



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

**Handbag Clinic Ltd**  
Company No. 11552082

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**ARTICLES OF ASSOCIATION**

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Adopted by Special Resolution of the Company dated 03 March 2023

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

**Handbag Clinic Ltd**  
Company No. **11552082**

# **ARTICLES OF ASSOCIATION**

## **INTERPRETATION**

1. In these Articles:
  - 1.1 "2022 Loan Stock" means the £750,000 10% secured loan stock 2023 of the Company created by the 2022 Loan Stock Instrument;
  - 1.2 "2022 Loan Stock Instrument" means the loan stock instrument entered into between (1) the Managers (as listed therein), (2) the Existing Shareholders (as listed therein), (3) the Company and (4) NEVF on 28 April 2022 whereby the Company constituted the 2022 Loan Stock;
  - 1.3 "2022 Security Document" means the loan stock debenture entered into between the Company and NEVF on 28 April 2022;
  - 1.4 "2023 Loan Stock" means the £500,000 10% secured loan stock 2025 of the Company created by the 2023 Loan Stock Instrument;
  - 1.5 "2023 Loan Stock Instrument" means the loan stock instrument entered into between (1) the Managers (as listed therein), (2) the Existing Shareholders (as listed therein), (3) the Company and (4) NEVF on the Adoption Date whereby the Company constituted the 2023 Loan Stock;
  - 1.6 "2023 Security Document" means the loan stock debenture entered into between the Company and NEVF on the Adoption Date;
  - 1.7 "A Ordinary Shares" means the A Ordinary Shares of £0.0001 each in the capital of the Company having the rights and being subject to the restrictions set out in these Articles;
  - 1.8 "the Act" means the Companies Act 2006 as amended from time to time;

- 1.9 "Acting in Concert" has the meaning given to it in the City Code on Takeovers and Mergers published the Panel on Takeovers and Mergers (as amended from time to time);
- 1.10 "Adoption Date" means the date of adoption of these Articles;
- 1.11 "Allocation Notice" has the meaning defined in Article 51;
- 1.12 reference to an "Article" shall mean a reference to the specified numbered paragraph of these Articles;
- 1.13 "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);
- 1.14 "Arrears" means in relation to any Share, all arrears of any dividend or other sums payable in respect of that Share (including any Withheld Dividends), 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;
- 1.15 "Auditors" means the auditors of the Company for the time being or if such auditors are unable or unwilling to act in connection with the matter in question, a suitably qualified independent professional valuer agreed between the Company and the Fund or in default of agreement such firm of independent chartered accountants appointed on the application of the Company or the Fund by the President for the time being of the Institute of Chartered Accountants in England and Wales;
- 1.16 "Available Profits" means profits available for distribution within the meaning of part 23 of the Act;
- 1.17 "B Investment Shares" means the B Investment Shares of £0.0001 each in the capital of the Company having the rights and being subject to the restrictions set out in these Articles;
- 1.18 "Bad Leaver" means a Management Shareholder who ceases to be a director or employee or consultant to the Company or any Subsidiary Undertaking of the Company and who is not a Good Leaver or a Very Bad Leaver;
- 1.19 "Board" means the board of Directors;
- 1.20 "Buyer" has the meaning defined in Article 62;

- 1.21 "clear days" means in relation to a period of a notice the number of days excluding the day when the notice is given and the day on which it is to take effect;
- 1.22 "C Ordinary Shares" means the C Ordinary Shares of £0.0001 each in the capital of the Company having the rights and being subject to the restrictions set out in these Articles;
- 1.23 "control" (for the purposes of Articles 24, 43, , 44 and 56 only) has the meaning defined by section 1124 of the Corporation Tax Act 2010;
- 1.24 "Date of Termination" in relation to a given holder of A Ordinary Shares means the earlier of:
  - 1.24.1 where the contract of employment (if any) between the Company or any of its Subsidiary Undertakings and that holder terminates by virtue of a notice given by the employer to that holder (or vice-versa), the date on which such notice expires;
  - 1.24.2 where the contract of employment (if any) between the Company or any of its Subsidiary Undertakings and that holder is terminated by the employer or that holder and a payment is made to the employee in lieu of notice, the date on which such employment was terminated;
  - 1.24.3 where the holder is an officer or consultant or otherwise engaged (other than as an employee) by the Company or any of its Subsidiary Undertakings, the date on which such office, consultancy, engagement or contract for services relating to the same is terminated;
  - 1.24.4 the date on which the contract of employment (if any) between the Company or any of its Subsidiary Undertakings and that holder is terminated;
  - 1.24.5 where the holder dies, the date of his or her death; or
  - 1.24.6 the date on which that holder is deemed to have given a Transfer Notice in accordance with Articles 35, 43, 44, or 45;
- 1.25 "Directors" means the directors of the Company from time to time, and "Director" means any one of them;
- 1.26 "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;
- 1.27 "Employee" means an individual who is employed by or who provides consultancy services to, the Company
- 1.28 "Equity Securities" has the meaning given in sections 560 (1) to (3) inclusive of the Act;

- 1.29 "Exit" means any of an Asset Sale, Flotation, or Share Sale;
- 1.30 "Facilities" means the Company's banking facilities from time to time;
- 1.31 "Fair Value" is as determined in accordance with Article 48.2;
- 1.32 "Family Trust" means, in relation to an individual Shareholder, a trust or settlement set up wholly for the benefit of that individual Shareholder ("Settlor") and/or the Settlor's Privileged Relations;
- 1.33 "Financial Year" means a financial year or other period in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Act;
- 1.34 "Flotation" means the admission of all or any part of the share capital of the Company or securities representing those shares (including without limitation depositary interests, American depositary receipts, American depositary shares and/or other instruments) to or the grant of permission by any like authority for the same to admitted to or traded or quoted on Nasdaq or the Official List of the UK Listing Authority or the AIM Market operated by the London Stock Exchange plc or on any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000);
- 1.35 "Fund" means The North East (ERDF) Venture Capital Limited Partnership and anyone to whom it may transfer any shares and their respective successors in title;
- 1.36 "Fund Manager" means a person whose principle business is to make, manage or advise upon investments in securities;
- 1.37 "Good Leaver" means a Management Shareholder who ceases to be a director or employee of or consultant to the Company (whether in his own rights or as a named individual providing consultancy services through a service company) or any of its subsidiaries and either:
- (i) the reason for such cessation is because of the:
    - a) death or incapacity of the Management Shareholder; or
    - b) dismissal by the Company (or other member of its group) which is:
      - a. agreed (in each case, acting with the Fund's consent) by the Company or a Member of the same Group to have been for an unfair reason; or
      - b. deemed to have been for an unfair reason in respect of which the Management Shareholder is subsequently awarded compensation for unfair dismissal by an

employment tribunal or a court of competent jurisdiction from which there is no right of appeal and where such compensation is intended to compensate such Management Shareholder for an unfair reason for his dismissal only (but, for the avoidance of doubt, excluding where such award is made solely to compensate for the failure on the part of the relevant group member to adopt a fair procedure in relation to that dismissal); or

- (ii) the Management Shareholder is otherwise categorised as a Good Leaver by the directors (acting with the prior written consent of the Fund (acting reasonably)) at a properly convened and quorate meeting of the Board;

1.38 "Group" means together the Company, and every company that is for the time being a subsidiary of the Company;

1.39 "Group Company" means any company for the time being in the Group;

1.40 "the holder" means the member whose name is entered in the Register of Members as the holder of the Shares;

1.41 "Intending Transferor" has the meaning defined in Article 46;

1.42 "Interested Director" has the meaning defined in Article 103.1;

1.43 "Investment Agreement" means the investment agreement entered into on the Original Adoption Date and made between (1) the Managers (as listed therein), (2) Ian Griffiths, (3) Beatrice Lafon, (4) the Other Key Equity Shareholders (as listed therein), (5) the Company, and (6) the Fund;

1.44 "Investor Director" means a director appointed by the Fund under Article 82;

1.45 "Leaver's Percentage" means:

1.45.1 80% if the cessation occurs between 0 months and 6 months from the Original Adoption Date;

1.45.2 55% if the cessation occurs between 6 months and 1 year from the Original Adoption Date;

1.45.3 50% if the cessation occurs between 1 year and 2 years from the Original Adoption Date

1.45.4 40% if the cessation occurs between 2 years and 3 years from the Original Adoption Date; and

