holding Treasury Shares from time to time, unless stated otherwise.
- 1.4 In respect of any actions or matters requiring or seeking the acceptance, approval, agreement, consent or words having similar effect of an Investor Director under these Articles, if at any time an Investor Director has not been appointed or an Investor Director declares in writing to the Company and the Investors that he considers that providing such consent gives rise or may give rise to a conflict of interest to his duties as a Director, such action or matter shall require an Investor Majority Consent.

## 2. Definitions

In these Articles the following words and expressions shall have the following meanings:

**"Act"** means the Companies Act 2006 (as amended from time to time);

**"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 from time to time);

**"Actions"** shall have the meaning given in Article 5.1 (*Liquidation and Exit Provisions*);

**"A Ordinary Shares"** means the A ordinary shares of £0.001 each in the capital of the Company from time to time;

**"Anti-Dilution Shares"** shall have the meaning given in Article 9.1;

**"Arrears"** means in relation to any Share, all arrears of any dividend or other sums payable in respect of that Share, whether or not earned or declared and irrespective of whether or not the Company has had at any time sufficient Available Profits to pay such dividend or sums, together with all interest and other amounts payable on that Share;

**"Asset Sale"** means the disposal by the Company of all or substantially all of its undertaking and assets (where disposal may include, without limitation, the grant by the Company of an exclusive licence of intellectual property not entered into in the ordinary course of business);

**"Associate"** in relation to any person means:

- (a) any person who is an associate of that person and the question of whether a person is an associate of another is to be determined in accordance with section 435 of the Insolvency Act 1986 and (whether or not an associate as so determined);
- (b) any Member of the same Group;
- (c) any Member of the same Fund Group;

**"Auditors"** means the auditors of the Company from time to time;

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

**"Bad Leaver"** means where the holder of A Ordinary Shares ceases to be a director, employee and/or consultant of the Company by reason of his dismissal as a result of a breach of his service agreement with the Company (including dismissal on the grounds of gross misconduct);

**"Board"** means the board of Directors and any committee of the board constituted for the purpose of taking any action or decision contemplated by these Articles;

**"Business Day"** means a day on which English clearing banks are ordinarily open for the transaction of normal banking business in the City of London (other than a Saturday or Sunday);

**"Civil Partner"** means in relation to a Shareholder, a civil partner (as defined in the Civil Partnership Act 2004) of the Shareholder;

**"Company"** means QIO Technologies Ltd;

**"Company's Lien"** has the meaning given in Article 29.1 (*Lien*);

**"Controlling Interest"** means an interest in shares giving to the holder or holders control of the Company within the meaning of section 1124 of the CTA 2010;

**"CTA 2010"** means the Corporation Tax Act 2010;

**"Date of Adoption"** means the date on which these Articles were adopted;

**"Director(s)"** means a director or directors of the Company from time to time;

**"electronic address"** has the same meaning as in section 333 of the Act;

**"electronic form"** and **"electronic means"** have the same meaning as in section 1168 of the Act;

**"Eligible Director"** means a Director who would be entitled to vote on a matter had it been proposed as a resolution at a meeting of the Directors;

**"Employee"** means an individual who is employed by or who provides consultancy services to, the Company or any member of the Group;

**"Employee Trust"** means a trust, the terms of which are approved by an Investor Majority, whose beneficiaries are the Employees;

**"Encumbrance"** means any mortgage, charge, security, interest, lien, pledge, assignment by way of security, equity, claim, right of pre-emption, option, covenant, restriction, reservation, lease, trust, order, decree, judgment, title defect (including without limitation any retention of title claim), conflicting claim of ownership or any other encumbrance of any nature whatsoever (whether or not perfected other than liens arising by operation of law);

**"Equity Securities"** has the meaning given in sections 560(1) to (3) inclusive of the Act and for the avoidance of doubt an allotment of Equity Securities includes a transfer of shares which immediately before such transfer were held by the Company as Treasury Shares;

**"Exercising Investor"** shall have the meaning given in Article 9.1;

**"Exit"** means a Share Sale, an Asset Sale or an IPO;

**"Expert Valuer"** is as determined in accordance with Article 15 (*Valuation of Shares*);

**"Fair Value"** is as determined in accordance with Article 15 (*Valuation of Shares*);

**"Family Trusts"** means as regards any particular individual member or deceased or former individual member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than the individual and/or Privileged Relations of that individual; and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is liable to be transferred or paid or applied or appointed to

or for the benefit of such person or any voting or other rights attaching thereto are exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons;

**"Financial Year"** has the meaning set out in section 390 of the Act;

**"Founders"** means Bharat A. Khuti and Richard Haythornthwaite;

**"Founder Group"** means the Founders, acting jointly;

**"Founder Group Consent"** means the prior written consent of the Founder Group;

**"Good Leaver"** means where the holder of A Ordinary Shares ceases to be a director, employee and/or consultant of the Company in circumstances where he is not a Bad Leaver or where the Board of the Company, in its absolute discretion, determines that the holder of the A Ordinary Shares shall be a Good Leaver;

**"Group"** means the Company and its Subsidiary Undertaking(s) (if any) from time to time and **"Group Company"** shall be construed accordingly;

**"hard copy form"** has the same meaning as in section 1168 of the Act;

**"Holding Company"** means a newly formed holding company, pursuant to which the membership, pro rata shareholdings and classes of shares comprised in such holding company matches that of the Company (excluding Treasury Shares) immediately prior to the transfer of the issued share capital of the Company to such holding company;

**"Investor Majority"** means: (a) both of the Founders; and (b) all Investors who (together with their Permitted Transferees) hold at least ten (10%) per cent of the Ordinary Shares that are issued and outstanding from time to time (excluding in each case any shares issued pursuant to the Share Option Plan and any shares held in Treasury);

**"Investor Majority Consent"** means the prior written consent of the Investor Majority;

**"Investors"** means each person who is defined as an "Investor" from time to time in accordance with the Subscription and Shareholders' Agreement and their Permitted Transferees;

**"Issue Price"** means the price at which the relevant Share is issued, including any premium;

**"IPO"** means the admission of all or any of the Shares or securities representing those shares (including without limitation depositary interests, American depositary receipts, American depositary shares and/or other instruments) on NASDAQ or the Official List of the United Kingdom Listing Authority or the AIM Market operated by the London Stock Exchange Plc or any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000);

**"Lien Enforcement Notice"** has the meaning given in Article 32.3 (*Lien*);

**"a Member of the same Fund Group"** means if the Shareholder is a fund, partnership, company, syndicate or other entity whose business is managed by a Fund Manager (an "Investment Fund") or is a nominee of that Investment Fund:

- (a) any participant or partner in or member of any such Investment Fund or the holders of any unit trust which is a participant or partner in or member of any

Investment Fund (but only in connection with the dissolution of the Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course of business);

- (b) any Investment Fund managed or advised by that Fund Manager;
- (c) any Parent Undertaking or Subsidiary Undertaking of that Fund Manager, or any Subsidiary Undertaking of any Parent Undertaking of that Fund Manager; or
- (d) any trustee, nominee or custodian of such Investment Fund and vice versa;

**"a Member of the same Group"** means as regards any company, a company which is from time to time a Parent Undertaking or a Subsidiary Undertaking of that company or a Subsidiary Undertaking of any such Parent Undertaking;

**"NASDAQ"** means the NASDAQ Stock Market of the NASDAQ OMX Group Inc.;

**"New Securities"** means any shares or other securities convertible into, or carrying the right to subscribe for, those shares issued by the Company after the Date of Adoption (other than shares or securities issued as a result of the events set out in Article 11.5 (*Allotment of New Shares or other Securities: Pre-Emption*)) excluding for the avoidance of doubt any Treasury Shares transferred by the Company after the Date of Adoption;

**"Offer"** has the meaning set out in Article 17.2 (*Mandatory Offer on a Change of Control*);

**"Offer Period"** has the meaning set out in Article 17.3 (*Mandatory Offer on a Change of Control*);

**"Ordinary Shareholders"** means the holders from time to time of the Ordinary Shares (but excludes the Company holding Treasury Shares);

**"Ordinary Shares"** means the ordinary shares of £0.001 each in the capital of the Company from time to time;

**"Original Shareholder"** has the meaning set out in Article 13.1 (*Permitted Transfers*);

**"Permitted Transfer"** means a transfer of Shares in accordance with Article 13 (*Permitted Transfers*);

**"Permitted Transferee"** means:

- (a) in relation to a Shareholder who is an individual, any of his Privileged Relations, Trustees or Qualifying Companies;
- (b) in relation to a Shareholder which is an undertaking (as defined in section 1161(1) of the Act) means any Member of the same Group;
- (c) in relation to a Shareholder which is an Investment Fund means any Member of the same Fund Group; and

subject to the approval of a majority of the Directors, acting reasonably;

**"Preference Shares"** means the preference shares of £0.001 each in the capital of the Company from time to time;



**"Priority Rights"** means the rights of Shareholders to purchase Shares contained in a Transfer Notice in the priority stipulated in Article 14.6 (*Transfers of Shares Subject to Pre-Emption Rights*);

**"Privileged Relation"** in relation to a Shareholder who is an individual member or deceased or former member means a spouse, Civil Partner, child or grandchild (including step or adopted or illegitimate child and their issue);

**"Proceeds of Sale"** means the consideration payable (including any deferred consideration) whether in cash or otherwise to those Shareholders selling Shares under a Share Sale less any fees, costs and expenses payable in respect of such Share Sale as approved by an Investor Majority;

**"Proposed Exit"** has the meaning given in Article 5.2 (*Liquidation and Exit Provisions*);

**"Proposed Purchaser"** means a proposed purchaser who at the relevant time has made an offer on arm's length terms;

**"Proposed Sale Date"** has the meaning given in Article 17.3 (*Mandatory Offer on Change of Control*);

**"Proposed Sale Notice"** has the meaning given in Article 17.3 (*Mandatory Offer on Change of Control*);

**"Proposed Sale Shares"** has the meaning given in Article 17.3 (*Mandatory Offer on Change of Control*);

**"Proposed Seller"** means any person proposing to transfer any shares in the capital of the Company;

**"Proposed Transfer"** has the meaning given in Article 17.1 (*Mandatory Offer on Change of Control*);

**"Qualifying Company"** means a company in which a Shareholder or any of his Privileged Relations or Trustee(s) holds the entire issued share capital and over which that Shareholder or Privileged Relation or Trustee(s) exercises control (within the meaning of section 1124 of the CTA 2010);

**"Qualifying Issue"** shall have the meaning given in Article 9.1;

**"Qualifying Person"** has the meaning given in section 318(3) of the Act;

**"Realisation Price"** means the value of each Ordinary Share (excluding Treasury Shares) in issue immediately prior to an IPO, determined by reference to the price per share at which Ordinary Shares are to be offered for sale, placed or otherwise marketed pursuant to such IPO;

**"Relevant Securities"** means any new Preference shares and/or Ordinary Shares issued by the Company after the Date of Adoption in connection with a new equity funding round. For the avoidance of doubt, any shares which are issued which are not subject to pre-emption rights, and/or any shares which are issued pursuant to any existing warrants, options or convertible loan notes do not fall into the definition of Relevant Securities.

