

Company number SC130145

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTIONS

of

ABERDEEN WATERSPORTS AND LEISURE LIMITED (Company)

20/02/2012 (Circulation Date)

FRIDAY



\*S15RVS2Q\*  
SCT 30/03/2012 #69  
COMPANIES HOUSE

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that: the following resolution is passed as a special resolution (**Special Resolution**).

#### SPECIAL RESOLUTION

- |   |   |
|---|---|
| 1 | THAT the draft articles attached to this resolution, be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association including the relevant provisions of the Memorandum of Association that would otherwise be treated as provisions of these Articles under Section 28 of the Companies Act 2006. |
|---|---|

#### AGREEMENT

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

The undersigned, a person entitled to vote on the above resolutions on the Circulation Date, hereby irrevocably agrees to the above resolution:

Signed by:

Signature	
Print Name	Jason Topley
Date	20/02/2012

#### NOTES

1. Please sign and date this document and return it to the Company using one of the following methods:

- 1.1 **By Hand:** delivering the signed copy to The Company Secretary, 23 Carden Place, Aberdeen, AB10 1UQ.
- 1.2 **Post:** returning the signed copy by post to The Company Secretary, 23 Carden Place, Aberdeen, AB10 1UQ.

If there are no resolutions you agree with, you do not need to do anything. You will not be deemed to agree if you fail to reply.

- 2. Once you have indicated your agreement to a resolution, you may not revoke your agreement.
- 3. If, by 28 days from the Circulation Date, insufficient agreement has been received for a resolution to pass, that resolution will lapse. If you agree to all or any of the resolutions, please ensure that your agreement reaches us before or during this date.

P2

**ARTICLES OF ASSOCIATION**

**Company Number: SC130145**

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION OF**

**ABERDEEN WATERSPORTS AND LEISURE LIMITED**

**Brodies LLP  
23 Carden Place,  
Aberdeen, AB10 1UQ  
T: 01224 392242  
F: 01224 392244  
DX AB10, ABERDEEN  
Ref. ABE45.4  
FAS: 1468  
2011**

## Articles of Association

### CONTENTS

Clause		Page
1	DEFINITIONS AND INTERPRETATION	1
2	MODEL ARTICLES SHALL NOT APPLY	9
3	LIABILITY OF SHAREHOLDERS	9
4	DIRECTORS' GENERAL AUTHORITY	10
5	SHAREHOLDERS' RESERVE POWER	10
6	DIRECTORS MAY DELEGATE	10
7	COMMITTEES OF DIRECTORS	10
8	DIRECTORS TO TAKE DECISIONS COLLECTIVELY	11
9	UNANIMOUS DECISIONS	11
10	CALLING A DIRECTORS' MEETING	11
11	PARTICIPATION IN DIRECTORS' MEETINGS	12
12	QUORUM FOR DIRECTORS' MEETINGS	12
13	VOTING AT DIRECTORS' MEETINGS	13
14	CHAIRING OF DIRECTORS' MEETINGS	13
15	CHAIRMAN'S CASTING VOTE	13
16	SITUATIONAL CONFLICTS OF INTEREST	13
17	TRANSACTIONAL CONFLICTS OF INTEREST	15
18	RECORDS OF DECISIONS TO BE KEPT	15
19	DIRECTORS' DISCRETION TO MAKE FURTHER RULES	15
20	METHODS OF APPOINTING DIRECTORS	16
21	TERMINATION OF DIRECTOR'S APPOINTMENT	16
22	DIRECTORS' REMUNERATION	17
23	DIRECTORS' EXPENSES	17
24	APPOINTMENT AND REMOVAL OF ALTERNATES	18
25	RIGHTS AND RESPONSIBILITIES OF ALTERNATES	18
26	TERMINATION OF APPOINTMENT OF ALTERNATES	19
27	PRE-EMPTION RIGHTS ON ALLOTMENT	20
28	ALL SHARES TO BE FULLY PAID UP	21