- 1.45.5 25% if the cessation occurs between 3 years and 4 years from the Original Adoption Date.
- 1.46 "Level 2 Event of Default" means an event described as a Level 2 Event of Default in Schedule 4 of the Investment Agreement;
- 1.47 "Loan Stock" means the 2022 Loan Stock and the 2023 Loan Stock;
- 1.48 "Loan Stock Instruments" means the 2022 loan stock instrument and the 2023 Loan Stock Instrument ;
- 1.49 "Loan Stock Securities" means at any relevant date the number of shares which would be issued to a Stockholder on conversion of their Loan Stock, as if their Loan Stock (and interest accrued thereon) was converted on such date in accordance with the terms of the Loan Stock Instruments;
- 1.50 "Majority Shareholders" has the meaning defined in Article 62;
- 1.51 "Management Shareholders" means any holder of shares, other than the Fund, who is a director, employee or consultant to the Company and includes, but is not limited to, the following people: Ben Staerk and Charlotte Staerk;
- 1.52 "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;
- 1.53 "Minority Shareholders" has the meaning defined in Article 62;
- 1.54 "Model Articles" has the meaning defined in Article 2;
- 1.55 "Nasdaq" means the Nasdaq National Stock Market of the Nasdaq OMX Group Inc.;
- 1.56 "NEVF" means The North East (ERDF) Venture Capital Limited Partnership, acting by its general partner Enterprise Ventures (General Partner NE Venture) Limited (CN: 10514693);
- 1.57 "NEVF Accepting Group" has the meaning given in Article 39.3;
- 1.58 "NEVF Director" means such natural person as the NEVF Manager may from time to time appoint by written notice to the Company signed by or on behalf of the NEVF Manager, where NEVF holds in aggregate more than 5% of the issued Equity Shares in the Company;
- 1.59 "NEVF Manager" means Enterprise Ventures Limited in its capacity as fund manager of NEVF (or any other Fund Manager or person who is appointed as the fund manager of NEVF);



- 1.60 "NEVF Observer" means a representative appointed by the NEVF Manager at each and any meeting of the Board who will be entitled to speak at any such meetings but who will not have any right to vote and no authority to bind the Company in any way.
- 1.61 "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 Original Adoption Date (other than shares or securities issued as a result of the events or in the circumstances set out in the Article 39 excluding, for the avoidance of doubt, any Treasury Shares transferred by the Company after the Original Adoption Date ;
- 1.62 "New Shares" means the new Shares issued to Stockholders pursuant to the terms of the Loan Stock Instruments;
- 1.63 "Non-Executive Director" shall mean Beatrice Lafon and Ian Griffiths, or such directors as are appointed to replace either such person (with the consent of the Fund);
- 1.64 "Observer" has the meaning defined in Article 83;
- 1.65 "Offer" has the meaning defined in Article 63;
- 1.66 "Original Adoption Date" means 29 July 2021;
- 1.67 "Original Shareholder" has the meaning defined in Article 34;
- 1.68 "Parent Undertaking" has the meaning set out in section 1162 of the Act;
- 1.69 "Permitted Transfer" means a transfer of shares made in accordance with Articles 32 to 34 (inclusive).
- 1.70 "Permitted Transferee" means:
  - 1.70.1 in relation to a Shareholder who is an individual, any of his Privileged Relations, Trustees or Qualifying Companies; and
  - 1.70.2 in relation to a Shareholder which is an undertaking (as defined in section 1161(1) of the Companies Act) means any Member of the same Group.
- 1.71 "Prescribed Price" has the meaning defined in Article 65;
- 1.72 "Primary Holder" has the meaning defined in Article 120;
- 1.73 "Privileged Relation" means in relation to a Shareholder who is an individual member or deceased or former member means a spouse, civil partner (as defined in the Civil Partnership Act 2004), child or grandchild (including step or adopted or illegitimate child and their issue);

- 1.74 "Proceeds of Sale" means the consideration payable (including any deferred and/or contingent consideration) whether in cash or otherwise to those Shareholders selling Shares under a Sale or Asset Sale less any fees, costs and expenses payable in respect of such Share Sale and less all amounts due under the Loan Stock Instruments having been settled in full and without deduction or set off in accordance with the terms of the Loan Stock Instruments;
- 1.75 "Relevant Interest" has the meaning defined in Article 103;
- 1.76 "Relevant Period" means 48 months from the Original Adoption Date;
- 1.77 "Qualifying Company" means a company in which a Shareholder or Trustee(s) holds the entire issued share capital and over which that Shareholder or Trustee(s) exercises control (within the meaning of section 1124 of the CTA 2010);
- 1.78 "Sale Price" has the meaning defined in Article 48;
- 1.79 "said Shares" has the meaning defined in Article 49;
- 1.80 "Share Sale" means either :-
- 1.80.1 the making of an offer to purchase all of the shares which is accepted and would result in or will result in the offeror holding more than 50% of the Shares; or
- 1.80.2 the entering into of one or more agreements which will result in any person acquiring more than 50% of the Shares;
- 1.81 "secretary" means the secretary of the Company including a joint, assistant or deputy secretary;
- 1.82 "Security Documents" means the 2022 Security Document and the 2023 Security Document;
- 1.83 "Shares" shall mean the A Ordinary Shares, the C Ordinary Shares, and the B Investment Shares, together with any other class of share created and in issue in the capital of the Company following the Original Adoption Date;
- 1.84 "Step-In Events" shall mean:
- 1.84.1 any act, omission or event occurring which constitutes or is reasonably likely, with the passing of time or the giving of notice, to constitute an event of default under any of the Facilities (including the Loan Stock Instruments and any Security Documents);

1.84.2 any breach occurring by the Company (as defined in the Loan Stock Instruments) of any material provision of these Articles, the Loan Stock Instruments or the Security Documents; or

1.84.3 circumstances have arisen which in the reasonable opinion of the Fund have, or are likely to result in an event of default under the Facilities, the Security Documents or any Loan Stock Instruments;

1.85 "Stockholders" means the holders from time to time of the Loan Stock;

1.86 "Subsidiary Undertaking" has the meaning set out in section 1159 of the Act;

1.87 "Substantial Shareholder" means the holder of no less than 5% of the entire issued share capital of the Company;

1.88 "Surplus" has the meaning defined in Article 15;

1.89 "Total Transfer Condition" has the meaning defined in Article 46; "Transfer Forms" has the meaning defined in Article 51;

1.90 "Transfer Notice" has the meaning defined in Article 46;

1.91 "Trust" A Family Trust or any other trust whereby legal title of shares of the Original Shareholder are held on trust by a third party trustee subject to a declaration of trust including without limitation, a nominee;

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

1.93 "Very Bad Leaver" means a Management Shareholder who ceases to be a director or employee or consultant (whether in his own right or as a named individual providing consultancy services through a service company) of the Company or any subsidiary of the Company and the reason for such cessation is as a result of actual fraud by that Management Shareholder or that Management Shareholder being dismissed for actual gross misconduct (or, if such Management Shareholder is a consultant or director for reasons which would have amounted to gross misconduct had that individual been an employee) and:

1.93.1 where the Management Shareholder is an employee, such cessation is not subsequently agreed by the Company or a Member of the same Group (in each case, acting with the prior written consent of the Fund (acting reasonably)) to have been an unfair reason or it is subsequently held to be for an unfair reason by an employment tribunal or a court of competent jurisdiction from which there is no right or leave granted to appeal; or

- 1.93.2 where the Management Shareholder is not an employee, such cessation is not subsequently agreed by the Company or a Member of the same Group (in each case, acting with the prior written consent of the Fund (acting reasonably)) to have been in breach of contract or in respect of which the Company or other group member is subsequently not held to be in breach of contract by a court of competent jurisdiction from which there is no right or leave granted to appeal.
2. 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.
3. 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.
4. In these Articles:
- 4.1 article headings are used for convenience only and shall not affect the construction or interpretation of these Articles;
- 4.2 words denoting the singular include the plural and vice versa and reference to one gender includes the other gender and neuter and vice versa; and
5. Articles 8(2), 9(1), 9(4), 10(3), 11(2), 12, 13, 14, 17(2), 17(3), 19, 21, 25, 26, 27, 28, 29, 30(5) to (7) (inclusive), 37(4), 37(5), 38, 44(2), 44(4), 51, 52 and 53 of the Model Articles shall not apply to the Company.
6. Article 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors) and the secretary" before the words "properly incur".
7. The operation and interpretation of these Articles is subject to the Act and unless otherwise defined in these Articles or unless the context otherwise requires, words or expressions contained in these Articles shall have the same meaning as in the Act.
8. In respect of any actions or matters requiring or seeking the acceptance, approval, agreement, consent or words having similar effect, of the NEVF Director, such director declares in writing to the Company and the NEVF Manager 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 the written consent of the NEVF Manager.

## SHARE CAPITAL AND RIGHTS

### Share rights

9. The share capital of the Company shall comprise A Ordinary Shares, C Ordinary Shares, and B Investment Shares.
10. The Shares shall rank *pari passu* in all respects save as set out in these Articles.

### Income

11. The profits of the Company in respect of each Financial Year shall be distributed amongst each of the holders of Shares as authorised by ordinary resolution of the Company SAVE THAT for so long as the Fund is a Shareholder, no dividends shall be declared and no such distributions shall be made without the written consent of the Fund.
12. The Company shall ensure that each of its Subsidiary Undertakings which has profits available for distribution shall declare and pay to the Company such dividends as are necessary to permit the lawful and prompt payment of any dividends due under Article 11.
13. The Company will not distribute any Available Profits:
  - 13.1 prior to all amounts due to under the Loan Stock Instruments having been settled in full and without deduction or set off in accordance with the terms of the Loan Stock Instruments; and
  - 13.2 following settlement referred to in Article 16.1, in respect of any Financial Year except with the written consent of the Fund Manager.
14. Article 31(1) of the Model Articles shall be amended by:
  - 14.1 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
  - 14.2 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".