**"Sale Shares"** has the meaning set out in Article 14.2(a) (*Transfers of Shares Subject to Pre-Emption Rights*);

**"Seller"** has the meaning set out in Article 14.2 (*Transfers of Shares Subject to Pre-Emption Rights*);

**"Shareholder"** means any holder of any Shares (but excludes the Company holding Treasury Shares);

**"Share Option Plan(s)"** means the share option plan(s) of the Company, the terms of which have been approved by an Investor Majority;

**"Shares"** means the Ordinary Shares, A Ordinary Shares and the Preference Shares from time to time;

**"Share Sale"** means the sale of (or the grant of a right to acquire or to dispose of) any of the shares in the capital of the Company (in one transaction or as a series of transactions) which will result in the purchaser of those shares (or grantee of that right) and persons Acting in Concert with him together acquiring a Controlling Interest in the Company, except where following completion of the sale the shareholders and the proportion of shares held by each of them are the same as the shareholders and their shareholdings in the Company immediately prior to the sale; **"Subscription and Shareholders' Agreement"** means the subscription and shareholders' agreement dated on or around the Date of Adoption between, amongst others, the Company and the Investors;

**"Subsidiary", "Subsidiary Undertaking" and "Parent Undertaking"** have the respective meanings set out in sections 1159 and 1162 of the Act;

**"Transfer Notice"** shall have the meaning given in Article 14.2 (*Transfers of Shares Subject to Pre-Emption Rights*);

**"Transfer Price"** shall have the meaning given in Article 14.2(c) (*Transfers of Shares Subject to Pre-Emption Rights*);

**"Treasury Shares"** means shares in the capital of the Company held by the Company as treasury shares from time to time within the meaning set out in section 724(5) of the Act; and

**"Trustees"** in relation to a Shareholder means the trustee or the trustees of a Family Trust.

### **3. Share capital**

- 3.1 In these Articles, unless the context requires otherwise, references to shares of a particular class shall include shares allotted and/or issued after the Date of Adoption 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 the relevant class then in issue.
- 3.2 Except as otherwise provided in these Articles, the Ordinary Shares shall rank pari passu in all respects.
- 3.3 The words "and the directors may determine the terms, conditions and manner of redemption of any such shares" shall be deleted from article 22(2) of the Model Articles.
- 3.4 Subject to Investor Majority Consent and the Act, the Company may purchase its own Shares with cash to the extent permitted by section 692(1)(b) of the Act.

- 3.5 Paragraph (c) of article 24(2) of the Model Articles shall be amended by the replacement of the words "that the shares are fully paid; and" with the words "the amount paid up on them; and".
- 3.6 In article 25(2) of the Model Articles, the words "payment of a reasonable fee as the directors decide" in paragraph (c) shall be deleted and replaced by the words "payment of the expenses reasonably incurred by the Company in investigating evidence as the directors may determine".
- 3.7 For the avoidance of doubt, the Company shall not exercise any right in respect of any Treasury Shares, including without limitation any right to:
- (a) receive notice of or to attend or vote at any general meeting of the Company;
  - (b) receive or vote on any proposed written resolution; and
  - (c) receive a dividend or other distribution
- save as otherwise permitted by section 726(4) of the Act.
- 4. Dividends**
- 4.1 In respect of any Financial Year, the Company's Available Profits will be applied as set out in this Article 4
- 4.2 The Company shall to the extent that it is legally able to, and without need for a resolution of the Directors, or the Company in general meeting and before application of any Available Profits to reserves or for any other purpose, pay in respect of each Preference Share a fixed, cumulative, preferential dividend ("**Preferred Dividend**") at an annual rate of 4% of the Issue Price per Preference Share to the person registered as its holder on the due date (such date determined in accordance with this Article 4).
- 4.3 Subject to Article 4.4, the Preferred Dividend shall be paid in cash on the same date as any dividend is paid or would have been paid to holders of Ordinary Shares in each year, the first such payment to be made in respect of the partial period from the Adoption Date.
- 4.4 All unpaid arrears and accruals of the Preferred Dividend shall be paid on:
- (a) on the date when it is legally able to pay; or failing which,
  - (b) on the date of conversion of all Preference Shares in accordance with Article 8.
- 4.5 The Company shall not declare or pay any further dividend unless and until all arrears and accruals of the Preferred Dividend have been paid.
- 4.6 Subject to Article 4.5, any further Available Profits which the Company may determine, with Investor Majority Consent, 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. The holders of A Ordinary Shares shall only be entitled to a distribution of either an interim or final dividend payment (which if payable will be paid on a pro rata basis) if the Board exercises its discretion to propose such a payment which is approved by Investor Majority Consent (again at the Investors' discretion).
- 4.7 Subject to the Act and these Articles, the Board may, provided Investor Majority Consent is given, pay interim dividends if justified by the Available Profits in respect of the relevant period to one or more classes of Shares.

- 4.8 Every dividend shall accrue on a daily basis assuming a 365 day year. All dividends are expressed net and shall be paid in cash.
- 4.9 Unless the Company has insufficient Available Profits, the Preferred Dividend shall, notwithstanding that such dividend is expressed to be cumulative, be paid immediately on the due date.
- 4.10 Subject to Article 4.12 if, as a result of not having sufficient Available Profits, the Company is not lawfully permitted to pay the Preferred Dividend in full on the due date, it shall pay the Preferred Dividend to the extent it is lawfully able to do so. The unpaid amount shall be a debt due from the Company.
- 4.11 If the Company is in arrears in paying the Preferred Dividend, the first Available Profits arising shall be applied in or towards paying off any arrears of Preferred Dividend.
- 4.12 On an IPO, if the Company has insufficient Available Profits for distribution to pay any Arrears, the Company shall, by way of special dividend and in lieu of the accrued dividends the Company is prohibited from paying, allot to each holder of Shares in the relevant class by way of capitalisation of reserves such number of Shares (disregarding any fraction of a share) as shall have an aggregate Realisation Price equal to the unpaid dividend.
- 4.13 If there are nil paid or partly paid share(s), any holder of such share(s) shall only be entitled, in case of any dividend, to be paid an amount equal to the amount of the dividend multiplied by the percentage of the amount that is paid up (if any) on such share(s) during any portion or portions of the period in respect of which a dividend is paid.
- 4.14 A capitalised sum which was appropriated from profits available for distribution may be applied in or towards paying up any sums unpaid on existing Shares held by the persons entitled to such capitalised sum.
- 4.15 If:
- (a) any Share is subject to the Company's Lien; and
  - (b) the Directors are entitled to issue a Lien Enforcement Notice in respect of it,
- they may, instead of issuing a Lien Enforcement Notice, deduct from any dividend or other sum payable in respect of the Share any sum of money which is payable to the Company by the holder of that Share to the extent that they are entitled to require payment under a Lien Enforcement Notice. Money so deducted shall be used to pay any of the sums payable in respect of that Share. The Company shall notify the distribution recipient in writing of:
- (i) the fact and sum of any such deduction;
  - (ii) any non-payment of a dividend or other sum payable in respect of an Share resulting from any such deduction; and
  - (iii) how the money deducted has been applied.
- 4.16 Article 31(1) of the Model Articles shall be amended by:
- (a) the replacement of the words "either in writing or as the directors may otherwise decide" at the end of paragraphs (a), (b) and (c) of that article 31(1) with the words "in writing"; and

- (b) the replacement of the words "either in writing or by such other means as the directors decide" from the end of paragraph (d) of that article 31(1) with the words "in writing".

## **5. Liquidation and Exit provisions**

- 5.1 On a distribution of assets on a liquidation or a return of capital (other than a conversion, 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) in the following order of priority:

- (a) first, in paying to the holders of the Preference Shares in respect of each Preference Share held the Issue Price of that Preference Share, together with a sum equal to any arrears and accruals of the Preferred Dividend in respect of that Preference Share calculated down to (and including) the date of the return of capital and, if there is a shortfall of assets remaining to satisfy such payments in full, the proceeds shall be distributed to the holders of the Preference Shares pro rata to the aggregate amounts due under this Article 5.1(a) to each such Preference Share held; and
- (b) thereafter, in distributing the balance among the holders of Shares pro rata to the number of Shares held, as if they all constituted shares of the same class.

- 5.2 In the event of an Exit approved by the Board and an Investor Majority in accordance with the terms of these Articles (the "**Proposed Exit**"), all Shares shall be deemed to rank pari passu for the purposes of the Proposed Exit and all Shareholders shall consent to, vote for, raise no objections to and waive any applicable rights in connection with the Proposed Exit ("**Actions**"). The Shareholders shall be required to take all Actions with respect to the Proposed Exit as are required by the Board to facilitate the Proposed Exit. If any Shareholder fails to comply with the provisions of this Article, the Company shall be constituted the agent of each defaulting Shareholder for taking the Actions as are necessary to effect the Proposed Exit and the Directors may authorise an officer or member to execute and deliver on behalf of such defaulting Shareholder the necessary documents and the Company may receive any purchase money due to the defaulting Shareholder in trust for each of the defaulting Shareholders.

## **6. Votes in general meeting and written resolutions**

- 6.1 The Ordinary Shares shall confer on each holder of Ordinary Shares the right to receive notice of and to attend, speak and vote at all general meetings of the Company and to receive and vote on proposed written resolutions of the Company. The A Ordinary Shares and the Preference Shares shall not confer on any holder of A Ordinary Shares or Preference Shares any such rights..
- 6.2 Where Shares confer a right to vote, on a show of hands each holder of such shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy shall have one vote and on a poll each such holder so present shall have one vote for each Share held by him.
- 6.3 No voting rights attached to a share which is nil paid or partly paid may be exercised:
  - (a) at any general meeting, at any adjournment of it or at any poll called at or in relation to it; or
  - (b) on any proposed written resolution,

unless all of the amounts payable to the Company in respect of that share have been paid.

## **7. Consolidation of Shares**

- 7.1 Whenever as a result of a consolidation of Shares any Shareholders would become entitled to fractions of a Share, the Directors may, on behalf of those Shareholders, sell the Shares representing the fractions for the best price reasonably obtainable to any person (including, subject to the provisions of the Act, the Company) and distribute the net proceeds of sale in due proportion among those Shareholders, and the Directors may authorise any person to execute an instrument of transfer of the Shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the Shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- 7.2 When the Company sub-divides or consolidates all or any of its Shares, the Company may, subject to the Act and to these Articles, by ordinary resolution determine that, as between the Shares resulting from the sub-division or consolidation, any of them may have any preference or advantage or be subject to any restriction as compared with the others.

## **8. Conversion of Preference Shares**

- 8.1 All of the Preference Shares shall automatically convert into Ordinary Shares on the date of a Proposed Exit.
- 8.2 At least 5 Business Days before the date of the Proposed Exit, each holder of the relevant Preference Shares to be converted shall deliver the certificate(s) (or an indemnity in a form reasonably satisfactory to the Directors for any lost share certificate) for the Preference Shares being converted (together with such other evidence (if any) as the Directors may reasonably require to prove good title to those Shares) to the Company at its registered office for the time being
- 8.3 Subject to **Error! Reference source not found.** the conversion shall only be effective immediately before such Proposed Exit. If such Proposed Exit does not become effective, or does not take place, such conversion shall be deemed not to have occurred.
- 8.4 On conversion pursuant to this Article 8:
- (a) the relevant Preference Shares shall (without any further authority than that contained in these Articles) stand converted into Ordinary Shares on the basis of one Ordinary Share for each Preference Share held (subject to adjustment to take account of any sub-division, consolidation or re-classification of either the Preference Shares or the Ordinary Shares at any time before a conversion in accordance with this Article 8) and the Ordinary Shares resulting from the conversion shall rank *pari passu* in all respects with the existing issued Ordinary Shares; and
  - (b) the Company shall, if it has sufficient Available Profits, pay to the holder(s) of the Preference Shares being converted a dividend equal to all arrears and accruals of dividends in relation to those Preference Shares (to be calculated on a daily basis down to (and including) the date of conversion). If the Company has insufficient Available Profits to pay all such arrears and accruals of dividend amounts in full then it shall pay the same to the extent that it is

lawfully able to do so and the balance of any such arrears or accruals shall be a debt due of the Company to which Article 4.10 to Article 4.11 shall apply.

- 8.5 Following a conversion pursuant to this Article 8, the Company shall enter the holder(s) of the converted Preference Shares in the register of Shareholders of the Company as the holder(s) of the appropriate number of Ordinary Shares, and subject to the Proposed Exit completing the Company shall not be required to issue any new share certificate(s) to the holder(s) of the converted Preference Shares

9. **Anti-dilution**

- 9.1 If the Company issues any Relevant Securities without consideration or for a consideration per Share less than the Issue Price of the Preference Shares (a **"Qualifying Issue"**), the Company shall make a bonus issue of such number of Preference Shares (**"Anti-Dilution Shares"**) to each holder for the time being of Preference Shares (unless and to the extent that any such holder of Preference Shares has specifically waived his rights under this Article 9 in writing) (each an **"Exercising Investor"**) as shall be calculated in accordance with Article 9.2.