29	POWERS TO ISSUE DIFFERENT CLASSES OF SHARE	21
30	COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS	22
31	SHARE CERTIFICATES	22
32	REPLACEMENT SHARE CERTIFICATES	22
33	SHARE TRANSFERS: GENERAL	23
34	PERMITTED TRANSFERS	24
35	VOLUNTARY TRANSFERS	24
36	MANDATORY TRANSFERS IN RESPECT OF LEAVERS	28
37	DRAG ALONG	29
38	TAG ALONG	30
39	COMPLIANCE WITH TRANSFER PROVISIONS	32
40	TRANSMISSION OF SHARES	32
41	EXERCISE OF TRANSMITTEES' RIGHTS	32
42	TRANSMITTEES BOUND BY PRIOR NOTICES	33
43	PROCEDURE FOR DECLARING DIVIDENDS	33
44	PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS	33
45	NO INTEREST ON DISTRIBUTIONS	34
46	UNCLAIMED DISTRIBUTIONS	34
47	NON-CASH DISTRIBUTIONS	35
48	WAIVER OF DISTRIBUTIONS	35
49	AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS	35
50	ATTENDANCE AND SPEAKING AT GENERAL MEETINGS	36
51	QUORUM FOR GENERAL MEETINGS	37
52	CHAIRING GENERAL MEETINGS	37
53	ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS AT GENERAL MEETINGS	38
54	ADJOURNMENT OF GENERAL MEETINGS	38
55	VOTING AT GENERAL MEETINGS: GENERAL	39
56	ERRORS AND DISPUTES	40
57	POLL VOTES	40
58	CONTENT OF PROXY NOTICES	40
59	DELIVERY OF PROXY NOTICES	41

60	AMENDMENTS TO RESOLUTIONS	42
61	MEANS OF COMMUNICATION TO BE USED	43
62	COMPANY SEALS	43
63	NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS	44
64	DIRECTORS' INDEMNITY	44
65	DIRECTORS' INSURANCE	44

**Articles of Association**

**Company Number: SC130145**

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION OF**

**ABERDEEN WATERSPORTS AND LEISURE LIMITED**

**(Adopted by Special Resolution passed on 20<sup>th</sup> February 2012)**

**1 DEFINITIONS AND INTERPRETATION**

1.1 The definitions set out in this Article 1.1 apply in these articles.

**"Acceptance Period"** has the meaning given in Article 35.5.1.2.

**"Act"** the Companies Act 2006.

**"Acting in Concert"** has the meaning given by the City Code on Takeovers and Mergers as in force and construed on the Adoption Date.

**"Adoption Date"** the date of adoption of these articles.

**"Allocated Person"** has the meaning given in Article 35.8.1.

**"Alternate"** has the meaning given in Article 24.1.

**"Appointor"** has the meaning given in Article 24.1.

**"Authorisation"** has the meaning given in Article 16.2.

**"Authorised Person":**

- (a) any Director;
- (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.

**"Bad Leaver"** a Leaver who becomes a Leaver as a result of ceasing to be an Employee except where that cessation occurs as a result of:

- (a) death;

- (b) wrongful dismissal;
- (c) permanent disability or permanent incapacity through ill health; or
- (d) retirement on or after the age of 65.

**"Capitalised Sum"** has the meaning given in Article 49.1.2.

**"Chairman"** the chairman of the Company from time to time.

**"Chairman of the Meeting"** the person chairing the relevant general meeting in accordance with Article 52.

**"Committed Shareholder"** has the meaning given in Article 38.1.

**"Company"** Aberdeen Watersports and Leisure Limited.

**"Completion"** completion of the sale of the relevant Sale Shares in accordance with these articles.

**"Conflict"** has the meaning given in Article 16.1.

**"Conflicted Director"** has the meaning given in Article 16.1.

**"Connected Person"** a person connected with another within the meaning of section 839 of the Income and Corporation Taxes Act 1988.

**"Controlling Interest"** an interest (within the meaning of Schedule 1 to the Act) in more than 50% of the Shares.

**"Controlling Shares"** has the meaning given in Article 38.1.

**"Close Date"** has the meaning given in Article 38.2.2.

**"Director"** a director of the Company, including any person occupying the position of director, by whatever name called.

**"Distribution Recipient"** in relation to a Share in respect of which a dividend or other sum is payable:

- (a) the Holder of that Share;
- (b) if that 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 that Share by reason of death or bankruptcy, or otherwise by operation of law, the Transmittee.

**"Dragged Shareholders"** has the meaning given in Article 37.1.

**"Dragged Shares"** has the meaning given in Article 37.1.

**"Drag Notice"** has the meaning given in Article 37.2.

**"Drag Option"** has the meaning given in Article 37.1.

**"Drag Price"** has the meaning given in Article 37.2.3.

**"Electronic Form"** has the meaning given in section 1168 of the Act.

**"Eligible Directors"** in relation to any matter, the Directors who would have been entitled to vote on, and whose votes would have been counted in respect of, that matter had it been proposed as a resolution at a Directors' meeting.

**"Eligible Shareholders"** each Shareholder who is a Shareholder at the Transfer Notice Date (excluding the relevant Seller, any Excluded Person and any other Shareholder who at any time before that date has given (or is deemed to have given) a current Transfer Notice in respect of any Share or who is bound under these articles to give a Transfer Notice in respect of any Share).