### Capital

15. On a return of assets on a liquidation or a return of capital (other than a conversion, redemption of shares of any class or purchase by the Company of its own shares or on a Sales or a Flotation) the assets of the Company remaining after the payment of

its liabilities (including under the Loan Stock Instruments) ("the Surplus") shall be distributed (to the extent that the Company is lawfully permitted to do so):

15.1.1 firstly, in paying to the holders of the C Ordinary, in priority to any other classes of Shares, an amount equal to the Subscription Price on such shares together with a sum equal to any Arrears and accruals of the dividends payable on such C Ordinary Shares calculated to the date of the distribution (provided that if there is insufficient Surplus to pay such amounts, the Surplus shall be distributed to the holders of the C Ordinary Shares pro rata to their respective holdings of C Ordinary Shares);

15.1.2 finally, the remaining amount of the Surplus (if any) shall be paid to the holders of the Shares (as if such Shares constituted a single class) in proportion to the number of such Shares held by them,

### **Exit**

16. On a Share Sale or Flotation, following (and provided) the settlement of all sums due under the Loan Stock Instruments, the holders who sell Shares in such Share Sale or Flotation (the "**Selling Holders**") will be entitled to share in the proceeds thereon (the "**Exit Proceeds**") in the order of priority set out in Article 15 and the Directors shall not register any transfer of Shares if the Exit Proceeds are not so distributed.
- 16.1 the Directors shall not be prohibited from registering the transfer of the relevant Shares so long as the Proceeds of Sale that are settled have been distributed in the order of priority set out in Article 15; and
- 16.2 the Shareholders shall take any action required by the Fund to ensure that the Proceeds of Sale in their entirety are distributed in the order of priority set out in Article 15.
17. In the event that the Proceeds of Sale are distributed on more than one occasion (for any deferred or contingent consideration or otherwise), the consideration so distributed on any further occasion shall be paid by continuing the distribution from the previous distribution of consideration in the order of priority set out in Article 15.
18. On an Asset Sale, the surplus assets of the Company remaining after payment of its liabilities (including for the avoidance of doubt, all amounts due under the Loan Stock Instruments having been settled in full and without deduction or set off in accordance with the terms of the Loan Stock Instruments) shall be distributed (to the extent that the Company is lawfully permitted to do so) in the order of priority set out in Article 19, provided always that if it is not lawful for the Company to distribute its surplus assets

in accordance with the provisions of these Articles, the Shareholders shall take any action reasonably required by the NEVF Manager (including but without prejudice to the generality of this Article 22, creating distributable profits or reserves by way of reduction of capital or such action as may be necessary to put the Company into voluntary liquidation so that this Article 19 applies).

### **Share Capital – General**

19. 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.
20. 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".
21. 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".

### **Voting**

22. Subject to Articles 24, 25, 26 and 73, each holder of A Ordinary Shares and C Ordinary Shares shall be entitled to receive notice of and shall be entitled to attend either in person or by proxy at any general meeting of the Company and on a show of hands or on a poll shall have one vote for every such share in respect of which he is the holder. The B Investment Shares shall not have the right to receive notice of any general meetings or the right to attend or vote at such general meetings.
23. A member may only be entitled to receive and vote on any written resolution if that member would also have been entitled to receive notice of, and attend and vote at, a general meeting at which that same resolution was proposed.
24. A holder of A Ordinary Shares or C Ordinary Shares (other than the Fund) (and any body corporate under the control (directly or indirectly) of that member (if any)) shall not be entitled to receive notice of, attend or vote at any general meeting of the Company following the Date of Termination in respect of that holder.
25. If, at the date of any general meeting or the circulation date of any written resolution, any Step-In Event shall have occurred and be subsisting, the number of voting rights attaching to any Shares held by the Fund shall be increased to such number as is equal to 99% of the total voting rights attaching to all Shares at any general meeting (calculated after the application of this Article 25) on a pro rata basis relative to the

aggregate number of Shares held by the Fund. The enhanced voting rights attached to the Shares held by the Fund by virtue of this Article 25 shall continue for so long as the relevant event or circumstance continues to subsist or until such matter is waived or otherwise remedied to the reasonable satisfaction, confirmed in writing, by the Fund.

26. The relevant events or circumstances referred to in Article 25 are:
- 26.1 any breach occurring by the Company, a Director (other than the Fund Director) or any holder of shares (other than the Fund) of any material provision of these Articles (and a material provision of these Articles shall be deemed to include but shall not be limited to Article 125— consent matters), or the Investment Agreement; or
- 26.2 circumstances have arisen which in the reasonable opinion of the Fund are reasonably likely to result an event of default under the Facilities.

### **Share Certificates**

27. Every member, upon becoming the holder of any shares, shall be entitled without payment to one certificate for all the shares of each class held by him (and, upon transferring a part of his holding of shares of any class, to a certificate for the balance of such holding) or several certificates each for one or more of his shares upon payment for every certificate after the first of such reasonable sum as the directors may determine.
28. Every certificate shall be signed by two directors or by a director and the secretary and shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid up thereon. The Company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.

### **TRANSFER AND TRANSMISSION OF SHARES**

29. For so long as the Fund is a Substantial Shareholder no Shares may be transferred without the prior written consent of the Fund (such consent not to be unreasonably withheld, delayed or conditioned) save for a Permitted Transfer.
30. The directors may dispense with the execution of the instrument of transfer by the transferee in their absolute discretion. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the register of members in respect thereof.



31. For the purposes of Articles 30, 34 and 35, where any person is unconditionally entitled to be registered as the holder of a share and has established such entitlement to the satisfaction of the board of directors he and not the registered holder of such share shall be deemed to be a member of the Company in respect of that share and the expression "transfer" shall include the renunciation of any letter of allotment and the transfer of any beneficial or other interest in a share (not being a charge to secure money).

#### **Permitted Transfers**

32. Article 35 shall apply to all transfers of Shares save for any transfers made in accordance with Articles 33 and 34.
33. Subject to Article 62, Shares held by the Fund may be transferred at any time to any person without restriction as to price or otherwise.
34. An A Ordinary 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, subject to the Fund (acting reasonably, but at all times in accordance with the rules and requirements of the Fund) being satisfied with the identity of the proposed transferee.
- 34.1 Shares previously transferred as permitted by Article 34 may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder without restriction as to price or otherwise.
- 34.2 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.
- 34.3 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 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.
- 34.4 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.
- 34.5 Any share in the capital of the Company may at any time be transferred by a Shareholder who is not a Permitted Transferee (the "Original Shareholder") without restriction as to price or otherwise (and each such transfer shall be registered by the Directors) by NEVF;
- 34.5.1 To any Member of the same Group or Group Fund;
- 34.5.2 To any fund in which the North East Fund Limited (CN: 10441614) (the "North East Fund") is an investor or limited partner;
- 34.5.3 To the North East Fund;
- 34.5.4 To any financial institution which has the same or similar objects to the North East Fund; and
- 34.5.5 To the Ministry of Housing, Communities and Local Government (or any of its successor bodies).
- 34.6 No transfer of Shares may be made to Trustees unless the Board is satisfied:
- 34.6.1 with the terms of the trust instrument and in particular with the powers of the trustees;
- 34.6.2 with the identity of the proposed trustees;
- 34.6.3 the proposed transfer will not result in 50 per cent or more of the aggregate of the Company's equity share capital being held by trustees of that and any other trusts; and
- 34.6.4 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.
- 34.7 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 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 to have given a Transfer Notice in respect of such Shares.
- 34.8 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 15 Business Days of so ceasing either:

34.8.1 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

34.8.2 give a Transfer Notice to the Company in accordance with Article 46, failing which he shall be deemed to have given a Transfer Notice.

34.9 On the death (subject to Article 34.2), 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.

#### **Pre-emption on a Transfer**

35. Except as provided in Articles 33 and 34, no shares shall be transferred unless and until the rights of pre-emption hereinafter conferred shall have been exhausted. If any member attempts or makes any attempt to transfer any share or shares other than in accordance with the provisions of these Articles, then that member shall be deemed to have immediately given a Transfer Notice in accordance with Article 46 in respect of all shares held by him.

#### **Pre-emption on an Allotment**

36. Sections 561 (1) and 562 (1) to (5) (inclusive) of the Act do not apply to an allotment of Equity Securities made by the Company.

37. Subject to Articles 41, unless otherwise pursuant to the Loan Stock Instrument agreed by special resolution passed in general meeting or as a written resolution passed in accordance with part 13 of the Act, in each case with the consent of the Fund (to the extent it holds any Equity Shares for the time being), 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 the Equity Shareholders and the Stockholders (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 Equity Shares and Loan Stock Securities held by those holders (as nearly as may be without involving fractions) (an "Equity Shareholder Offer").