- 9.2 The number of Anti-Dilution Shares to be issued to each Exercising Investor shall be the number equal to N (rounded down to the nearest whole number), where N is calculated as follows:

$$N = (W / X) - Z$$

Where:

N = the number of Anti-Dilution Shares to be issued to the Exercising Investor.

X = the Issue Price (in pounds sterling) per Relevant Security of the Qualifying Issue.

W = the total amount (in pounds sterling) subscribed by the relevant Exercising Investor for its Preference Shares.

Z = the number of Preference Shares held by the relevant Exercising Investor prior to the Qualifying Issue (but excluding any Preference Shares acquired as a result of any previous operation of this Article 9).

**Illustrative Example:**

If:

- (a) the Issue Price per Preference Share in the original round was £4.00;
- (b) the Issue Price per New Preference Share in the new round is £2.00;
- (c) the Exercising Investor paid an aggregate subscription price of £1,500,000;
- (d) the total number of Preference Shares held to the Exercising Investor is 375,000;

then the number of Anti-Dilution Shares to be issued to the Exercising Investor is:

$$N = (1,500,000/2.00) - 375,000$$

$$N = 375,000$$

- 9.3 The Anti-Dilution Shares shall:
- (a) be paid up by the automatic capitalisation of available reserves of the Company (without any further authority required other than that contained in these Articles);
  - (b) within 5 Business Days of the date of the Qualifying Issue be issued to the relevant Exercising Investors in accordance with Article 9.2 and credited as fully paid up in cash; and
  - (c) shall rank *pari passu* in all respects with the existing Preference Shares.
- 9.4 If and to the extent that the Company is prohibited from issuing the Anti-Dilution Shares in accordance with Article 9.3 (whether by virtue of the Act or otherwise), each Exercising Investor shall be entitled, at any time, to subscribe at par for the balance of that number of Anti-Dilution Shares to which he would otherwise be entitled to receive pursuant to Article 9.2 and, following such a subscription, Article 9.3(c) shall apply.
- 9.5 In the case of an issue of Relevant Securities for a consideration in whole or in part other than in cash, the Issue Price of each Relevant Security for the purposes of Article 9.1 and Article 9.2 shall be (a) a price agreed by the Directors and the holders for the time being of the majority of the Preferred Shares Board; or (b) failing such agreement within 10 Business Days after (and excluding) the date of such issue, the price as determined by the Expert Valuer (acting as experts and not as arbitrators) as being, in their opinion, the current cash value of the non-cash consideration for the allotment of the Relevant Securities.
- 9.6 In the event of any Issue or Re-organisation, the Issue Price of each Preference Share shall be adjusted to take account of such Issue or Re-organisation (both as defined in Article 9.8) on such basis as may be agreed between the Directors and the holders for the time being of the majority of Preference Shares or, failing such agreement within 10 Business Days after (and excluding) the date of such Issue or Re-organisation, as determined by the Expert Valuer (at the Company's cost).
- 9.7 The Expert Valuer's determination of any matter under this Article 9 shall, in the absence of manifest error, be final and binding on the Company and each of its Shareholders.
- 9.8 In this Article 9, "**Issue or Re-organisation**" means any return of capital, issue of Shares or other securities of the Company by way of capitalisation of profits or reserves (other than a capitalisation issue in substitution for, or as an alternative to, a cash dividend which is made available to the holders of Preference Shares), any consolidation, sub-division or re-classification or the cancellation of any shares following a repurchase or redemption of Shares (other than Preference Shares), or any variation in the Issue Price or conversion rate applicable to any other outstanding Shares of the Company.
- 9.9 For the purposes of this Article 9 any Shares held as treasury shares by the Company shall be disregarded when calculating the number of Anti-Dilution Shares to be issued.
- 10. Variation of rights**
- 10.1 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 more than seventy five per cent (75%) in nominal value of the issued shares of that class.



- 10.2 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.

**11. Allotment of new shares or other securities: pre-emption**

- 11.1 Unless otherwise agreed by special resolution, if the Company proposes to allot any New Securities those New Securities shall not be allotted to any person unless the Company has in the first instance offered them to all holders of Shares (the “**Subscribers**”) on the same terms and at the same price as those New Securities are being offered to other persons on a pari passu and pro rata basis to the number of Shares (as if the Shares constituted one and the same class) held by those holders (as nearly as may be without involving fractions). The offer:

- (a) shall be in writing, be open for acceptance from the date of the offer to the date ten (10) Business Days after the date of the offer (inclusive) (the “**Subscription Period**”) and give details of the number and subscription price of the New Securities; and
- (b) may stipulate that any Subscriber who wishes to subscribe for a number of New Securities in excess of the proportion to which each is entitled shall in their acceptance state the number of excess New Securities for which they wish to subscribe.

- 11.2 If, at the end of the Subscription Period, the number of New Securities applied for is equal to or exceeds the number of New Securities, the New Securities shall be allotted to the Subscribers who have applied for New Securities on a pro rata basis to the number of Shares held by such Subscribers which procedure shall be repeated until all New Securities have been allotted (as nearly as may be without involving fractions or increasing the number allotted to any Subscriber beyond that applied for by him).

- 11.3 If, at the end of the Subscription Period, the number of New Securities applied for is less than the number of New Securities, the New Securities shall be allotted to the Subscribers in accordance with their applications and any remaining New Securities shall be offered to any other person as the Directors may determine at the same price and on the same terms as the offer to the Subscribers.

- 11.4 Subject to the requirements of Articles 11.1 to 11.3 (inclusive) and to the provisions of section 551 of the Act, any New Securities shall be at the disposal of the Board who may allot, grant options over or otherwise dispose of them to any persons at those times and generally on the terms and conditions they think proper, provided that the allotment or grant to that person must be approved in writing by an Investor Majority.

- 11.5 The provisions of Articles 11.1 to 11.4 (inclusive) shall not apply to:

- (a) options to subscribe for A Ordinary Shares under the Share Option Plans;
- (b) New Securities issued or granted in order for the Company to comply with its obligations under these Articles including, but not limited to those New Securities issued in accordance with Article 4.12 (*Dividends*);
- (c) New Securities issued in consideration of the acquisition by the Company of any company or business which has been approved in writing by an Investor Majority; and
- (d) New Securities issued as a result of a bonus issue of shares which has been approved in writing by an Investor Majority.

- 11.6 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.

**12. Transfers of Shares – general**

- 12.1 In Articles 12 (*Transfers of Shares – General*) to 19 (*Drag-Along*) inclusive, reference to the transfer of a Share includes the transfer or assignment of a beneficial or other interest in that Share or the creation of a trust or Encumbrance over that Share and reference to a Share includes a beneficial or other interest in a Share.
- 12.2 No Share may be transferred unless the transfer is made in accordance with these Articles.
- 12.3 If a Shareholder transfers or purports to transfer a Share otherwise than in accordance with these Articles he will be deemed immediately to have served a Transfer Notice in respect of all Shares held by him.
- 12.4 Any transfer of a Share by way of sale which is required to be made under Articles 14 (*Transfers of Shares Subject to Pre-Emption Rights*) to 19 (*Drag-Along*) (inclusive) will be deemed to include a warranty that the transferor sells with full title guarantee.
- 12.5 Unless express provision is made in these Articles to the contrary, no Shares shall be transferred without Founder Group Consent.
- 12.6 The Directors may refuse to register a transfer if:
- (a) it is a transfer of a Share to a bankrupt, a minor or a person of unsound mind;
  - (b) it is a transfer of a Share which is not fully paid:
    - (i) to a person of whom the Directors do not approve; or
    - (ii) on which Share the Company has a lien;
  - (c) the transfer is not lodged at the registered office or at such other place as the Directors may appoint;
  - (d) the transfer is not accompanied by the certificate for the Shares to which it relates (or an indemnity for lost certificate in a form acceptable to the Board) and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;
  - (e) the transfer is in respect of more than one class of Shares;
  - (f) the transfer is in favour of more than four transferees;
  - (g) the Board determines that such transfer should not be registered pursuant to Article 14.8(f) (*Transfers of Shares Subject to Pre-Emption Rights*); or
  - (h) these Articles otherwise provide that such transfer shall not be registered.

If the Directors refuse to register a transfer, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

- 12.7 The Directors may, as a condition to the registration of any transfer of shares in the Company (whether pursuant to a Permitted Transfer or otherwise), require the transferee to execute and deliver to the Company a deed agreeing to be bound by the terms of any shareholders' agreement or similar document in force between some or all of the Shareholders and the Company in any 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 under any such agreement or other document) and if any condition is imposed in accordance with this Article 12.7 the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee.
- 12.8 To enable the Directors to determine whether or not there has been any disposal of shares in the capital of the Company (or any interest in shares in the capital of the Company) in breach of these Articles the Directors may require any holder or the legal personal representatives of any deceased holder or any person named as transferee in any transfer lodged for registration or any other person who the Directors may reasonably believe to have information relevant to that purpose, to furnish to the Company that information and evidence the Directors may request regarding any matter which they deem relevant to that purpose, including (but not limited to) the names, addresses and interests of all persons respectively having interests in the shares in the capital of the Company from time to time registered in the holder's name. If the information or evidence is not provided to enable the Directors to determine to their reasonable satisfaction that no breach has occurred, or where as a result of the information and evidence the Directors are reasonably satisfied that a breach has occurred, the Directors shall immediately notify the holder of such shares in the capital of the Company in writing of that fact and the following shall occur:
- (a) the relevant shares shall cease to confer upon the holder of them (including any proxy appointed by the holder) any rights to vote (whether on a show of hands or on a poll and whether exercisable at a general meeting or on a written resolution of the Company or at any separate meeting or written resolution of the class in question);
  - (b) the withholding of payment of all dividends or other distributions otherwise attaching to the relevant shares or to any further shares issued in respect of those shares; and
  - (c) the holder may be required at any time following receipt of the notice to transfer some or all of its Shares to any person(s) at the price that the Directors may require by notice in writing to that holder.

The rights referred to in (a) and (b) above may be reinstated by the Board subject to Investor Majority Consent and shall in any event be reinstated upon the completion of any transfer referred to in (c) above.

- 12.9 In any case where the Board requires a Transfer Notice to be given in respect of any Shares, if a Transfer Notice is not duly given within a period of ten (10) Business Days of demand being made, a Transfer Notice shall be deemed to have been given at the expiration of that period.
- 12.10 If a Transfer Notice is required to be given by the Board or is deemed to have been given under these Articles, the Transfer Notice, unless otherwise specified in the Articles, will be treated as having specified that:
- (a) the Transfer Price for the Sale Shares will be as agreed between the Board (any director who is a Seller or with whom the Seller is connected (within the meaning of section 252 of the Act) not voting) and the Seller, or, failing agreement within five (5) Business Days after the date on which the Board

becomes aware that a Transfer Notice has been deemed to have been given, will be the Fair Value of the Sale Shares;

- (b) it does not include a Minimum Transfer Condition (as defined in Article 14.2(d) (*Transfers of Shares Subject to Pre-Emption Rights*)); and
- (c) the Seller wishes to transfer all of the Shares held by it.

12.11 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of:

- (a) the transferor; and
- (b) (if any of the shares is partly or nil paid) the transferee.

### **13. Permitted Transfers**

13.1 A Shareholder (who is not a Permitted Transferee) (the "**Original Shareholder**") may transfer all or any of his or its Shares to a Permitted Transferee without restriction as to price or otherwise.

13.2 Shares previously transferred as permitted by Article 13.1 may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder without restriction as to price or otherwise.