**"Employee"** an employee of any Group Company or a Shareholder who is not an employee of any Group Company but who provides his services to any Group Company under a contract entered into either directly with him or with a third party.

**"Equity Securities"** has the meaning given in section 560(1) of the Act.

**"Excluded Person"** a person who is:

- (a) a Leaver; or
- (b) an Employee who has given or been given notice to terminate his contract of employment with any Group Company and following that termination will cease to be an Employee.

**"Expert"** a firm of chartered accountants (acting as an expert and not as an arbitrator) nominated by the parties concerned or, in the event of disagreement as to nomination for

a period of seven days, appointed on the application of any of the parties concerned by the President for the time being of the Institute of Chartered Accountants of Scotland.

**"Fair Price"** the price per Sale Share agreed between the relevant Seller and the Company within 10 days after the Transfer Notice Date or, failing such agreement, the price determined by the Expert pursuant to Article 35.4.

**"Family Members"** in relation to any Shareholder, that Shareholder's spouse and children (including step and adopted children) provided in each case they are over the age of 18.

**"Fully Paid"** in relation to a Share, that the nominal value and any premium to be paid to the Company in respect of that Share have been Paid to the Company.

**"Good Leaver":**

- (a) a Leaver who is not a Bad Leaver; or
- (b) a Leaver who becomes a Leaver as a result of ceasing to be an Employee or Director but the Directors (with the consent in writing of all the Shareholders) resolve that he is to be treated as a Good Leaver in circumstances where that Leaver would, but for this provision, be a Bad Leaver.

**"Group"** the Company and each Subsidiary.

**"Group Company"** any member of the Group.

**"Hard Copy Form"** has the meaning given in section 1168 of the Act.

**"Holder"** in relation to a Share, the person whose name is entered in the register of members as the holder of that Share from time to time.

**"Interested Director"** has the meaning given in Article 17.1.

**"Interested Shareholders"** has the meaning given in Article 38.1.

**"Issue Price"** in relation to any Share, the price at which that Share is issued (being the aggregate of the amount Paid in respect of the nominal value of that Share and any share premium on that Share).

**"Leaver":**

- (a) any Shareholder who:

- (i) is a Director and then ceases to be a Director;
- (ii) dies;
- (iii) has a bankruptcy order made against him;
- (iv) has entered into any voluntary arrangement or composition with his creditors; or
- (v) otherwise is an Employee and then ceases to be an Employee;

(b) any person who is a Transmittee of any Shareholder.

**"Leaver's Shares"** all of the Shares held by a Leaver, or to which that Leaver is entitled, on the Leaving Date and any Shares acquired by that Leaver after the Leaving Date.

**"Leaving Date"** in relation to any Leaver, the date on which he becomes a Leaver (which, in the case of any Leaver who becomes a Leaver by virtue of any person ceasing to be an Employee, shall be the Termination Date in relation to that former Employee).

**"Non-Cash Consideration"** has the meaning given in Article 37.2.2.

**"Majority Decision"** a majority decision taken at a Directors' meeting where each director has one vote for every Share held by him for each proposed decision.

**"Offer"** has the meaning given in Article 27.3.

**"Offer Notice"** has the meaning given in Article 27.3.

**"Offer Period"** has the meaning given in Article 27.3.4.

**"Offered Securities"** has the meaning given in Article 27.3.1.

**"Ordinary Resolution"** has the meaning given in section 282 of the Act.

**"Paid"** paid or credited as paid.

**"Participate"** has the meaning given in Article 11.1 and **"Participating"** shall be construed accordingly.

**"Persons Entitled"** has the meaning given in Article 49.1.2.

**"Proposed Controller"** has the meaning given in Article 38.1.

**"Proxy Notice"** has the meaning given in Article 58.1.

**"Proxy Notification Address"** has the meaning given in Article 59.1.

**"Qualifying Person":**

- (a) an individual who is a Shareholder; or
- (b) a person appointed as proxy of a Shareholder in relation to the relevant general meeting.

**"Relevant Director"** any director or former director of any Group Company.

**"Relevant Loss"** any loss or liability which has been or may be incurred by a Relevant Director in connection with his duties or powers in relation to any Group Company or any pension fund or employees' share scheme of any Group Company.

**"Relevant Proportions"** in relation to the relevant Shareholders, in proportion (as nearly as possible without involving fractions) to the nominal value of the Shares held by them respectively at the date of the Offer Notice.