38. Unless otherwise agreed by special resolution, if the Company proposes to allot any Equity Securities ("**New Securities**"), excluding the allotment and issue of New Shares issued pursuant to the Loan Stock Instruments, such New Securities shall not be allotted to any person unless the Company has in the first instance offered them to the C Ordinary Shareholders and the A Ordinary Shareholders (as if they together constituted a single class) (the "**Subscribers**") on the same terms and at the same price as those Equity Securities are being offered to other persons on a pari passu and pro rata basis to the number of Shares held by those Subscribers (as nearly as may be without involving fractions). The offer:
  - 38.1 shall be in writing, be open for acceptance from the date of the offer to the date 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
  - 38.2 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.
  - 38.3 made to NEVF shall be on terms which allow (at the option of the NEVF Manager and in the proportions which the NEVF Manager may direct) the shares offered to NEVF to be accepted by NEVF or any other person to whom or persons nominated by NEVF Nominee could make a Permitted Transfer under Article 35.5 or any other person to whom NEVF could transfer its Loan Stock under the Loan Stock Instruments (together, the "**NEVF Accepting Group**").
39. If, at the end of the Subscription Period, the number of New Securities applied for is equal to or exceeds the total number of New Securities that the Company has proposed to allot, 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).
40. If, at the end of the Subscription Period, the number of New Securities applied for is less than the total number of New Securities that the Company has proposed to allot, 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.

41. Subject to the requirements of Articles 37 to 39 (inclusive) and to the provisions of section 551 of the Companies 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.
42. No Shares shall be allotted to any Employee, Director, prospective Employee or prospective director of the Company, who in the opinion of the Board is subject to taxation in the United Kingdom, unless such person has entered into a joint section 431 ITEPA election with the Company if so required by the Company.

### **DEPARTING EMPLOYEES / CHANGE OF CONTROL OR INSOLVENCY OF MEMBERS**

43. If any Management Shareholder ceases to be a director or employee of or consultant to or otherwise ceases to be engaged by the Company or any Subsidiary Undertaking of the Company (and does not thereupon become or remain a director or employee or consultant of the Company or any Subsidiary Undertaking of the Company):
  - 43.1 at any time during the Relevant Period by reason of being a Good Leaver or a Bad Leaver, the Management Shareholder shall be deemed to have immediately served a Transfer Notice in accordance with Article 46 in respect of the Leaver's Percentage of the Shares held by them on date of such cessation and Transfer Notices shall also be deemed to have been served on such date by the relevant parties in respect of all shares (if any) then held by any body corporate under the control (directly or indirectly) of that member; or
  - 43.2 at any time by reason of being a Very Bad Leaver, the Management Shareholder shall be deemed to have served a Transfer Notice in accordance with Article 46 in respect of all of the Shares held by them on date of such cessation and Transfer Notices shall also be deemed to have been served on such date by the relevant parties in respect of all shares (if any) then held by any body corporate under the control (directly or indirectly) of that member.
44. If a body corporate (other than the Fund) ceases to be within the control of the person(s) who controlled such body corporate on the later of the date on which it became a member and the Original Adoption Date, it shall be deemed to have immediately given a Transfer Notice in accordance with Article 46 in respect of all the shares held by it.

45. If any member is adjudicated bankrupt or has a receiver, manager, administrative receiver or administrator appointed in respect of him/it or over all or any part of its undertaking or assets or enters into liquidation or suffers any analogous event due to insolvency or bankruptcy then that member shall be deemed to have immediately given a Transfer Notice in accordance with Article 46 in respect of all the shares in the Company held by him/it.

### **Transfer Notice**

46. Every person who desires intends or is required to transfer any share or shares (other than in the circumstances referred to in Article 32) (the "Intending Transferor") shall give to the Company notice in writing of such intention (a "Transfer Notice"). Every Transfer Notice shall specify the number and class of shares to be transferred. A single Transfer Notice may be used in respect of one or more class or classes of share or shares. Except in the case of a Transfer Notice required or deemed to be served by Articles 35, 43, 44 or 45, the Transfer Notice may contain a provision that unless all the shares comprised therein are sold by the Company pursuant to Articles 46 to 54, none shall be so sold (a "Total Transfer Condition") and any such provision shall be binding on the Company.
47. Any two or more members may serve a Transfer Notice signed by each of them specifying the number of shares which each of them wishes to transfer and such notice shall for all purposes of Articles 46 to 54 take effect as if it were a single Transfer Notice and as if the Total Transfer Condition in it (if any) applies to all the shares comprised within it but the obligations of those members in respect of such notice shall be several only in proportion to the total number of shares which each holds.

### **Valuation**

48. Subject as hereinafter mentioned, a Transfer Notice shall irrevocably (subject to Article 49) constitute the Company the agent of the Intending Transferor for the sale of the share or shares the subject thereof (the "said Shares") in one or more lots at the discretion of the directors at the price (the "Sale Price") determined as below.

**"Sale Price" means:**

- 48.1 in the case of a Transfer Notice deemed to be served by Article 43:
- 48.1.1 where the relevant Management Shareholder ceases to be an Employee by reason of being a Very Bad Leaver, the nominal value of the Employee Shares;

48.1.2 where the relevant Management Shareholder ceases to be an Employee by reason of being a Bad Leaver, the lower of the aggregate subscription price of the said Shares or the Fair Value; and

48.1.3 where the relevant Founder ceases to be an Employee by reason of being a Good Leaver, the higher of the aggregate subscription price of the said Shares or the Fair Value; and

48.2 in all other cases, the price agreed between the Intending Transferor and the directors (within 5 clear days of the date of service of the corresponding Transfer Notice, or in default of agreement within such time, the price which the Auditors shall in writing certify to be in their opinion the fair value thereof as between a willing seller and a willing buyer on an arm's length sale as at the date of the Transfer Notice taking into account any bona fide offer from any person not being a member to purchase any of the said Shares comprised in or of the class comprised in the Transfer Notice (such value shall not be discounted by reason that the said Shares intended to be transferred are a minority holding, nor shall there be a premium for a majority holding).

49. If the Auditors are required to certify the Fair Value under Article 48, the directors shall immediately give notice to the Auditors requesting such certification and in so certifying, the Auditors shall act as experts and not arbitrators and their decision shall be final and binding upon the parties. The Company shall procure that the Auditors certificate shall be delivered to the Company as soon as practicable (and in any event within 30 clear days of instruction) and so soon as the Company receives the certificate it shall furnish a certified copy thereof to the Intending Transferor who (except in the case of a Transfer Notice required or deemed to be served by Articles 35, 43, 44 or 45, in which case the Intending Transferor shall have no right of cancellation) may by notice in writing given to the Company within 5 clear days of the service upon him of the said certified copy (as to which time shall be of the essence) cancel the Company's authority to sell the said Shares. The cost of obtaining the certificate shall be borne equally by the Company and the Intending Transferor unless the Intending Transferor shall give notice of cancellation as aforesaid in which case he shall bear the said cost. Save for the right of cancellation conferred by this paragraph, service or deemed service of a Transfer Notice shall be irrevocable.

### **Invitation to Purchase**

50. Upon the price being fixed as aforesaid and provided the Intending Transferor (being entitled so to do) shall not give notice of cancellation as aforesaid the Company shall forthwith by notice in writing inform:

- 50.1 in the case of a Transfer Notice issued pursuant to Articles 43, the Fund of the number and price of the said Shares and invite the Fund to apply in writing to the Company within 10 clear days of the date of despatch of the Company's notice (which date shall be specified therein) for such maximum number of the said Shares (being all or any thereof) as the Fund shall state in such application to be transferred to such new intended Management Shareholder that the Fund shall nominate or, in the absence of such person, such entity as the Fund shall nominate with the intention of holding the said Shares until such time as a new Management Shareholder is identified by the Fund (a "Fund Nominated Holder"); or
- 50.2 in the case of a Transfer Notice issued for any other reason, each A Ordinary Shareholder and C Ordinary Shareholder (other than the Intending Transferor) of the number and price of the said Shares and invite each such member to apply in writing to the Company within 10 clear days of the date of despatch of the Company's notice (which date shall be specified therein) for such maximum number of the said Shares (being all or any thereof) as he shall state in such application. Any application made by any member not entitled to receive such invitation shall be disregarded.

#### **Allocation**

51. If any of the said members shall within the said period of 10 clear days apply for all or (except where the Transfer Notice properly provides otherwise) any of the said Shares, the Company by written notice to the applicants and the Intending Transferor (the "Allocation Notice") shall allocate the same (or so many of them as shall be applied for as aforesaid) to and amongst the applicants (and in case of competition pro-rata according to the number of A Ordinary Shares and/or C Ordinary Shares in respect of which they are registered or unconditionally entitled to be registered as holders) or the Fund Nominated Holder (as appropriate) PROVIDED THAT no applicant shall be obliged to take more than the maximum number of shares specified by him as aforesaid. In the event the Fund does not take its proportionate entitlement in full, the balance of such entitlement may be taken by one or more of those persons to whom the Fund would be permitted to transfer its Shares pursuant to Article 32. The Company shall together with the Allocation Notice to be given to the Intending Transferor provide completed but unsigned stock transfer forms in favour of the applicants or the Fund Nominated Holder (as appropriate) (the "Transfer Forms").