13.3 Where under the provision of a deceased Shareholder's will or laws as to intestacy, the persons legally or beneficially entitled to any Shares, whether immediately or contingently, are Permitted Transferees of the deceased Shareholder, the legal representative of the deceased Shareholder may transfer any Share to those Permitted Transferees, in each case without restriction as to price or otherwise.

13.4 If a Permitted Transferee who was a Member of the same Group as the Original Shareholder ceases to be a Member of the same Group as the Original Shareholder, the Permitted Transferee must not later than five (5) Business Days after the date on which the Permitted Transferee so ceases, transfer the Shares held by it to the Original Shareholder or a Member of the same 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 have given a Transfer Notice in respect of those Shares.

13.5 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 five (5) Business Days after the date on which the Permitted Transferee so ceases, transfer 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.

13.6 Trustees may (i) transfer Shares to a Qualifying Company or (ii) transfer Shares to the Original Shareholder or to another Permitted Transferee of the Original Shareholder or (iii) transfer Shares to the new or remaining trustees upon a change of Trustees without restrictions as to price or otherwise.

13.7 No transfer of Shares may be made to Trustees unless the Board is satisfied:

- (a) with the terms of the trust instrument and in particular with the powers of the trustees;

- (b) with the identity of the proposed trustees;
  - (c) the proposed transfer will not result in fifty per cent (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 the Family Trust in question are to be paid by the Company.
- 13.8 If a Permitted Transferee who is a Qualifying Company of the Original Shareholder ceases to be a Qualifying Company of the Original Shareholder, it must within five (5) Business Days of so ceasing, transfer the Shares held by it to the Original Shareholder (or, to any Permitted Transferee of the Original Shareholder) (any may do so without restriction as to price or otherwise) failing which it will be deemed (unless it obtains the approval of the Board) to have given a Transfer Notice in respect of such Shares.
- 13.9 If a Permitted Transferee who is a spouse or Civil Partner of the Original Shareholder ceases to be a spouse or Civil Partner of the Original Shareholder whether by reason of divorce or otherwise he must, within fifteen (15) Business Days of so ceasing 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 14.2 (*Transfers of Shares Subject to Pre-Emption Rights*),
- failing which he shall be deemed to have given a Transfer Notice.
- 13.10 On the death (subject to Article 13.3), bankruptcy, liquidation, administration or administrative receivership of a Permitted Transferee (other than a joint holder) his personal representatives or trustee in bankruptcy, or its liquidator, administrator or administrative receiver must within five Business Days after the date of the grant of probate, the making of the bankruptcy order or the appointment of the liquidator, administrator or the administrative receiver execute and deliver to the Company a transfer of the Shares held by the Permitted Transferee without restriction as to price or otherwise. The transfer shall be to the Original Shareholder if still living (and not bankrupt or in liquidation) or, if so directed by the Original Shareholder, to any Permitted Transferee of the Original Shareholder. If the transfer is not executed and delivered within five Business Days of such period or if the Original Shareholder has died or is bankrupt or is in liquidation, administration or administrative receivership, the personal representative or trustee in bankruptcy or liquidator, administrator or administrative receiver will be deemed to have given a Transfer Notice.
- 13.11 A transfer of any Shares approved by the Founder Group may be made without restriction as to price or otherwise and with any such conditions as may be imposed and each such transfer shall be registered by the Directors.
- 13.12 Any Shares may at any time be transferred where there is a sale of the entire issued share capital of the Company to a Holding Company, which has been approved by a majority of the Board.
- 13.13 The Company shall only be permitted to sell or transfer any Shares held as Treasury Shares to any person with Founder Group Consent.

#### **14. Transfers of Shares subject to pre-emption rights**

14.1 Save where the provisions of Articles 13 (*Permitted Transfers*), 14.9 (*Transfer of A Ordinary Shares*), 16 (*Compulsory Transfers*), 17 (*Mandatory Offer on a Change of Control*), 18 (*Co-Sale Right*) and 19 (*Drag-Along*) apply, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights contained in this Article 14..

14.2 A Shareholder who wishes to transfer Shares (a "**Seller**") shall, except as otherwise provided in these Articles, before transferring or agreeing to transfer any Shares give notice in writing (a "**Transfer Notice**") to the Company specifying:

- (a) the number of Shares which he wishes to transfer (the "**Sale Shares**");
- (b) if he wishes to sell the Sale Shares to a third party, the name of the proposed transferee;
- (c) the price at which he wishes to transfer the Sale Shares; and
- (d) whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold to Shareholders (a "**Minimum Transfer Condition**").

If no cash price is specified by the Seller, the price at which the Sale Shares are to be transferred (the "**Transfer Price**") must be agreed by the Board. In addition, if the price is not specified in cash, an equivalent cash value price must be agreed between the Seller and the Board. In both cases, the price will be deemed to be the Fair Value of the Sale Shares if no price is agreed within five (5) Business Days of the Company receiving the Transfer Notice.

14.3 Except with Founder Group Consent, no Transfer Notice once given or deemed to have been given under these Articles may be withdrawn.

14.4 A Transfer Notice constitutes the Company as the agent of the Seller for the sale of the Sale Shares at the Transfer Price.

14.5 As soon as practicable following the later of:

- (a) receipt of a Transfer Notice; and
- (b) in the case where the Transfer Price has not been agreed, the determination of the Transfer Price under Article 15 (*Valuation of Shares*),

the Board shall offer the Sale Shares for sale to the Shareholders in the manner set out in Articles 14.6 and 14.7. Each offer must be in writing and give details of the number and Transfer Price of the Sale Shares offered.

14.6 Priority for offer of Sale Shares

- (a) If the Sale Shares are Ordinary Shares, the Sale Shares shall be offered in the following priority:
  - (i) first, to the Company and/or any Employee Trust that the Board may nominate for this purpose;
  - (ii) second, to the holders of Ordinary Shares;
  - (iii) third, to all other Shareholders.

in each case on the basis set out in Article 14.7.

- (b) If the Sale Shares are Preference Shares, the Sale Shares shall be offered in the following priority:
  - (i) first, to the Company and/or any Employee Trust that the Board may nominate for this purpose
  - (ii) second, to the holders of Preference Shares
  - (iii) third, to the holders of Ordinary Shares;
  - (iv) fourth, to all other Shareholders.

in each case on the basis set out in Article 14.7.

#### 14.7 Transfers: Offer

- (a) The Board shall offer the Sale Shares pursuant to the Priority Rights to all shareholders specified in the offer other than the Seller (the "**Continuing Shareholders**") inviting them to apply in writing within the period from the date of the offer to the date fifteen (15) Business Days after the offer (inclusive) (the "**Offer Period**") for the maximum number of Sale Shares they wish to buy.
- (b) If the Sale Shares are subject to a Minimum Transfer Condition then any allocation made under Article 14.7 will be conditional on the fulfilment of the Minimum Transfer Condition.
- (c) If, 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 Board shall allocate the Sale Shares to each Continuing Shareholder who have applied for Sale Shares in the proportion (fractional entitlements being rounded to the nearest whole number) which his existing holding of the relevant class(es) of Shares bears to the total number of the relevant class(es) of Shares held by those Continuing Shareholders who have applied for Sale Shares which procedure shall be repeated until all Sale Shares have been allocated but 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.
- (d) If, at the end of the Offer Period, the number of Sale Shares applied for is less than the number of Sale Shares, the Board shall allocate the Sale Shares to the Continuing Shareholders in accordance with their applications and the balance will be dealt with in accordance with Article 14.8(e).

#### 14.8 Completion of transfer of Sale Shares

- (a) If the Transfer Notice includes a Minimum Transfer Condition and the total number of Shares applied for does not meet the Minimum Transfer Condition the Board shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under Article 14.7 stating the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.
- (b) If:
  - (i) the Transfer Notice does not include a Minimum Transfer Condition; or
  - (ii) the Transfer Notice does include a Minimum Transfer Condition and allocations have been made in respect of all or the minimum required number of the Sale Shares,

the Board shall, when no further offers are required to be made under Article 14.7 and once the requirements of Articles 17 (*Mandatory Offer on a Change of Control*) and/or 18 (*Co-Sale Right*) have been fulfilled to the extent required, give written notice of allocation (an "**Allocation Notice**") to the Seller and each Shareholder to whom Sale Shares have been allocated (an "**Applicant**") specifying the number of Sale Shares allocated to each Applicant and the place and time (being not less than ten (10) Business Days nor more than twenty (20) Business Days after the date of the Allocation Notice) for completion of the transfer of the Sale Shares.

- (c) Upon service of an Allocation Notice, the Seller must, against payment of the Transfer Price, transfer the Sale Shares in accordance with the requirements specified in it.
- (d) If the Seller fails to comply with the provisions of Article 14.8(c):
  - (i) the chairman of the Company or, failing him, one of the directors, or some other person nominated by a resolution of the Board, may on behalf of the Seller:
    - (A) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
    - (B) receive the Transfer Price and give a good discharge for it; and
    - (C) (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
  - (ii) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) or otherwise hold the Transfer Price on trust for the Seller until he has delivered to the Company his certificate or certificates for the relevant Shares (or an indemnity for lost certificate in a form acceptable to the Board).
- (e) If an Allocation Notice does not relate to all the Sale Shares then, subject to Article 14.8(f), the Seller may, within eight weeks after service of the Allocation Notice, transfer the unallocated Sale Shares to any person at a price at least equal to the Transfer Price.
- (f) The right of the Seller to transfer Shares under Article 14.8(e) does not apply if the Board is of the opinion that:
  - (i) the transferee is a person (or a nominee for a person) who the Board determine in their absolute discretion is a competitor with (or an Associate of a competitor with) the business of the Company or with a Subsidiary Undertaking of the Company;
  - (ii) 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
  - (iii) the Seller has failed or refused to provide promptly information available to it or him and reasonably requested by the Board for the purpose of enabling it to form the opinion mentioned above.

#### 14.9 Transfer of A Ordinary Shares



- (a) Unless otherwise transferred pursuant to any other Article (including, without limitation, Articles 16 or 17), any member and/or option holder (the "**Selling Member**") who wishes to transfer or otherwise dispose of any A Ordinary Shares (the "**A Ordinary Sale Shares**"), shall send the Company a written notice (a "**A Ordinary Transfer Notice**").
- (b) The A Ordinary Transfer Notice may only be served between the following dates each year: 1 July to 31 July, and shall constitute an offer to sell A Ordinary Shares at the Prescribed Price (as defined in Article 14.9(d) below). The A Ordinary Transfer Notice shall, unless the Selling Member is only an option holder, be accompanied by the Selling Member's share certificate(s) and a signed blank stock transfer form.
- (c) The Board shall arrange for the A Ordinary Sale Shares to be offered at the relevant Prescribed Price to either the Company and/or to members holding Ordinary Shares who have indicated that they may be willing to purchase such A Ordinary Shares. The Board shall have complete discretion as to which members shall be offered such A Ordinary Shares and in which order. The Board shall also have discretion as to any other requirements relating to the transfer. Payment shall be made to the Selling Member by the Company and/or purchasing member(s) for any A Ordinary Sale Shares which have been sold. The company secretary shall issue a balancing certificate or certificates, as appropriate, to the Selling Member (other than where the Selling Member is only an option holder) in respect of any A Ordinary Shares in respect of which purchasers have not been found.
- (d) On or around 1 June in each year the auditors or other professional advisers of the Company shall value the A Ordinary Shares in the capital of the Company and certify what price they consider would be a fair value per A Ordinary share assuming a sale between a willing seller and a willing buyer (in respect of each class of share, the "**Prescribed Price**"). In so doing the auditors shall be deemed to be acting as experts and not as arbitrators, and their certificate shall be conclusive and binding on the members. Unless otherwise agreed by the Board, this valuation shall be applied to any A Ordinary Shares to be transferred, or otherwise disposed of pursuant to this Article 14.9. The costs and expenses relating to the obtaining of the auditors' or other professional advisers' certificate shall be borne by the Company.