**"Relevant Shares"** has the meaning given in Article 37.1.

**"Sale Notice"** has the meaning given in Article 35.8.2.

**"Sale Price"** the price per Share at which the relevant Sale Shares are offered to the relevant Eligible Shareholders.

**"Sale Shares"** has the meaning given in Article 35.2.1.

**"Seller"** has the meaning given in Article 35.1.

**"Shareholder"** a person who is the Holder of a Share.

**"Shareholder Simple Consent"** the prior consent in Writing of the Shareholder Simple Majority.

**"Shareholder Simple Majority"** the Shareholder or Shareholders who, at the relevant time, hold in aggregate more than 50% in number of the Shares.

**"Shareholder Special Consent"** the prior consent in Writing of the Shareholder Special Majority.

**"Shareholder Special Majority"** the Shareholder or Shareholders who, at the relevant time, hold in aggregate at least 75% in number of the Shares.

**"Shares"** ordinary shares of £1.00 each in the Company.

**"Special Resolution"** has the meaning given in section 283 of the Act.

**"Subsidiary"** any company which is a subsidiary of the Company from time to time.

**"Tag Notice"** has the meaning given in Article 38.2.

**"Tag Offer"** has the meaning given in Article 38.1.

**"Tag Price"** has the meaning given in Article 38.2.1.

**"Termination Date"**:

- (a) where employment ceases by virtue of notice given by the employer to the Employee concerned, the date on which that notice expires;
- (b) where a contract of employment is terminated by notice given by the employer and a payment is made in lieu of notice, the date on which that notice was given or, if later, the date the Employee concerned ceases to be an Employee;
- (c) where the Employee concerned is a director and an employee of any Group Company, the date on which that Employee's contract of employment with that Group Company is terminated;
- (d) where the Employee concerned is a director (but not an employee) of any Group Company, the date on which the contract for the provision of that Employee's services (whether entered into directly with him or with a third party) with that Group Company is terminated; or
- (e) in any other case, the date on which the contract of employment is terminated.

**"Third Party Purchaser"** any person who is not a Shareholder or a Connected Person of a Shareholder.

**"Total Sale Condition"** has the meaning given in Article 35.2.4.

**"Transaction"** has the meaning given in Article 17.1.

**"Transfer Form"** an instrument of transfer of Shares in any usual form or in any other form approved by the Directors, which is executed by or on behalf of the transferor.

**"Transfer Notice"** has the meaning given in Article 35.1.

**"Transfer Notice Date"** the date of the relevant Transfer Notice.

**"Transfer Offer Notice"** has the meaning given in Article 35.5.

**"Transfer Proportions"** in relation to the relevant Eligible Shareholders, in proportion (as nearly as possible without involving fractions) to the nominal value of the Shares held by them respectively at the Transfer Notice Date.

**"Transmittee"** a person entitled to a Share by reason of the death or bankruptcy of a Shareholder or otherwise by operation of law.

**"Unanimous Decision"** has the meaning given in Article 9.1.

**"Uncommitted Shareholders"** has the meaning given in Article 38.1.

**"Uncommitted Shares"** has the meaning given in Article 38.1.

**"Writing"** 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.

1.2 The rules of interpretation set out in Articles 1.3 to 1.9 (inclusive) apply in these articles.

1.3 A reference to:

1.3.1 a **"person"** includes a reference to:

1.3.1.1 any individual, firm, partnership, unincorporated association or company wherever incorporated or situate; and

1.3.1.2 that person's legal personal representatives, trustees in bankruptcy and successors;

1.3.2 **"bankruptcy"** includes individual insolvency proceedings in a jurisdiction other than Scotland which have an effect similar to that of bankruptcy;

1.3.3 a **"document"** includes, unless otherwise specified, any document sent or supplied in Electronic Form; and

1.3.4 a **"company"** shall include any company, corporation or other body corporate, however incorporated or established and in whichever jurisdiction.

1.4 Unless the context otherwise requires:

- 1.4.1 words denoting the singular shall include the plural and vice versa;
  - 1.4.2 words denoting a gender shall include all genders; and
  - 1.4.3 references to (or to any specified provision of) these articles or any other document shall be construed as references to these articles, that provision or that document as in force and as amended from time to time.
- 1.5 Unless stated to the contrary, a reference to a statute, statutory provision or subordinate legislation includes a reference to it as modified, replaced, amended and/or re-enacted from time to time (before or after the Adoption Date) and any prior or subsequent legislation made under it but this Article 1.5 shall not operate so as to impose on any person any greater obligation than would otherwise apply.
- 1.6 Unless the context otherwise requires, words or expressions used in these articles shall have the same meaning as in the Act.
- 1.7 Terms “including”, “include”, “in particular” or similar expression, shall not limit the sense or application of any words preceding those terms.
- 1.8 A reference to an “Article” is to an article of these articles.
- 1.9 A reference to a “transfer of Shares” or any similar expression shall include a sale or transfer of any interest in any Shares (whether legal, beneficial or otherwise) and any charge, mortgage or other encumbrance granted over any Shares.