#### **Transfer**

52. The Intending Transferor shall be bound to transfer the shares comprised in an Allocation Notice to the purchasers named therein against and subject to payment of



the price the Company in accordance with this Article 52. The Intending Transferor shall return the Transfer Forms by registered post to the registered office of the Company duly signed within 5 days of the date of the Allocation Notice and if he shall fail to do so, each of the directors severally shall be deemed to have been appointed attorney and agent of the Intending Transferor with full power to execute, complete and deliver, in the name and on behalf of the Intending Transferor, transfers of the said Shares to the purchasers thereof against payment of the price to the Company. On payment of the price to the Company the purchaser shall be deemed to have obtained a good receipt for such payment and on execution and delivery of the transfer the purchaser shall be entitled to insist upon his name being entered in the Register of Members as the holder by transfer of the said Shares so transferred to him and after the purchaser has been so registered the validity of such proceedings shall not be questioned by any person (except in the case of manifest error). The Company shall forthwith pay the price to the Intending Transferor or in the event the Intending Transferor refuses to accept such payment into a separate bank account in the Company's name and shall hold such price in trust for the Intending Transferor. In the event any purchaser does not make payment to the Company within 10 clear days of the date of the Allocation Notice those of the said Shares allocated to him shall be reallocated amongst those of the remaining purchasers (if any) who have not previously been allocated the shares in question in accordance with Article 51. In the event no such purchasers remain then Article 53 shall apply.

53. The Intending Transferor shall not be at liberty to transfer any of the said Shares to anyone other than those to whom such shares are allocated by the directors in an Allocation Notice.
54. An obligation to transfer a share under the provisions of Article 52 shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such share free from any lien, charge or other encumbrance:

### **Registration**

55. Notwithstanding the provisions of the foregoing Articles the directors may decline to register:
  - 55.1 any transfer of any share (including the renunciation of any letter of allotment) on which the Company has a lien;
 and further may decline to register any transfer of any share unless:

- 55.2 the instrument of transfer duly executed and stamped is deposited at the office or at such other place (if any) as the directors may appoint accompanied by the certificate for the shares to which it relates (or an indemnity in respect thereof in a form reasonably acceptable to the Company) and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer (and if the instrument of transfer is executed by some other person on his behalf, the authority of that person so to do);
- 55.3 the instrument of transfer is in respect of only one class of share; and
- 55.4 in the case of a transfer to joint holders, the number of joint holders to whom the share is to be transferred does not exceed four.

#### **Tag-along**

- 56. The provisions of Articles 57 to 61 shall apply if, in one or a series of related transactions, one or more shareholders propose to transfer any Shares ("**Proposed Transfer**") which would, if carried out, result in any person ("**Buyer**"), and any person Acting in Concert with the Buyer acquiring control of the Company.
- 57. Before making a Proposed Transfer, each Shareholder proposing to transfer Shares shall procure that the Buyer makes an offer ("**Offer**") to:
  - 57.1 the other Shareholders to purchase all of the Shares held by them;
  - 57.2 the holders of any existing options to acquire Shares (granted by the Company or under any share option arrangements established by the Company) that are already capable of exercise or that are expected to become capable of exercise before the Proposed Transfer, to purchase any Shares acquired on the exercise of options at any time before the Proposed Transfer; and
  - 57.3 the holders of any securities of the Company that are convertible into Shares ("**Convertible Securities**"), to purchase any Shares arising from the conversion of such Convertible Securities at any time before the Proposed Transfer, for a consideration in cash per Share that is equal to the highest price per Share offered or paid by the Buyer, or any person Acting in Concert with the Buyer, in the Proposed Transfer or in any related previous transaction in the 12 months preceding the date of the Proposed Transfer ("**Specified Price**").
- 58. The Offer shall be given by written notice ("**Offer Notice**"), at least 30 Business Days ("**Offer Period**") before the proposed sale date ("**Sale Date**"). To the extent not described in any accompanying documents, the Offer Notice shall set out:
  - 58.1 the identity of the Buyer;
  - 58.2 the amount, form and timing of consideration payable and any other terms and conditions applicable;
  - 58.3 the Sale Date; and

- 58.4 the number of Shares proposed to be purchased by the Buyer ("**Offer Shares**").
59. If the Buyer fails to make the Offer to all of the holders of Shares in the Company in accordance with Articles 57 and 58, the Shareholders proposing to transfer Shares shall not be entitled to complete the Proposed Transfer and the Directors shall not register any transfer of Shares effected in accordance with the Proposed Transfer.
60. If the Offer is accepted in writing by any Shareholder ("**Accepting Shareholder**") within the Offer Period, the completion of the Proposed Transfer shall be conditional on completion of the purchase of all the Offer Shares held by Accepting Shareholders.
61. If any Accepting Shareholder does not, at the time appointed for completion of the Proposed Transfer, deliver a duly executed stock transfer form, sale agreement or other documents required to be entered into to effect the acquisition of the Offer Shares by the Buyer ("**Sale Documents**"), the Company and each Director shall be constituted the agent of such defaulting Accepting Shareholder to take such actions and enter into any Sale Documents required to effect the transfer of such Accepting Shareholder's Shares pursuant to the "tag-along" provisions contained in these Articles and the Directors shall, if requested by the Buyer, authorise any Director to transfer the defaulting Accepting Shareholder's Shares on the defaulting Accepting Shareholder's behalf against receipt by the Company (on trust for such Accepting Shareholder) of the consideration due in respect of the Offer Shares. After the Buyer has been registered as the holder of such Offer Shares the validity of such proceedings shall not be questioned by any such person. Failure to produce a Share certificate shall not impede the registration of Shares under the "tag-along" provisions contained in these Articles.

#### **Drag-along**

62. Subject to Article 63, if the holders of the majority percentage of the A Ordinary Shares (excluding those who are prohibited from exercising their voting rights pursuant to Article 24) in issue for the time being, together with the Fund (the "Majority Shareholders") wish to sell their Shares to a bona fide independent third party acting in good faith ("the Buyer") and:
- 62.1 the Buyer makes an offer (in accordance with Article 63) to all the members holding Shares other than the Majority Shareholders (other than the Buyer if he is a member) ("the Minority Shareholders") to purchase from them for cash and/or a cash alternative payable in full on completion of any sale their entire holdings of Shares at the Prescribed Price per share; and

- 62.2 the Buyer has not received (within 14 days of the making of the Offer) acceptances of the Offer from all of the Minority Shareholders;
- then on the giving of a notice by the Buyer to such non-accepting Minority Shareholders requiring them to accept the Offer, each of the non-accepting Minority Shareholders shall upon the giving of such notice be deemed to have accepted the Offer in respect of the Shares held by him and become obliged to deliver up to the Buyer an executed transfer of such shares and the certificates in respect of the same.
63. Any such offer as is referred to in Article 62 above ("Offer") must be made in writing and open for acceptance and irrevocable for a period of not less than 7 days and not more than 14 days and, in respect of each class of shares to which the Offer relates, must be on equivalent terms to the offers or agreements to purchase made by the Buyer to or with the Majority Shareholders or the Fund as appropriate in respect of shares of that same class, SAVE THAT, if the Buyer so wishes, the Offer may contain a condition that acceptance must be received for a specified percentage of all the shares in respect of which the Offer is made.
64. If any such non-accepting Minority Shareholder as is referred to in Article 62 above shall not, within 7 days of becoming required to do so, execute a transfer in respect of the shares held by such member, then the directors shall authorise and instruct such person as they think fit to execute the necessary transfer(s) on his behalf and, against receipt by the Company (on trust for such member) of the purchase monies payable for the relevant shares, deliver such transfer(s) to the Buyer (or its agents) and register the Buyer (or its nominees) as the holder thereof, and after the Buyer (or its nominees) has been registered as the holder the validity of such proceedings shall not be questioned by any person (except in the case of manifest error).
65. For the purposes of Article 62, "Prescribed Price" shall mean a price per share as set out in Article 16, taking into account any other consideration (for cash or otherwise) received or receivable by any such member which, having regard to the substance of the relevant transaction as a whole, can reasonably be regarded as part of the consideration paid (or provided) or payable.
66. All other regulations of the Company in these Articles relating to the transfer of shares and the right to registration of transfers shall be read subject to the provisions of Articles 62 to 65.

## GENERAL MEETINGS AND RESOLUTIONS

67. Every notice convening a general meeting shall comply with the provisions of section 324 of the Act as to giving information to members in regard to their right to appoint proxies. Notices of and other communications relating to any general meeting which any member is entitled to receive shall be sent to the directors and to the Auditors.
68. The directors shall procure that the accounts of the Company in respect of any Financial Year are audited and sent to the shareholders of the Company not later than three months after the end of the Financial Year to which they relate.
69. No business shall be transacted at any meeting unless a quorum is present. A quorum shall consist of two persons entitled to vote upon the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a member corporation, PROVIDED THAT so long as the Fund is a Shareholder one such person shall be the Fund or a proxy or a duly authorised representative of the Fund.
70. A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. A poll may be demanded:
  - 70.1 by the chairman; or
  - 70.2 by one or more members having the right to vote at the meeting;and a demand by a person as proxy for a member shall be the same as a demand by the member.
71. 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.
72. 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 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.
73. 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.

74. If the poll is to be held more than 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 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.
75. 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)".
76. 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:
- 76.1 be sent or supplied in hard copy form, or (subject to any conditions and limitations which the board of directors 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;
- 76.2 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
- 76.3 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.
77. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall not be entitled to a casting vote in addition to any other vote he may have.
78. A resolution in writing passed in accordance with the provisions of the Act, shall be as valid and effectual as if it had been passed at a general meeting of the Company duly

convened and held. Any such resolution may be contained in one document or in several documents in the same terms each signed by one or more of the members or their proxies or attorneys, and signature in the case of a body corporate which is a member shall be sufficient if made by a director or the secretary thereof or by its duly authorised representative.