## 15. Valuation of Shares

15.1 If no Transfer Price can be agreed between the Seller and the Board in accordance with provisions of Articles 12.10 (*Transfers of Shares – General*) or 14.2 (*Transfers of Shares Subject to Pre-emption Rights*); or the Exercising Investor and the Board in accordance with Article 9 (Anti-dilution) then, on the date of failing agreement, the Board shall either:

- (a) appoint an expert valuer in accordance with Article 15.2 (the "**Expert Valuer**") to certify the Fair Value of the Sale Shares or to determine the Issue Price in the case of a dispute under Article 9; or
- (b) (if the Fair Value has been certified by an Expert Valuer within the preceding 12 weeks) specify that the Fair Value of the Sale Shares will be calculated by dividing any Fair Value so certified by the number of Sale Shares to which it related and multiplying such Fair Value by the number of Sale Shares the subject of the Transfer Notice.

15.2 The Expert Valuer will be either:

- (a) the Auditors; or
  - (b) (prior to the appointment of the Auditors or if otherwise agreed by the Board and the Seller) an independent firm of Chartered Accountants to be agreed between the Board and the Seller or failing agreement not later than the date ten (10) Business Days after the date of service of the Transfer Notice to be nominated by the then President of the Institute of Chartered Accountants in England and Wales on the application of either party and approved by the Company.
- 15.3 The "Fair Value" of the Sale Shares shall be determined by the Expert Valuer on the following assumptions and bases:
- (a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer;
  - (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 (excluding any Shares held as Treasury Shares) without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent but taking account of the rights attaching to the Sale Shares; and
  - (e) reflect any other factors which the Expert Valuer reasonably believes should be taken into account.
- 15.4 If any difficulty arises in applying any of these assumptions or bases then the Expert Valuer shall resolve that difficulty in whatever manner they shall in their absolute discretion think fit.
- 15.5 The Expert Valuer shall be requested to determine the Fair Value within twenty (20) Business Days of their appointment and to notify the Board of their determination.
- 15.6 The Expert Valuer shall act as experts and not as arbitrators and their determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 15.7 The Board will give the Expert Valuer access to all accounting records or other relevant documents of the Company subject to them agreeing to such confidentiality provisions as the Board may reasonably impose.
- 15.8 The Expert Valuer shall deliver their certificate to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Seller. Unless the Sale Shares are to be sold under a Transfer Notice, which is deemed to have been served, the Seller may by notice in writing to the Company within five Business Days of the service on him of the copy certificate, cancel the Company's authority to sell the Sale Shares.
- 15.9 The cost of obtaining the certificate shall be paid by the Company unless:
- (a) the Seller cancels the Company's authority to sell; or
  - (b) the Sale Price certified by the Expert Valuer is less than the price (if any) offered by the directors to the Seller for the Sale Share before Expert Valuer was instructed,

in which case the Seller shall bear the cost.

15.10 This Article is subject to the provisions of Article 14.9.

**16. Compulsory transfers – general**

16.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder shall be deemed to have given a Transfer Notice in respect of that Share at a time determined by the Directors.

16.2 If a Share remains registered in the name of a deceased Shareholder for longer than one (1) year after the date of his death the Directors may require the legal personal representatives of that deceased Shareholder either:

- (a) to effect a Permitted Transfer of such Shares (including for this purpose an election to be registered in respect of the Permitted Transfer); or
- (b) to show to the satisfaction of the Directors that a Permitted Transfer will be effected before or promptly upon the completion of the administration of the estate of the deceased Shareholder.

If either requirement in this Article 16.2 shall not be fulfilled to the satisfaction of the Directors a Transfer Notice shall be deemed to have been given in respect of each such Share save to the extent that, the Directors may otherwise determine.

16.3 If a Shareholder which is a company, either suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it or any material part of its assets (other than as part of a bona fide restructuring or reorganisation), the relevant Shareholder (and all its Permitted Transferees) shall be deemed to have given a Transfer Notice in respect of all the shares held by the relevant Shareholder and its Permitted Transferees save to the extent that, and at a time, the Directors may determine.

16.4 If a holder of A Ordinary Shares:

- (a) has a bankruptcy petition being presented or an order being made against him for his bankruptcy, or an arrangement or composition is being proposed or made with any of his creditors, or where he otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors;
- (b) at any time lacks capacity (under section 2 of the Mental Health Act 2005) to make decisions in relation to the Company, his shareholding or in his capacity as a director, employee and/or consultant of the Company; or
- (c) ceases to be a director, employee and/or consultant of the Company,

he, and any of his Permitted Transferees, shall be deemed to have given a Transfer Notice in respect of all Shares held by the relevant holder of A Ordinary Shares and/or his Permitted Transferees save to the extent that, and at any time, the Directors may determine.

16.5 In respect of 16.4(c) above, the Transfer Price in respect of such Sale Shares shall, where the holder of the A Ordinary Shares is:

- (a) a Good Leaver, be the aggregate Fair Value of the Sale Shares; and
- (b) a Bad Leaver, be the aggregate nominal value of the Sale Shares.

- 16.6 Notwithstanding any provision contained in Article 16.4 or 16.5 above, where the holder of A Ordinary Shares is Kevin Malik, and within eighteen months (the “**Agreed Period**”) from 1<sup>st</sup> February 2016 (the “**Adoption Date**”), Kevin Malik:
- (a) has a bankruptcy petition being presented or an order being made against him for his bankruptcy, or an arrangement or composition is being proposed or made with any of his creditors, or where he otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors;
  - (b) at any time lacks capacity (under section 2 of the Mental Health Act 2005) to make decisions in relation to the Company, his shareholding or in his capacity as a director, employee and/or consultant of the Company; or
  - (c) ceases to be a director, employee and/or consultant of the Company,
- he, and any of his Permitted Transferees, shall be deemed to have given a Transfer Notice in respect of all Shares held by Kevin Malik and/or his Permitted Transferees save to the extent that, and at any time, the Directors may determine.
- 16.7 Notwithstanding any provision contained in Article 16.4 or 16.5 above, where Article 16.6 applies, all Shares held by Kevin Malik and/or his Permitted Transferees shall be offered for sale to the Company (but for the avoidance of doubt, the Company shall not have any obligation to purchase all or any of such Shares).
- 16.8 Notwithstanding any provision contained in Article 16.4 or 16.5 above, in relation to Kevin Malik only, and where:
- (a) 16.6 (a) or (b) applies; or
  - (b) 16.6 (c) applies and Kevin Malik is a Good Leaver,
- the Transfer Price of the Sale Shares shall be calculated on below pro rata time basis with reference to the date on which the relevant event set out in Article 16.6 (a) – (c) occurs (the “**Relevant Date**”) as follows:
- (c) the percentage of Sale Shares to be offered for sale to the Company at their aggregate Fair Value shall be 25% plus such percentage of the Agreed Period which has passed on the Relevant Date; and
  - (d) the balance of the Sale Shares shall be offered for sale to the Company at their aggregate nominal value.
- 16.9 The following are worked examples of how the Transfer Price in Article 16.8 above is to be calculated:
- (a) where the Relevant Date is 6 months from the Adoption Date, the Transfer Price shall be the aggregate Fair Value of 25% plus 33% (i.e. 58%) of the Sale Shares and the aggregate nominal value of 42% of the Sale Shares; and
  - (b) where the Relevant Date is 9 months from the Adoption Date, the Transfer Price shall be the aggregate Fair Value of 25% plus 50% (i.e. 75%) of the Sale Shares and the aggregate nominal value of 25% of the Sale Shares.
- 16.10 Notwithstanding any provision contained in Article 16.4 or 16.5 above, in relation to Kevin Malik only, where Article 16.6 (c) applies and Kevin Malik is a Bad Leaver, the Transfer Price of all the Sale Shares to be offered for sale to the Company shall be the aggregate nominal value of such Sale Shares.

- 16.11 For the avoidance of doubt, Articles 16.4 and 16.5 shall apply to Kevin Malik on the expiry of the Agreed Period.

**17. Mandatory Offer on a Change of Control**

- 17.1 Except in the case of Permitted Transfers and transfers pursuant to Article 16 (*Compulsory Transfers General*), after going through the pre-emption procedure in Article 14 (*Transfers of Shares Subject to Pre-emption Rights*), the provisions of Article 17.2 will apply if one or more Proposed Sellers propose to transfer in one or a series of related transactions any Shares (the "**Proposed Transfer**") which would, if put into effect, result in any Proposed Purchaser (and Associates of his or persons Acting in Concert with him) acquiring a Controlling Interest in the Company.
- 17.2 A Proposed Seller must, before making a Proposed Transfer procure the making by the Proposed Purchaser of an offer (the "**Offer**") to the other Shareholders to acquire all of the Shares for a consideration per share the value of which is at least equal to the Specified Price (as defined in Article 17.7).
- 17.3 The Offer must be given by written notice (a "**Proposed Sale Notice**") at least ten (10) Business Days (the "**Offer Period**") prior to the proposed sale date ("**Proposed Sale Date**"). The Proposed Sale Notice must set out, to the extent not described in any accompanying documents, the identity of the Proposed Purchaser, the purchase price and other terms and conditions of payment, the Proposed Sale Date and the number of Shares proposed to be purchased by the Proposed Purchaser (the "**Proposed Sale Shares**").
- 17.4 If any other holder of Shares is not given the rights accorded him by this Article, the Proposed Sellers will not be entitled to complete their sale and the Company will not register any transfer intended to carry that sale into effect.
- 17.5 If the Offer is accepted by any Shareholder (an "**Accepting Shareholder**") within the Offer Period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Shares held by Accepting Shareholders.
- 17.6 The Proposed Transfer is subject to the pre-emption provisions of Article 14 (*Transfers of Shares Subject to Pre-emption Rights*) but the purchase of the Accepting Shareholders' shares shall not be subject to Article 14 (*Transfers of Shares Subject to Pre-emption Rights*).
- 17.7 For the purpose of this Article:
- (a) the expression "**Specified Price**" shall mean in respect of each Share a sum in cash equal to the highest price per Share offered or paid by the Proposed Purchaser:
    - (i) in the Proposed Transfer; or
    - (ii) in any related or previous transaction by the Proposed Purchaser or any person Acting in Concert with the Proposed Purchaser in the twelve (12) months preceding the date of the Proposed Transfer,
- plus an amount equal to the Relevant Sum, as defined in Article 17.7(b), of any other consideration (in cash or otherwise) paid or payable by the Proposed Purchaser or any other person Acting in Concert with the Proposed Purchaser, which having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Shares (the "**Supplemental Consideration**") provided that the total

consideration paid by the Proposed Purchaser in respect of the Proposed Transfer is distributed to the Proposed Seller and the Accepting Shareholders on a pro rata basis;

(b) **Relevant Sum** =  $C \div A$

where: A = number of Shares being sold in connection with the relevant Proposed Transfer;

C = the Supplemental Consideration.

## 18. Co-Sale right

18.1 No transfer (other than a Permitted Transfer) of any of the Shares relating to a Founder or to the Founder Group may be made or validly registered if it is in respect of more than fifty per cent. (50%) of the Ordinary Shares (excluding Treasury Shares) unless the relevant Founder or the Founder Group and any relevant Permitted Transferee thereof participating in such transfer (each a "**Selling Founder**") shall have observed the following procedures of this Article.

18.2 After the Selling Founder has gone through the pre-emption process set out in Article 14 (*Transfers of Shares Subject to Pre-emption Rights*), the Selling Founder shall give to each holder of Shares who has not taken up their pre-emptive rights under Article 14 (*Transfers of Shares Subject to Pre-emption Rights*) (an "**Equity Holder**") not less than fifteen (15) Business Days' notice in advance of the proposed sale (a "**Co-Sale Notice**"). The Co-Sale Notice shall specify:

- (a) the identity of the proposed purchaser (the "**Buyer**");
- (b) the price per share which the Buyer is proposing to pay;
- (c) the manner in which the consideration is to be paid;
- (d) the number of Shares which the Selling Founder proposes to sell; and
- (e) the address where the counter-notice should be sent.

For the purposes of this Article 18, it is acknowledged that Shares of different classes will be transferable at different prices, such price per class of Share being a sum equal to that to which they would be entitled if the consideration payable by the Buyer to the Selling Founder were used to determine the valuation of the entire issued share capital of the Company.

18.3 Each Equity Holder shall be entitled within five (5) Business Days after receipt of the Co-Sale Notice, to notify the Selling Founder that they wish to sell a certain number of Shares held by them at the proposed sale price, by sending a counter-notice which shall specify the number of Shares which such Equity Holder wishes to sell. The maximum number of shares which an Equity Holder can sell under this procedure shall be:

$$\left( \frac{X}{Y} \right) \times Z$$

where:

X is the number of Shares held by the Equity Holder;

Y is the total number of Shares (excluding Treasury Shares held by the Shareholders;

Z is the number of Shares the Selling Founder proposes to sell.

Any Equity Holder who does not send a counter-notice within such five (5) Business Day period shall be deemed to have specified that they wish to sell no shares.

- 18.4 Following the expiry of five (5) Business Days from the date the Equity Holders receive the Co-Sale Notice, the Selling Founder shall be entitled to sell to the Buyer on the terms notified to the Equity Holders a number of shares not exceeding the number specified in the Co-Sale Notice less any shares which Equity Holders have indicated they wish to sell, provided that at the same time the Buyer (or another person) purchases from the Equity Holders the number of shares they have respectively indicated they wish to sell on terms no less favourable than those obtained by the Selling Founder from the Buyer.
- 18.5 No sale by the Selling Founder shall be made pursuant to any Co-Sale Notice more than three (3) months after service of that Co-Sale Notice.
- 18.6 Sales made by Equity Holders in accordance with this Article 18 shall not be subject to Article 14 (*Transfers of Shares Subject to Pre-emption Rights*).

## 19. Drag-along

- 19.1 If the Founder Group and their Permitted Transferees alone or together with any other Shareholder (the "**Selling Shareholders**") wish to transfer Shares that together represent more than fifty per cent (50%) of the Ordinary Shares (excluding any Treasury Shares) (the "**Sellers' Shares**") to a Proposed Purchaser, the Selling Shareholders shall have the option (the "**Drag Along Option**") to compel each other holder of Shares (each a "**Called Shareholder**" and together the "**Called Shareholders**") to sell and transfer all their Shares to the Proposed Purchaser or as the Proposed Purchaser shall direct (the "**Drag Purchaser**") in accordance with the provisions of this Article.
- 19.2 The Selling Shareholders may exercise the Drag Along Option by giving a written notice to that effect (a "**Drag Along Notice**") to the Company which the Company shall forthwith copy to the Called Shareholders at any time before the transfer of the Sellers' Shares to the Drag Purchaser. A Drag Along Notice shall specify that:
- (a) the Called Shareholders are required to transfer all their Shares (the "**Called Shares**") under this Article;
  - (b) the person to whom they are to be transferred;
  - (c) the consideration for which the Called Shares are to be transferred (calculated in accordance with this Article);
  - (d) the proposed date of transfer, and
  - (e) the form of any sale agreement or form of acceptance or any other document of similar effect that the Called Shareholders are required to sign in connection with such sale (the "**Sale Agreement**"),

(and, in the case of paragraphs (b) to (d) above, whether actually specified or to be determined in accordance with a mechanism described in the Drag Along Notice). No

Drag Along Notice or Sale Agreement may require a Called Shareholder to agree to any terms except those specifically provided for in this Article.

- 19.3 Drag Along Notices shall be irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares by the Selling Shareholders to the Drag Purchaser within sixty (60) Business Days after the date of service of the Drag Along Notice. The Selling Shareholders shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 19.4 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 Drag Purchaser were distributed to the holders of the Called Shares and the Sellers' Shares on a pro rata basis (the "**Drag Consideration**").
- 19.5 In respect of a transaction that is the subject of a Drag-Along Notice and with respect to any Drag Document, a Called Shareholder shall only be obliged to undertake to transfer his Shares with full title guarantee (and provide an indemnity for lost certificate in a form acceptable to the Board if so necessary) in receipt of the Drag Consideration when due and shall not be obliged to give warranties or indemnities except a warranty as to capacity to enter into a Drag Document and the full title guarantee of the Shares held by such Called Shareholder.
- 19.6 Within three Business Days of the Company copying the Drag Along Notice to the Called Shareholders (or such later date as may be specified in the Drag Along Notice) (the "**Drag Completion Date**"), each Called Shareholder shall deliver:
- (a) duly executed stock transfer form(s) for its Shares in favour of the Drag Purchaser;
  - (b) the relevant share certificate(s) (or a duly executed indemnity for lost certificate in a form acceptable to the Board) to the Company; and
  - (c) duly executed Sale Agreement, if applicable, in the form specified in the Drag Along Notice or as otherwise specified by the Company,
- (together the "**Drag Documents**").
- 19.7 On the Drag Completion Date, the Company shall pay each Called Shareholder, on behalf of the Drag Purchaser, the Drag Consideration that is due to the extent the Drag Purchaser has paid such consideration to the Company. The Company's receipt of the Drag Consideration shall be a good discharge to the Drag Purchaser. The Company shall hold the Drag Consideration in trust for each of the Called Shareholders without any obligation to pay interest.
- 19.8 To the extent that the Drag Purchaser has not, on the Drag Completion Date, paid the Drag Consideration that is due to the Company, the Called Shareholders shall be entitled to the immediate return of the Drag Documents for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this Article 19 in respect of their Shares.
- 19.9 If a Called Shareholder fails to deliver the Drag Documents for its Shares to the Company by the Drag Completion Date, the Company and each Director shall be constituted the agent of such defaulting Called Shareholder to take such actions and enter into any Drag Document or such other agreements or documents as are necessary to effect the transfer of the Called Shareholder's Shares pursuant to this Article 19 and the Directors shall, if requested by the Drag Purchaser, authorise any Director to transfer the Called Shareholder's Shares on the Called Shareholder's behalf



to the Drag Purchaser to the extent the Drag Purchaser has, by the Drag Completion Date, paid the Drag Consideration to the Company for the Called Shareholder's Shares offered to him. The Board shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Called Shareholder shall surrender his share certificate for his Shares (or suitable executed indemnity) to the Company. On surrender, he shall be entitled to the Drag Consideration due to him.

- 19.10 Any transfer of Shares to a Drag Purchaser pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the provisions of Article 14 (*Transfers of Shares Subject to Pre-emption Rights*).
- 19.11 On any person, following the issue of a Drag Along Notice, becoming a Shareholder pursuant to the exercise of a pre-existing option or warrant to acquire shares in the Company or pursuant to the conversion of any convertible security of the Company (a "**New Shareholder**"), a Drag Along Notice shall be deemed to have been served on the New Shareholder on the same terms as the previous Drag Along Notice who shall then be bound to sell and transfer all Shares so acquired to the Drag Purchaser and the provisions of this Article shall apply with the necessary changes to the New Shareholder except that completion of the sale of the Shares shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder.

#### *Asset Sale*

- 19.12 In the event that an Asset Sale is approved by the Board and the Investor Majority, such consenting Shareholders shall have the right, by notice in writing to all other Shareholders, to require such Shareholders to take any and all such actions as it may be necessary for Shareholders to take in order to give effect to or otherwise implement such Asset Sale.

## **20. General meetings**

- 20.1 If the Directors are required by the Shareholders under section 303 of the Act to call a general meeting, the Directors shall convene the meeting for a date not later than twenty-eight (28) days after the date on which the Directors became subject to the requirement under section 303 of the Act.
- 20.2 If any two or more Shareholders (or Qualifying Persons representing two or more Shareholders) attend the meeting in different locations, the meeting shall be treated as being held at the location specified in the notice of the meeting, save that if no one is present at that location so specified, the meeting shall be deemed to take place where the largest number of Qualifying Persons is assembled or, if no such group can be identified, at the location of the chairman.
- 20.3 If a demand for a poll is withdrawn under article 44(3) of the Model Articles, the demand shall not be taken to have invalidated the result of a show of hands declared before the demand was made and the meeting shall continue as if the demand had not been made.
- 20.4 Polls must be taken in such manner as the chairman directs. A poll demanded on the election of a chairman or on a question of adjournment must be held immediately. A poll demanded on any other question must be held either immediately or at such time and place as the chairman directs not being more than fourteen (14) days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded.

- 20.5 No notice need be given of a poll not held immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
- 20.6 If the poll is to be held more than forty-eight (48) hours after it was demanded the Shareholders shall be entitled to deliver Proxy Notices in respect of the poll at any time up to twenty-four (24) hours before the time appointed for taking that poll. In calculating that period, no account shall be taken of any part of a day that is not a working day.

## **21. Proxies**

- 21.1 Paragraph (c) of article 45(1) of the Model Articles shall be deleted and replaced by the words: "is signed by or on behalf of the shareholder appointing the proxy and accompanied by any the authority under which it is signed (or a certified copy of such authority or a copy of such authority in some other way approved by the directors)".
- 21.2 The instrument appointing a proxy and any authority under which it is signed or a certified copy of such authority or a copy in some other way approved by the Directors may:
- (a) be sent or supplied in hard copy form, or (subject to any conditions and limitations which the Board may specify) in electronic form, to the registered office of the Company or to such other address (including electronic address) as may be specified for this purpose in the notice convening the meeting or in any instrument of proxy or any invitation to appoint a proxy sent or supplied by the Company in relation to the meeting at any time before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote;
  - (b) be delivered at the meeting or adjourned meeting at which the person named in the instrument proposes to vote to the chairman or to the company secretary or to any Director; or
  - (c) in the case of a poll, be delivered at the meeting at which the poll was demanded to the chairman or to the company secretary or to any Director, or at the time and place at which the poll is held to the Chairman or to the company secretary or to any Director or scrutineer,

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

## **22. Directors' borrowing powers**

The Board may, with where required, exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property and uncalled capital and to issue debentures, debenture stock and other securities as security for any debt, liability of obligation of the Company or of any third party.

## **23. Alternate Directors**

- 23.1 Notwithstanding any provision of these Articles to the contrary, any person appointed as a Director (the "**Appointer**") may appoint any director or any other person as he thinks fit to be his alternate Director to:

- (a) exercise that Director's powers; and
- (b) carry out that Director's responsibilities in relation to the taking of decisions by the Directors in the absence of the alternate's Appointor.

The appointment of an alternate Director shall not require approval by a resolution of the Directors.

23.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the Directors.

23.3 The notice must:

- (a) identify the proposed alternate; and
- (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice.

23.4 An alternate Director may act as an alternate to more than one Director and has the same rights, in relation to any Directors' meeting (including as to notice) or Directors' written resolution, as the alternate's Appointor.

23.5 Except as these Articles specify otherwise, alternate directors:

- (a) are deemed for all purposes to be Directors;
- (b) are liable for their own acts and omissions;
- (c) are subject to the same restrictions as their Appointors; and
- (d) are not deemed to be agents of or for their Appointors,

and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his Appointor is a member.

23.6 A person who is an alternate Director but not a Director:

- (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's Appointor is not participating); and
- (b) may sign a Directors' written resolution (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate).

No alternate may be counted as more than one Director for such purposes.

23.7 A Director who is also an alternate Director is entitled, in the absence of his Appointor, to a separate vote on behalf of each Appointor, in addition to his own vote on any decision of the Directors (provided that his Appointor is an Eligible Director in relation to that decision).

23.8 An alternate Director is not entitled to receive any remuneration from the company for serving as an alternate Director, except such part of the alternate's Appointor's remuneration as the Appointor may direct by notice in writing made to the Company.

23.9 An alternate Director's appointment as an alternate shall terminate:

- (a) when the alternate's Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
- (b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a Director;
- (c) on the death of the alternate's Appointor; or
- (d) when the alternate's Appointor's appointment as a Director terminates.

#### **24. Number of Directors**

Unless and until the Company shall otherwise determine by ordinary resolution, the number of Directors shall be not less than two (2).