79. Any member or member's proxy or duly authorised representative (being a body corporate) may participate in a general meeting or a meeting of a class of members by means of a conference telephone or similar communications system (including an audio-visual communication or video-conference system) whereby all of those participating in the meeting can hear and address each other. Such participation shall be deemed to constitute presence in person (or by proxy or authorised representative as appropriate) at such meeting for all purposes including that of establishing a quorum. A meeting held by such means shall be deemed to take place where the largest group of participants in number is assembled. In the absence of such majority, the location of the chairman shall be deemed to be the place of the meeting.
80. Subject to any special rights or restrictions as to voting attached to any shares by or in accordance with these Articles, on a show of hands every member who (being an individual) is present in person or by proxy (or being a corporation) is present by a representative not being himself a member, shall have one vote for every fully paid share in the capital of the Company of which he is the holder, and on a poll every member who is present in person or by proxy or (being a corporation) is present by a representative or by proxy shall have one vote for every fully paid share in the capital of the Company of which he is the holder.

## **DIRECTORS**

81. Unless and until the Company in general meeting, or with the consent of the Fund, shall otherwise determine the number of directors shall not be less than three or more than five. The Company may by ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director. No director of the Company shall be required to hold any share qualification.
82. In addition to the powers of appointment under article 17(1) of the Model Articles, for so long as the Fund is a Shareholder, the Fund shall be entitled to appoint a director to the board of directors of the Company and have the rights of removal and reappointment of such director and shall be deemed to have sufficient votes to carry or defeat any resolution relating thereto. Article 12 of the Model Articles shall be modified accordingly.

- 83. The Fund shall be entitled from time to time to appoint any person (an "Observer") to attend meetings of the directors. Observers shall be entitled to speak at such meetings and to require that business be placed upon the agenda for any such meeting but shall not in any circumstances be entitled to vote.
- 84. Article 7 of the Model Articles shall be amended by:
  - 84.1 the insertion of the words "for the time being" at the end of article 7(2)(a); and
  - 84.2 the insertion in article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".

### **Alternate Directors**

- 85. Each director shall have power by notice in writing under his hand (which shall take effect on the service thereof at the registered office of the Company) to nominate:
  - 85.1 any other director; or
  - 85.2 any person approved for that purpose by the directors (such approval not to be unreasonably withheld or delayed),  
to act as his alternate, and at his discretion to remove such alternate director.
- 86. An alternate director shall be for all purposes counted as a director of the Company and shall while so acting be entitled to:
  - 86.1 receive notices of all meetings of directors and of all meetings of committees of directors of which the director appointing him is a member (although it shall not be necessary to give notice of such a meeting to an alternate director who is absent from the United Kingdom); and
  - 86.2 exercise and discharge all the functions, powers and duties of the director whom he represents (except as regards remuneration and the power to appoint an alternate).
- 87. Any director acting as alternate shall have an additional vote for each director for whom he acts as alternate but shall not be considered as two directors for the purpose of making a quorum of directors.
- 88. An alternate director shall ipso facto cease to be an alternate director if his appointor ceases for any reason to be a director or on the happening of any event which if the alternate were a director would cause him to vacate such office.
- 89. An alternate director shall during his appointment be an officer of the Company and save as otherwise provided in these Articles shall alone be responsible for his own acts and defaults and shall not be deemed to be an agent of the director appointing him.



90. An appointment of an alternate shall not prejudice the right of the director appointing him to receive notice of and to attend and vote at meetings of the board of directors.

### **Powers of Directors**

91. The directors may exercise all the powers of the Company (whether express or implied):
- 91.1 of borrowing or raising or securing the payment of money;
- 91.2 of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts; and
- 91.3 of mortgaging or charging the property, undertaking, assets and uncalled capital of the Company and of issuing debentures.

### **Disqualification and Removal**

92. In addition to that provided in article 18 of the Model Articles, the office of a director shall also be vacated if:
- 92.1 he is convicted of a criminal offence (other than a minor motoring offence) and the directors resolve that his office be vacated;
- 92.2 (other than in the case of an Investor Director) he absents himself from attendance at two consecutive meetings of directors without special leave of absence from the board of directors (such leave not to be unreasonably refused) and they pass a resolution that he has by reason of such absence vacated office.

### **Proceedings**

93. Subject to the other provisions of these Articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the directors. It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom. Notice of a meeting of directors 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.
94. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall not have a casting vote in addition to any other vote he may have.

95. The quorum for the transaction of the business of the directors shall be three, PROVIDED THAT:
- 95.1 one such person shall be a Non-Executive Director (for so long as the Non-Executive Director(s) are in office; and
- 95.2 one such person shall be the Investor Director if an Investor Director has been appointed,
- a person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.
96. Subject to the other provisions of these Articles, the directors may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office. Unless he is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he is present. But if there is no director holding that office, or if the director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.
97. A resolution in writing signed or approved by letter or facsimile or confirmed by exchange of electronic mail by all the directors for the time being entitled to receive notice of a meeting of the directors or of a committee of directors shall be as valid and as effective as a resolution passed at a meeting of the directors (or as the case may be) a committee of directors duly convened and held and may consist of several documents in the same terms, each signed or approved by one or more of the directors, but a resolution signed by an alternate director need not also be signed by his appointor and, if it is signed by a director who has appointed an alternate director, it need not be signed by the alternate director in that capacity. 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.
98. Any director or its duly authorised representative (being a body corporate) may participate in a meeting of the directors or a committee of the directors by means of a conference telephone or similar communications system (including an audio-visual communication or video-conference system) whereby all of those participating in the meeting can hear and address each other. Such participation shall be deemed to constitute presence in person (or by authorised representative as appropriate) at such meeting for all purposes including that of establishing a quorum. A meeting held by such means shall be deemed to take place where the largest group of participants in number is assembled. In the absence of such majority, the location of the chairman

shall be deemed to be the place of the meeting. 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.

### **DIRECTORS' INTERESTS**

99. 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:
- 99.1 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;
- 99.2 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, any body corporate promoted by the Company or in which the Company is in any way interested;
- 99.3 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;
- 99.4 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;
- 99.5 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 any body corporate in which the Company is in any way interested;
- 99.6 where a director (or a person connected with him or of which he is a member or employee) acts (or any body 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 any body 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;
- 99.7 an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest; or

- 99.8 any other interest authorised by ordinary resolution.
100. In addition to the provisions of Article 99, 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, where a director is an Investor Director he may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest arising from any duty he may owe to, or interest he may have as an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or direct or indirect investor (including without limitation by virtue of a carried interest, remuneration or incentive arrangements or the holding of securities) in:
- 100.1 the manager of the Fund;
- 100.2 any of the funds advised or managed by a manager of the Fund from time to time; or
- 100.3 another body corporate or firm in which a the manager of the Fund or any fund advised by such manager of the Fund has directly or indirectly invested, including without limitation any portfolio companies.
101. For the purposes of Article 99 to Article 110 (inclusive), 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.
102. In any situation permitted by 99 to Article 110 (inclusive, (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.
103. Subject to Article 104, 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:
- 103.1 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:
- 103.1.1 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;

103.1.2 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

103.1.3 restricting the application of the provisions in Article 105 and 106, so far as is permitted by law, in respect of such Interested Director;

103.2 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

Article 99 to Article 110 (inclusive) 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 Article 99 to Article 110 (inclusive).

104. Notwithstanding the other provisions of Article 99 to Article 110 (inclusive), it shall not (save with the consent in writing of an Investor Director) be made a condition of any authorisation of a matter in relation to that Investor Director in accordance with section 175(5)(a) of the Act, that he shall be restricted from voting or counting in the quorum at any meeting of, or of any committee of the directors or that he shall be required to disclose, use or apply confidential information as contemplated in Article 106.

105. Subject to Article 106 (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 Article 99 to Article 110 (inclusive), 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:

105.1 to disclose such information to the Company or to any director, or to any officer or employee of the Company; or

105.2 otherwise to use or apply such confidential information for the purpose of or in connection with the performance of his duties as a director.

106. 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 105 shall apply only if the conflict arises out of a matter which falls within Article 99 or Article 100 or has been authorised under section 175(5)(a) of the Act.

107. Where a director has an interest which can reasonably be regarded as likely to give rise to a conflict of interest, the director may 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:

- 107.1 absents himself from any discussions, whether in meetings of the directors or otherwise, at which the relevant situation or matter falls to be considered; and
- 107.2 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.
- 108. Subject to section 182 of the Act, a director shall declare the nature and extent of any interest permitted by Article 99 or Article 100 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:
  - 108.1 falling under Article 99.7;
  - 108.2 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
  - 108.3 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.
- 109. 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 Article 99 to Article 110 (inclusive).
- 110. For the purposes of Article 99 to Article 110 (inclusive):
  - 110.1 a conflict of interest includes a conflict of interest and duty and a conflict of duties;
  - 110.2 the provisions of section 252 of the Act shall determine whether a person is connected with a director; and
  - 110.3 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.