#### **25. Disqualification of Directors**

In addition to that provided in article 18 of the Model Articles, the office of a Director shall also be vacated if:

- (a) he is convicted of a criminal offence (other than a minor motoring offence) and the Directors resolve that his office be vacated; or
- (b) if a majority of his co-Directors (including Investor Director Consent) serve notice on him in writing, removing him from office.

#### **26. Proceedings of Directors**

- 26.1 In the event that a meeting of the Directors is attended by a Director who is acting as alternate for one or more other Directors, the Director or Directors for whom he is the alternate shall be counted in the quorum despite their absence, and if on that basis there is a quorum the meeting may be held despite the fact (if it is the case) that only one Director is physically present.
- 26.2 If all the Directors participating in a meeting of the Directors are not physically in the same place, the meeting shall be deemed to take place where the largest group of participators in number is assembled. In the absence of a majority the location of the chairman shall be deemed to be the place of the meeting.
- 26.3 Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company at any time before or after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.
- 26.4 Provided (if these Articles so require) that he has declared to the Directors, in accordance with the provisions of these Articles, the nature and extent of his interest (and subject to any restrictions on voting or counting in a quorum imposed by the Directors in authorising a Relevant Interest), a Director may vote at a meeting of the Directors or of a committee of the Directors on any resolution concerning a matter in which he has an interest, whether a direct or an indirect interest, or in relation to which he has a duty and shall also be counted in reckoning whether a quorum is present at such a meeting.

- 26.5 Questions arising at any meeting of the Directors shall be decided by a majority of votes. In the case of any equality of votes, the chairman shall not have a second or casting vote.
- 26.6 If the chairman of the Board has not been appointed within three months of the resignation of a chairman, the Founder Group shall be entitled to appoint a chairman, whether from the existing members of the Board or by the appointment of a new Director, by notice in writing addressed to the Company. Article 12 of the Model Articles shall be modified accordingly.
- 26.7 A decision of the Directors 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 (including confirmation given by electronic means). Reference in article 7(1) of the Model Articles to article 8 of the Model Articles shall be deemed to include a reference to this Article also.

## **27. Directors' interests**

### *Specific interests of a Director*

- 27.1 Subject to the provisions of the Act and provided (if these Articles so require) that he has declared to the Directors in accordance with the provisions of these Articles, the nature and extent of his interest, a Director may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest of the following kind:
- (a) where a Director (or a person connected with him) is party to or in any way directly or indirectly interested in, or has any duty in respect of, any existing or proposed contract, arrangement or transaction with the Company or any other undertaking in which the Company is in any way interested;
  - (b) where a Director (or a person connected with him) is a director, employee or other officer of, or a party to any contract, arrangement or transaction with, or in any way interested in, anybody corporate promoted by the Company or in which the Company is in any way interested;
  - (c) where a Director (or a person connected with him) is a shareholder in the Company or a shareholder in, employee, director, member or other officer of, or consultant to, a Parent Undertaking of, or a Subsidiary Undertaking of a Parent Undertaking of, the Company;
  - (d) where a Director (or a person connected with him) holds and is remunerated in respect of any office or place of profit (other than the office of auditor) in respect of the Company or body corporate in which the Company is in any way interested;
  - (e) where a Director is given a guarantee, or is to be given a guarantee, in respect of an obligation incurred by or on behalf of the Company or anybody corporate in which the Company is in any way interested;
  - (f) where a Director (or a person connected with him or of which he is a member or employee) acts (or anybody corporate promoted by the Company or in which the Company is in any way interested of which he is a director, employee or other officer may act) in a professional capacity for the Company or anybody corporate promoted by the Company or in which the Company is in any way interested (other than as auditor) whether or not he or it is remunerated for this;

- (g) an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest; or
- (h) any other interest authorised by ordinary resolution.

*Interests of which a Director is not aware*

- 27.2 For the purposes of this Article 27, an interest of which a Director is not aware and of which it is unreasonable to expect him to be aware shall not be treated as an interest of his.

*Accountability of any benefit and validity of a contract*

- 27.3 In any situation permitted by this Article 27 (save as otherwise agreed by him) a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from that situation and no such contract, arrangement or transaction shall be avoided on the grounds of any such interest or benefit.

*Terms and conditions of Board authorisation*

- 27.4 Subject to Article 27.6, any authority given in accordance with section 175(5)(a) of the Act in respect of a Director ("**Interested Director**") who has proposed that the Directors authorise his interest ("**Relevant Interest**") pursuant to that section may, for the avoidance of doubt:

- (a) be given on such terms and subject to such conditions or limitations as may be imposed by the authorising Directors as they see fit from time to time, including, without limitation:
  - (i) restricting the Interested Director from voting on any resolution put to a meeting of the Directors or of a committee of the Directors in relation to the Relevant Interest;
  - (ii) restricting the Interested Director from being counted in the quorum at a meeting of the Directors or of a committee of the Directors where such Relevant Interest is to be discussed; or
  - (iii) restricting the application of the provisions in Articles 27.5 and 27.6, so far as is permitted by law, in respect of such Interested Director;
- (b) be withdrawn, or varied at any time by the Directors entitled to authorise the Relevant Interest as they see fit from time to time; and

an Interested Director must act in accordance with any such terms, conditions or limitations imposed by the authorising Directors pursuant to section 175(5)(a) of the Act and this Article 27.

*Director's duty of confidentiality to a person other than the Company*

- 27.5 Subject to Article 27.6 (and without prejudice to any equitable principle or rule of law which may excuse or release the Director from disclosing information, in circumstances where disclosure may otherwise be required under this Article 27), if a Director, otherwise than by virtue of his position as director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required:

- (a) to disclose such information to the Company or to any Director, or to any officer or employee of the Company; or

- (b) otherwise to use or apply such confidential information for the purpose of or in connection with the performance of his duties as a Director.

27.6 Where such duty of confidentiality arises out of a situation in which a Director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company, Article 27.5 shall apply only if the conflict arises out of a matter which falls within Article 27.1 or has been authorised under section 175(5)(a) of the Act.

*Additional steps to be taken by a Director to manage a conflict of interest*

27.7 Where a Director has an interest which can reasonably be regarded as likely to give rise to a conflict of interest, the Director shall take such additional steps as may be necessary or desirable for the purpose of managing such conflict of interest, including compliance with any procedures laid down from time to time by the Directors for the purpose of managing conflicts of interest generally and/or any specific procedures approved by the Directors for the purpose of or in connection with the situation or matter in question, including without limitation:

- (a) absenting himself from any discussions, whether in meetings of the Directors or otherwise, at which the relevant situation or matter falls to be considered; and
- (b) excluding himself from documents or information made available to the Directors generally in relation to such situation or matter and/or arranging for such documents or information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him to have access to such documents or information.

*Requirement of a Director to declare an interest*

27.8 Subject to section 182 of the Act, a Director shall declare the nature and extent of any interest permitted by Article 27.1 at a meeting of the Directors, or by general notice in accordance with section 184 (notice in writing) or section 185 (general notice) of the Act or in such other manner as the Directors may determine, except that no declaration of interest shall be required by a Director in relation to an interest:

- (a) falling under Article 27.1(g);
- (b) if, or to the extent that, the other Directors are already aware of such interest (and for this purpose the other Directors are treated as aware of anything of which they ought reasonably to be aware); or
- (c) if, or to the extent that, it concerns the terms of his service contract (as defined by section 227 of the Act) that have been or are to be considered by a meeting of the Directors, or by a committee of Directors appointed for the purpose under these Articles.

*Shareholder approval*

27.9 Subject to section 239 of the Act, the Company may by ordinary resolution ratify any contract, transaction or arrangement, or other proposal, not properly authorised by reason of a contravention of any provisions of this Article 27.

27.10 For the purposes of this Article 27:

- (a) a conflict of interest includes a conflict of interest and duty and a conflict of duties;

- (b) the provisions of section 252 of the Act shall determine whether a person is connected with a Director;
- (c) a general notice to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified.

## **28. Notices**

28.1 Subject to the requirements set out in the Act, any notice given or document sent or supplied to or by any person under these Articles, or otherwise sent by the Company under the Act, may be given, sent or supplied:

- (a) in hard copy form;
- (b) in electronic form; or
- (c) (by the Company) by means of a website (other than notices calling a meeting of Directors),

or partly by one of these means and partly by another of these means.

Notices shall be given and documents supplied in accordance with the procedures set out in the Act, except to the extent that a contrary provision is set out in this Article 28.

### *Notices in hard copy form*

28.2 Any notice or other document in hard copy form given or supplied under these Articles may be delivered or sent by first class post (airmail if overseas):

- (a) to the Company or any other company at its registered office; or
- (b) to the address notified to or by the Company for that purpose; or
- (c) in the case of an intended recipient who is a member or his legal personal representative or trustee in bankruptcy, to such member's address as shown in the Company's register of members; or
- (d) in the case of an intended recipient who is a Director or alternate, to his address as shown in the register of Directors; or
- (e) to any other address to which any provision of the Companies Acts (as defined in the Act) authorises the document or information to be sent or supplied; or
- (f) where the Company is the sender, if the Company is unable to obtain an address falling within one of the addresses referred to in (a) to (e) above, to the intended recipient's last address known to the Company.

28.3 Any notice or other document in hard copy form given or supplied under these Articles shall be deemed to have been served and be effective:

- (a) if delivered, at the time of delivery;
- (b) if posted, on receipt or forty-eight (48) hours after the time it was posted, whichever occurs first.



*Notices in electronic form*

- 28.4 Subject to the provisions of the Act, any notice or other document in electronic form given or supplied under these Articles may:
- (a) if sent by fax or email (provided that a fax number or an address for email has been notified to or by the Company for that purpose), be sent by the relevant form of communication to that address;
  - (b) if delivered or sent by first class post (airmail if overseas) in an electronic form (such as sending a disk by post), be so delivered or sent as if in hard copy form under Article 28.2; or
  - (c) be sent by such other electronic means (as defined in section 1168 of the Act) and to such address(es) as the Company may specify:
    - (i) on its website from time to time; or
    - (ii) by notice (in hard copy or electronic form) to all members of the Company from time to time.
- 28.5 Any notice or other document in electronic form given or supplied under these Articles shall be deemed to have been served and be effective:
- (a) if sent by facsimile or email (where a fax number or an address for email has been notified to or by the Company for that purpose), on receipt or forty-eight (48) hours after the time it was sent, whichever occurs first;
  - (b) if posted in an electronic form, on receipt or forty-eight (48) hours after the time it was posted, whichever occurs first;
  - (c) if delivered in an electronic form, at the time of delivery; and
  - (d) if sent by any other electronic means as referred to in Article 28.4(c), at the time such delivery is deemed to occur under the Act.
- 28.6 Where the Company is able to show that any notice or other document given or sent under these Articles by electronic means was properly addressed with the electronic address supplied by the intended recipient, the giving or sending of that notice or other document shall be effective notwithstanding any receipt by the Company at any time of notice either that such method of communication has failed or of the intended recipient's non-receipt.

*Notice by means of a website*

- 28.7 Subject to the provisions of the Act, any notice or other document or information to be given, sent or supplied by the Company to Shareholders under these Articles may be given, sent or supplied by the Company by making it available on the Company's website.

*General*

- 28.8 In the case of joint holders of a share all notices shall be given to the joint holder whose name stands first in the register of members of the Company in respect of the joint holding (the "**Primary Holder**"). Notice so given shall constitute notice to all the joint holders.

28.9 Anything agreed or specified by the Primary Holder in relation to the service, sending or supply of notices, documents or other information shall be treated as the agreement or specification of all the joint holders in their capacity as such (whether for the purposes of the Act or otherwise).