### **SECRETARY AND MINUTES**

111. Subject to the provisions of the Act, the Directors may appoint a secretary 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.

### **NOTICES**

112. 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:
- 112.1 in hard copy form;
  - 112.2 in electronic form; or
  - 112.3 (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.
113. 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 Articles 112 to 121.
114. 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):
- 114.1 to the Company or any other company at its registered office; or
  - 114.2 to the address notified to or by the Company for that purpose; or
  - 114.3 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
  - 114.4 in the case of an intended recipient who is a director or alternate, to his address as shown in the register of directors; or
  - 114.5 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

- 114.6 where the Company is the sender, if the Company is unable to obtain an address falling within one of the addresses referred to in Article 114.1 to Article 114.5 (inclusive) above, to the intended recipient's last address known to the Company.
115. 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:
- 115.1 if delivered, at the time of delivery; or
- 115.2 if posted, on receipt or 48 hours after the time it was posted, whichever occurs first.
116. Subject to the provisions of the Act, any notice or other document in electronic form given or supplied under these Articles may:
- 116.1 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;
- 116.2 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 112.3; or
- 116.3 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:
- 116.3.1 on its website from time to time; or
- 116.3.2 by notice (in hard copy or electronic form) to all members of the Company from time to time.
117. Any notice or other document in electronic form given or supplied under these Articles shall be deemed to have been served and be effective:
- 117.1 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 48 hours after the time it was sent, whichever occurs first;
- 117.2 if posted in an electronic form, on receipt or 48 hours after the time it was posted, whichever occurs first;
- 117.3 if delivered in an electronic form, at the time of delivery; and
- 117.4 if sent by any other electronic means as referred to in Article 116, at the time such delivery is deemed to occur under the Act.
118. 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.

119. 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.
120. 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.
121. 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).

### **WINDING UP**

122. If the Company shall be wound up (whether the liquidation is voluntary, under supervision or by the Court) the liquidator may, with the authority of an extraordinary resolution of the Company, divide among the members in specie or kind the whole or any part of the assets of the Company and whether or not the assets shall consist of property of one kind or shall consist of properties of different kinds and may for such purpose set such value as he deems fair upon any one or more class or classes of property and may determine how such division shall be carried out as between the members or different classes of members. The liquidator may with the like authority vest any part of the assets in trustees upon such trusts for the benefit of members as the liquidator with the like authority shall think fit and the liquidation of the Company may be closed and the Company dissolved, but so that no member shall be compelled to accept any assets in respect of which there is liability. The liquidator may make any provision or arrangement sanctioned by the Court.

### **INDEMNITIES AND INSURANCE**

123. Subject to the provisions of and so far as may be permitted by, the Act:
  - 123.1 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 of the Company or any associated company is indemnified by the Company against:

- 123.1.1 any liability incurred by the director to the Company or any associated company; or
- 123.1.2 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
- 123.1.3 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;
- 123.2 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.
- 124. 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.

#### **MATTERS REQUIRING FUND CONSENT**

125. The prior written consent or written approval of the Fund shall be required in respect of any matter relating to (or the Company incurring an obligation to do) any of the following:
- 125.1 the formation of any new Group Company (whether a subsidiary or holding company or an associated company) or any form of corporate restructuring;
  - 125.2 any change in the auditors, accounting reference date or accounting reference period of the Company or any group company;
  - 125.3 the appointment or removal of any officer of the Company or of any Group Company;
  - 125.4 any material alteration (including cessation) to the nature of the business of the Company or of any of its Subsidiary Undertakings;
  - 125.5 any transaction involving the Company or any Group Company in which a Director or shareholder are personally interested or which is otherwise than on bona fide arm's length terms;
  - 125.6 any alteration of the restrictions on the powers of the directors of the Company or its Subsidiary Undertakings to borrow, give guarantees or create charges;
  - 125.7 any alteration to these Articles or articles of association of any Group Company or (without prejudice to the provisions of sections 630 and 633 of the Act) the modification of any rights attaching to any Shares.
  - 125.8 the passing of any resolution whereby the classification or status of the Company may be changed;
  - 125.9 the declaration or payment of any dividends, any distribution of assets, any capitalisation issue, return of capital, reduction of capital, sub-division;
  - 125.10 the calling of a meeting of the Company for the purpose of considering a resolution to approve a contract by the Company or any of its Subsidiary Undertakings to purchase any of their respective shares;
  - 125.11 the granting of any options, warrants or similar rights over the Shares in the Company or over the shares in any Group Company;
  - 125.12 the calling of a meeting of the Company or any of its Subsidiary Undertakings for the purpose of considering a resolution for the winding up of the Company or any of its Subsidiary Undertakings;
  - 125.13 the winding-up of the Company or of any Group Company unless a licensed insolvency practitioner shall have advised that the Company or relevant Group Company is required to be wound up by reason of having become insolvent;

- 125.14 the entering into an informal agreement with any creditors of the Company or of any Group Company save for the compromising of any debts of the Company or of any Group Company by the Company or relevant Group Company in the ordinary course of business;
- 125.15 the sale of the undertaking of the Company or of any of its Subsidiary Undertakings or any substantial part (including but not limited to any intellectual property owned by the Company) thereof;
- 125.16 the suspension of the trade of the Company or any Group Company or the sale of any significant part of the assets of the Company or any Group Company;
- 125.17 the sale or Listing of any Shares in the Company or of any shares in any Group Company;
- 125.18 any Flotation or any Sale becoming unconditional or completed; and/or
- 125.19 the disposal of all or any of the material assets of the Company or of any Group Company, whether by way of trade sale or otherwise.

## SCHEDULE 1

Regulation 2

### MODEL ARTICLES FOR PRIVATE COMPANIES LIMITED BY SHARES

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## PART 1

### INTERPRETATION AND LIMITATION OF LIABILITY

#### Defined terms

- 1. In the articles, unless the context requires otherwise—
  - "articles" means the company's articles of association;
  - "bankruptcy" includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

"chairman" has the meaning given in article 12;  
"chairman of the meeting" has the meaning given in article 39;  
"Companies Acts" means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;  
"director" means a director of the company, and includes any person occupying the position of director, by whatever name called;  
"distribution recipient" has the meaning given in article 31;  
"document" includes, unless otherwise specified, any document sent or supplied in electronic form;  
"electronic form" has the meaning given in section 1168 of the Companies Act 2006;  
"fully paid" in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;  
"hard copy form" has the meaning given in section 1168 of the Companies Act 2006;  
"holder" in relation to shares means the person whose name is entered in the register of members as the holder of the shares;  
"instrument" means a document in hard copy form;  
"ordinary resolution" has the meaning given in section 282 of the Companies Act 2006;  
"paid" means paid or credited as paid;  
"participate", in relation to a directors' meeting, has the meaning given in article 10;  
"proxy notice" has the meaning given in article 45;  
"shareholder" means a person who is the holder of a share;  
"shares" means shares in the company;  
"special resolution" has the meaning given in section 283 of the Companies Act 2006;  
"subsidiary" has the meaning given in section 1159 of the Companies Act 2006;  
"transmittee" means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and  
"writing" means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company.

### **Liability of members**

2. The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

## **PART 2**

### **DIRECTORS**

#### **DIRECTORS' POWERS AND RESPONSIBILITIES**

##### **Directors' general authority**

3. Subject to the articles, the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company.

##### **Shareholders' reserve power**

- 4.—(1) The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action.  
(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

### **Directors may delegate**

5.—(1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles—

- (a) to such person or committee;
- (b) by such means (including by power of attorney);
- (c) to such an extent;
- (d) in relation to such matters or territories; and
- (e) on such terms and conditions;

as they think fit.

(2) If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.

(3) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

### **Committees**

6.—(1) Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

(2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

## **DECISION-MAKING BY DIRECTORS**

### **Directors to take decisions collectively**

7.—(1) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8.

(2) If—

- (a) the company only has one director, and
- (b) no provision of the articles requires it to have more than one director,

the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

### **Unanimous decisions**

8.—(1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

(2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.

(3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.

(4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

### **Calling a directors' meeting**

9.—(1) Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

(2) Notice of any directors' meeting must indicate—

- (a) its proposed date and time;



(b) where it is to take place; and

(c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

(3) Notice of a directors' meeting must be given to each director, but need not be in writing.

(4) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days 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.

### **Participation in directors' meetings**

**10.—**(1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when—

(a) the meeting has been called and takes place in accordance with the articles, and

(b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

(2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.

(3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

### **Quorum for directors' meetings**

**11.—**(1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

(2) The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is two.

(3) If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision—

(a) to appoint further directors, or

(b) to call a general meeting so as to enable the shareholders to appoint further directors.

### **Chairing of directors' meetings**

**12.—**(1) The directors may appoint a director to chair their meetings.

(2) The person so appointed for the time being is known as the chairman.

(3) The directors may terminate the chairman's appointment at any time.

(4) If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

### **Casting vote**

**13.—**(1) If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote.

(2) But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

### **Conflicts of interest**

**14.—**(1) If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, that director is not to be counted as participating in the decision-making process for quorum or voting purposes.

(2) But if paragraph (3) applies, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes.

(3) This paragraph applies when—

(a) the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in the decision-making process;

(b) the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or

(c) the director's conflict of interest arises from a permitted cause.

(4) For the purposes of this article, the following are permitted causes—

(a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;

(b) subscription, or an agreement to subscribe, for shares or other securities of the company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and

(c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the company or any of its subsidiaries which do not provide special benefits for directors or former directors.

(5) For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.

(6) Subject to paragraph (7), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.

(7) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

### **Records of decisions to be kept**

**15.** The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

### **Directors' discretion to make further rules**

**16.** Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

## **APPOINTMENT OF DIRECTORS**

### **Methods of appointing directors**

**17.—(1)** Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director—

(a) by ordinary resolution, or

(b) by a decision of the directors.

(2) In any case where, as a result of death, the company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director.

(3) For the purposes of paragraph (2), where 2 or more shareholders die in circumstances

rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

#### **Termination of director's appointment**

18. A person ceases to be a director as soon as—
- (a) that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
  - (b) a bankruptcy order is made against that person;
  - (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
  - (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
  - (e) *[paragraph omitted pursuant to the Mental Health (Discrimination) Act 2013]*
  - (f) notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms.

#### **Directors' remuneration**

- 19.—(1) Directors may undertake any services for the company that the directors decide.
- (2) Directors are entitled to such remuneration as the directors determine—
- (a) for their services to the company as directors, and
  - (b) for any other service which they undertake for the company.
- (3) Subject to the articles, a director's remuneration may—
- (a) take any form, and
  - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.
- (5) Unless the directors decide otherwise, directors are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

#### **Directors' expenses**

20. The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at—
- (a) meetings of directors or committees of directors,
  - (b) general meetings, or
  - (c) separate meetings of the holders of any class of shares or of debentures of the company, or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

## **PART 3**

### **SHARES AND DISTRIBUTIONS**

#### **SHARES**

#### **All shares to be fully paid up**

- 21.—(1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.

(2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum.

### **Powers to issue different classes of share**

**22.—**(1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by ordinary resolution.

(2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

### **Company not bound by less than absolute interests**

**23.** Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

### **Share certificates**

**24.—**(1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.

(2) Every certificate must specify—

- (a) in respect of how many shares, of what class, it is issued;
- (b) the nominal value of those shares;
- (c) that the shares are fully paid; and
- (d) any distinguishing numbers assigned to them.

(3) No certificate may be issued in respect of shares of more than one class.

(4) If more than one person holds a share, only one certificate may be issued in respect of it.

(5) Certificates must—

- (a) have affixed to them the company's common seal, or
- (b) be otherwise executed in accordance with the Companies Acts.

### **Replacement share certificates**

**25.—**(1) If a certificate issued in respect of a shareholder's shares is—

- (a) damaged or defaced, or
- (b) said to be lost, stolen or destroyed, that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

(2) A shareholder exercising the right to be issued with such a replacement certificate—

- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
- (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
- (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

### **Share transfers**

**26.—**(1) 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 the transferor.

(2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.

- (3) The company may retain any instrument of transfer which is registered.
- (4) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
- (5) The directors may refuse to register the transfer of a share, and if they do so, 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.

### **Transmission of shares**

- 27.—**(1) If title to a share passes to a transmittee, the company may only recognise the transmittee as having any title to that share.
- (2) A transmittee who produces such evidence of entitlement to shares as the directors may properly require—
- (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and
  - (b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- (3) But transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

### **Exercise of transmittees' rights**

- 28.—**(1) Transmittees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.
- (2) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- (3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

### **Transmittees bound by prior notices**

- 29.** If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name has been entered in the register of members.

## **DIVIDENDS AND OTHER DISTRIBUTIONS**

### **Procedure for declaring dividends**

- 30.—**(1) The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.
- (2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- (3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- (4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.
- (5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.
- (6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- (7) If the directors act in good faith, they do not incur any liability to the holders of shares

conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

### **Payment of dividends and other distributions**

**31.—**(1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means—

- (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;
- (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
- (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or
- (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.

(2) In the articles, "the distribution recipient" means, in respect of a share in respect of which a dividend or other sum is payable—

- (a) the holder of the share; or
- (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
- (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

### **No interest on distributions**

**32.** The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by—

- (a) the terms on which the share was issued, or
- (b) the provisions of another agreement between the holder of that share and the company.

### **Unclaimed distributions**

**33.—**(1) All dividends or other sums which are—

- (a) payable in respect of shares, and
  - (b) unclaimed after having been declared or become payable,
- may be invested or otherwise made use of by the directors for the benefit of the company until claimed.

(2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.

(3) If—

- (a) twelve years have passed from the date on which a dividend or other sum became due for payment, and
- (b) the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

### **Non-cash distributions**

**34.—**(1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or

other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

(2) For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution—

- (a) fixing the value of any assets;
- (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
- (c) vesting any assets in trustees.

#### **Waiver of distributions**

**35.** Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if—

- (a) the share has more than one holder, or
- (b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

### **CAPITALISATION OF PROFITS**

#### **Authority to capitalise and appropriation of capitalised sums**

**36.—**(1) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution—

- (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 the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.

(2) Capitalised sums must be applied—

- (a) on behalf of the persons entitled, and
- (b) in the same proportions as a dividend would have been distributed to them.

(3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.

(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 then allotted credited as fully paid to the persons entitled or as they may direct.

(5) Subject to the articles the directors may—

- (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
- (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and
- (c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

## **PART 4**

### **DECISION-MAKING BY SHAREHOLDERS**

#### **ORGANISATION OF GENERAL MEETINGS**

### **Attendance and speaking at general meetings**

**37.—**(1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

(2) A person is able to exercise the right to vote at a general meeting when—

(a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and

(b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

(3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.

(4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.

(5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

### **Quorum for general meetings**

**38.** No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

### **Chairing general meetings**

**39.—**(1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.

(2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start—

(a) the directors present, or

(b) (if no directors are present), the meeting,

must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

(3) The person chairing a meeting in accordance with this article is referred to as "the chairman of the meeting".

### **Attendance and speaking by directors and non-shareholders**

**40.—**(1) Directors may attend and speak at general meetings, whether or not they are shareholders.

(2) The chairman of the meeting may permit other persons who are not—

(a) shareholders of the company, or

(b) otherwise entitled to exercise the rights of shareholders in relation to general meetings, to attend and speak at a general meeting.

### **Adjournment**

**41.—**(1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.

(2) The chairman of the meeting may adjourn a general meeting at which a quorum is present if—



- (a) the meeting consents to an adjournment, or
  - (b) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- (4) When adjourning a general meeting, the chairman of the meeting must—
- (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and
  - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)—
- (a) to the same persons to whom notice of the company's general meetings is required to be given, and
  - (b) containing the same information which such notice is required to contain.
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

## VOTING AT GENERAL MEETINGS

### Voting: general

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

### Errors and disputes

- 43.—**(1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- (2) Any such objection must be referred to the chairman of the meeting, whose decision is final.

### Poll votes

- 44.—**(1) A poll on a resolution may be demanded—
- (a) in advance of the general meeting where it is to be put to the vote, or
  - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by—
- (a) the chairman of the meeting;
  - (b) the directors;
  - (c) two or more persons having the right to vote on the resolution; or
  - (d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if—
- (a) the poll has not yet been taken, and
  - (b) the chairman of the meeting consents to the withdrawal.
- (4) Polls must be taken immediately and in such manner as the chairman of the meeting directs.

## **Content of proxy notices**

- 45.—**(1) Proxies may only validly be appointed by a notice in writing (a “proxy notice”) which—
- (a) states the name and address of the shareholder appointing the proxy;
  - (b) identifies the person appointed to be that shareholder’s proxy and the general meeting in relation to which that person is appointed;
  - (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
  - (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as—
- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
  - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

## **Delivery of proxy notices**

- 46.—**(1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- (2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor’s behalf.

## **Amendments to resolutions**

- 47.—**(1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if—
- (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
  - (b) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if—
- (a) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
  - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- (3) If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman’s error does not invalidate the vote on that resolution.

## PART 5

### ADMINISTRATIVE ARRANGEMENTS

#### Means of communication to be used

**48.—**(1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.

(2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

(3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

#### Company seals

**49.—**(1) Any common seal may only be used by the authority of the directors.

(2) The directors may decide by what means and in what form any common seal is to be used.

(3) Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

(4) For the purposes of this article, an authorised person is—

(a) any director of the company;

(b) the company secretary (if any); or

(c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

#### No right to inspect accounts and other records

**50.** Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.

#### Provision for employees on cessation of business

**51.** The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

### DIRECTORS' INDEMNITY AND INSURANCE

#### Indemnity

**52.—**(1) Subject to paragraph (2), a relevant director of the company or an associated company may be indemnified out of the company's assets against—

(a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,

(b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),

(c) any other liability incurred by that director as an officer of the company or an associated company.

(2) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

(3) In this article—

(a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and

(b) a "relevant director" means any director or former director of the company or an associated company.

### **Insurance**

**53.—**(1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.

(2) In this article—

(a) a "relevant director" means any director or former director of the company or an associated company,

(b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and

(c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.