## **29. Indemnities and insurance**

29.1 Subject to the provisions of and so far as may be permitted by, the Act:

(a) every Director or other officer of the Company (excluding the Company's auditors) shall be entitled to be indemnified by the Company (and the Company shall also be able to indemnify directors of any associated company (as defined in section 256 of the Act)) out of the Company's assets against all liabilities incurred by him in the actual or purported execution or discharge of his duties or the exercise or purported exercise of his powers or otherwise in relation to or in connection with his duties, powers or office, provided that no Director or any associated company is indemnified by the Company against:

- (i) any liability incurred by the director to the Company or any associated company; or
- (ii) any liability incurred by the director to pay a fine imposed in criminal proceedings or a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirements of a regulatory nature; or
- (iii) any liability incurred by the director:
  - (A) in defending any criminal proceedings in which he is convicted;
  - (B) in defending civil proceedings brought by the Company or any associated company in which final judgment (within the meaning set out in section 234 of the Act) is given against him; or
  - (C) in connection with any application under sections 661(3) or 661(4) or 1157 of the Act (as the case may be) for which the court refuses to grant him relief,

save that, in respect of a provision indemnifying a director of a company (whether or not the Company) that is a trustee of an occupational pension scheme (as that term is used in section 235 of the Act) against liability incurred in connection with that company's activities as trustee of the scheme, the Company shall also be able to indemnify any such director without the restrictions in Articles 29.1(a)(i), 29.1(a)(iii)(B) and 29.1(a)(iii)(C) applying;

(b) the Directors may exercise all the powers of the Company to purchase and maintain insurance for any such Director or other officer against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company, or any associated company including (if he is a director of a company which is a trustee of an occupational pension scheme) in connection with that company's activities as trustee of an occupational pension scheme.

29.2 The Company shall (at the cost of the Company) effect and maintain for each Director policies of insurance insuring each Director against risks in relation to his office as

each director may reasonably specify including without limitation, any liability which by virtue of any rule of law may attach to him in respect of any negligence, default of duty or breach of trust of which he may be guilty in relation to the Company.

### **30. Data Protection**

- 30.1 Each of the Shareholders and Directors consent to the processing of their personal data by the Company, the Shareholders and Directors (each a "**Recipient**") for the purpose of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information among themselves. A Recipient may process the personal data either electronically or manually. The personal data which may be processed under this Article shall include any information which may have a bearing on the prudence or commercial merits of investing, or disposing of any shares (or other investment or security) in the Company. Other than as required by law, court order or other regulatory authority, that personal data may not be disclosed by a Recipient or any other person except to a Member of the same Group ("**Recipient Group Companies**") and to employees, directors and professional advisers of that Recipient or the Recipient Group Companies and funds managed by any of the Recipient Group Companies. Each of the Shareholders and Directors consent to the transfer of relevant personal data to persons acting on behalf of the 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.

### **31. Secretary**

Subject to the provisions of the Act, the Directors may appoint a secretary (though, for the avoidance of doubt, are not obliged to) for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

### **32. Lien**

- 32.1 The Company shall have a first and paramount lien (the "**Company's Lien**") over every Share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that Share

- 32.2 The Company's Lien over a Share:

- (a) shall take 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.

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.

- 32.3 Subject to the provisions of this Article 32, if:

- (a) a notice complying with Article 32.4 (a "**Lien Enforcement Notice**") has been given by the Company in respect of a Share; and
- (b) the person to whom the notice was given has failed to comply with it,

the Company shall be entitled to sell that Share in such manner as the Directors decide.

**32.4 A Lien Enforcement Notice:**

- (a) may only be given by the Company 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;
- (b) must specify the Share concerned;
- (c) must require payment of the sum payable within 14 days of the notice;
- (d) must be addressed either to the holder of the Share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise; and
- (e) must state the Company's intention to sell the Share if the notice is not complied with.

**32.5 Where any Share is sold pursuant to this Article 32:**

- (a) the Directors may authorise any person to execute an instrument of transfer of the Share to the purchaser or a person nominated by the purchaser; and
- (b) the transferee shall not be bound to see to the application of the consideration, and the transferee's title shall not be affected by any irregularity in or invalidity of the process leading to the sale.

**32.6 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:**

- (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;
- (b) secondly, to the person entitled to the Share at the date of the sale, but only after the certificate for the Share sold has been surrendered to the Company for cancellation or an indemnity for lost certificate in a form acceptable to the Board has been given for any lost certificate, and subject to a lien equivalent to the Company's Lien for any money payable (whether or not it is presently payable) as existing upon the Share before the sale in respect of all Shares registered in the name of that person (whether as the sole registered holder or as one of several joint holders) after the date of the Lien Enforcement Notice.

**32.7 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:**

- (a) shall be 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 these Articles or by law, shall constitute a good title to the Share.

**33. Call Notices**

**33.1 Subject to these Articles and the terms on which Shares are allotted, the Directors may send a notice (a "Call Notice") to a Shareholder who has not fully paid for that**

Shareholder's Share(s) requiring the Shareholder to pay the Company a specified sum of money (a "call") which is payable to the Company by that Shareholder when the Directors decide to send the Call Notice.

33.2 A Call Notice:

- (a) may not require a Shareholder to pay a call which exceeds the total sum unpaid on that Shareholder's Shares (whether as to the Share's nominal value or any sum payable to the Company by way of premium);
- (b) shall state when and how any call to which it relates it is to be paid; and
- (c) may permit or require the call to be paid by instalments.

33.3 A Shareholder shall comply with the requirements of a Call Notice, but no Shareholder shall be obliged to pay any call before fourteen (14) days have passed since the notice was sent.

33.4 Before the Company has received any call due under a Call Notice the Directors may:

- (a) revoke it wholly or in part; or
- (b) specify a later time for payment than is specified in the Call Notice, by a further notice in writing to the Shareholder in respect of whose Shares the call is made.

33.5 Liability to pay a call shall not be extinguished or transferred by transferring the Shares in respect of which it is required to be paid. Joint holders of a Share shall be jointly and severally liable to pay all calls in respect of that Share.

33.6 Subject to the terms on which Shares are allotted, the Directors may, when issuing Shares, provide that Call Notices sent to the holders of those Shares may require them to:

- (a) pay calls which are not the same; or
- (b) pay calls at different times.

33.7 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 (whether in respect of nominal value or premium):

- (a) on allotment;
- (b) on the occurrence of a particular event; or
- (c) on a date fixed by or in accordance with the terms of issue.

33.8 If the due date for payment of such a sum as referred to in Article 33.7 has passed and it has not been paid, the holder of the Share concerned shall be treated in all respects as having failed to comply with a Call Notice in respect of that sum, and shall be liable to the same consequences as regards the payment of interest and forfeiture.

33.9 If a person is liable to pay a call and fails to do so by the Call Payment Date (as defined below):

- (a) the Directors may issue a notice of intended forfeiture to that person; and

- (b) until the call is paid, that person shall be required to pay the Company interest on the call from the Call Payment Date at the Relevant Rate (as defined below).

33.10 For the purposes of Article 33.9:

- (a) the "**Call Payment Date**" shall be the time when the call notice states that a call is payable, unless the Directors give a notice specifying a later date, in which case the "**Call Payment Date**" is that later date;
- (b) the "**Relevant Rate**" shall be:
  - (i) the rate fixed by the terms on which the Share in respect of which the call is due was allotted;
  - (ii) such other rate as was fixed in the Call Notice which required payment of the call, or has otherwise been determined by the Directors; or
  - (iii) if no rate is fixed in either of these ways, five per cent. a year,

provided that the Relevant Rate shall not exceed by more than five percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998(a).

33.11 The Directors may waive any obligation to pay interest on a call wholly or in part.

33.12 The Directors may accept full payment of any unpaid sum in respect of a Share despite payment not being called under a Call Notice.

#### **34. Forfeiture of Shares**

34.1 A notice of intended forfeiture:

- (a) may be sent in respect of any Share for which there is an unpaid sum in respect of which a call has not been paid as required by a Call Notice;
- (b) shall be sent to the holder of that Share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise;
- (c) shall 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 fewer than 14 days after the date of the notice;
- (d) shall state how the payment is to be made; and
- (e) shall 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.

34.2 If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, then the Directors may decide that any Share in respect of which it was given is forfeited, and the forfeiture is to include all dividends or other moneys payable in respect of the forfeited Shares and not paid before the forfeiture.

34.3 Subject to these Articles, the forfeiture of a Share extinguishes:

- (a) all interests in that Share, and all claims and demands against the Company in respect of it; and
  - (b) all other rights and liabilities incidental to the Share as between the person whose Share it was prior to the forfeiture and the Company.
- 34.4 Any Share which is forfeited in accordance with these Articles:
- (a) shall be deemed to have been forfeited when the Directors decide that it is forfeited;
  - (b) shall be deemed to be the property of the Company; and
  - (c) may be sold, re-allotted or otherwise disposed of as the Directors think fit.
- 34.5 If a person's Shares have been forfeited then:
- (a) the Company shall send that person notice that forfeiture has occurred and record it in the register of members;
  - (b) that person shall cease to be a Shareholder in respect of those Shares;
  - (c) that person shall surrender the certificate for the Shares forfeited to the Company for cancellation;
  - (d) that person shall remain liable to the Company for all sums payable by that person under the Articles at the date of forfeiture in respect of those Shares, including any interest (whether accrued before or after the date of forfeiture); and
  - (e) the Directors shall be entitled to waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal.
- 34.6 At any time before the Company disposes of a forfeited Share, the Directors shall be entitled to decide to cancel the forfeiture on payment of all calls and interest and expenses due in respect of it and on such other terms as they think fit.
- 34.7 If a forfeited Share is to be disposed of by being transferred, the Company shall be entitled to receive the consideration for the transfer and the Directors shall be entitled to authorise any person to execute the instrument of transfer.
- 34.8 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 forfeited on a specified date:
- (a) shall be 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.
- 34.9 A person to whom a forfeited Share is transferred shall not be bound to see to the application of the consideration (if any) nor shall that person's title to the Share be affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the Share.

34.10 If the Company sells a forfeited Share, the person who held it prior to its forfeiture shall be entitled to receive the proceeds of such sale from the Company, net of any commission, and excluding any sum which:

- (a) was, or would have become, payable; and
- (b) had not, when that Share was forfeited, been paid by that person in respect of that Share,

but no interest shall be payable to such a person in respect of such proceeds and the Company shall not be required to account for any money earned on such proceeds.

### 35. Surrender of Shares

35.1 A Shareholder shall be entitled to surrender any Share:

- (a) in respect of which the Directors issue a notice of intended forfeiture;
- (b) which the Directors forfeit; or
- (c) which has been forfeited.

The Directors shall be entitled to accept the surrender of any such Share.

35.2 The effect of surrender on a Share shall be the same as the effect of forfeiture on that Share.

35.3 The Company shall be entitled to deal with a Share which has been surrendered in the same way as a Share which has been forfeited.

### 36. Authority to capitalise and appropriation of capitalised sums

36.1 The Board may, if authorised to do so by an ordinary resolution (with Investor Majority Consent):

- (a) decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and
- (b) appropriate any sum which they so decide to capitalise (a "**Capitalised Sum**") to such Shareholders and in such proportions as the Board may in their absolute discretion deem appropriate (the "**Shareholders Entitled**").

Article 36 of the Model Articles shall not apply to the Company.

36.2 Capitalised Sums may be applied on behalf of such Shareholders and in such proportions as the Board may (in its absolute discretion) deem appropriate.

36.3 Any Capitalised Sum may be applied in paying up new Shares up to the nominal amount (or such amount as is unpaid) equal to the Capitalised Sum, which are then allotted credited as fully paid to the Shareholders Entitled or as they may direct.

36.4 A Capitalised Sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the Company which are allotted credited as fully paid to the Shareholders Entitled or as they may direct.



**36.5 Subject to the Articles the Board may:**

- (a) apply Capitalised Sums in accordance with Articles 36.3 and 36.4 partly in one way and partly another;**
- (b) make such arrangements as they think fit to deal with Shares or debentures becoming distributable in fractions under this Article 36; and**
- (c) authorise any person to enter into an agreement with the Company on behalf of all of the Shareholders Entitled which is binding on them in respect of the allotment of Shares or debentures under this Article 36.**