## **2 MODEL ARTICLES SHALL NOT APPLY**

Neither the model articles for private companies limited by shares prescribed pursuant to the Act, nor any other articles of association (whether prescribed pursuant to the Act or set out in any other statute, statutory instrument or other subordinate legislation concerning companies) shall apply to the Company.

## **3 LIABILITY OF SHAREHOLDERS**

The liability of the Shareholders is limited to the amount, if any, unpaid on the Shares held by them from time to time.

**4 DIRECTORS' GENERAL AUTHORITY**

Subject to the other provisions of these 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.

**5 SHAREHOLDERS' RESERVE POWER**

5.1 The Shareholders may by Special Resolution direct the Directors to take, or refrain from taking, specified action.

5.2 No Special Resolution passed pursuant to Article 5.1 invalidates anything which the Directors have done before the passing of that resolution.

**6 DIRECTORS MAY DELEGATE**

6.1 Subject to the other provisions of these articles, the Directors may delegate any of the powers which are conferred on them under these articles:

6.1.1 to such person or committee;

6.1.2 by such means (including by power of attorney);

6.1.3 to such an extent;

6.1.4 in relation to such matters or territories; and

6.1.5 on such terms and/or conditions;

as they think fit.

6.2 If the Directors so specify, any delegation pursuant to Article 6.1 may authorise further delegation of the Directors' powers by any person to whom they are delegated.

6.3 The Directors may at any time revoke any delegation made pursuant to Article 6.1 in whole or part, or alter its terms and/or conditions.

**7 COMMITTEES OF DIRECTORS**

7.1 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 these articles which govern the taking of decisions by Directors.



- 7.2 The Directors may make rules of procedure for all or any committees, which shall prevail over rules derived from these articles if they are not consistent with them.

## **8 DIRECTORS TO TAKE DECISIONS COLLECTIVELY**

- 8.1 The general rule about decision-making by Directors is that any decision of the Directors must be either a Majority Decision or a Unanimous Decision.
- 8.2 If at any time the Company only has one Director, the general rule in Article 8.1 does not apply and that Director may (until such time as he ceases to be the only Director) take decisions without regard to any of the provisions of these articles relating to Directors' decision-making.

## **9 UNANIMOUS DECISIONS**

- 9.1 A decision of the Directors is a unanimous decision (a "**Unanimous Decision**"):
- 9.1.1 if all Eligible Directors indicate to each other by any means that they share a common view on a matter; and
  - 9.1.2 had the matter in question been proposed as a resolution at a Directors' meeting, the Eligible Directors would have formed a quorum at that meeting.
- 9.2 A Unanimous Decision may take the form of a resolution in Writing (where each Eligible Director has signed one or more copies of it or to which each Eligible Director has otherwise indicated agreement in Writing).

## **10 CALLING A DIRECTORS' MEETING**

- 10.1 Any Director may call a Directors' meeting by giving notice of that meeting to the Directors or by authorising the company secretary (if any) to give such notice.
- 10.2 Notice of any Directors' meeting must indicate:
- 10.2.1 its proposed date and time;
  - 10.2.2 where it is to take place; and
  - 10.2.3 if it is anticipated that the Directors Participating in that meeting will not be in the same place, how it is proposed that they should communicate with each other during that meeting.

- 10.3 Notice of a Directors' meeting must be given to each Director but need not be in Writing.
- 10.4 Notice of a Directors' meeting need not be given to any Director who waives his entitlement to notice of that meeting by giving notice to that effect to the Company either before or not more than seven days after the date on which that meeting is held. Where such notice is given after the relevant meeting has been held, that does not affect the validity of that meeting or of any business conducted at it.

## **11 PARTICIPATION IN DIRECTORS' MEETINGS**

- 11.1 Subject to the other provisions of these articles, Directors participate ("**Participate**") in a Directors' meeting, or part of a Directors' meeting, when they can each communicate to the others any information or opinions they have on any particular item of the business of that meeting (and for these purposes it is irrelevant where any Director is or how they communicate with each other).
- 11.2 If all the Directors Participating in a Directors' 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.
- 11.3 Subject to Article 11.4, if a question arises at a Directors' meeting or a meeting of a committee of Directors as to the right of any Director to vote or count in the quorum at that meeting (or part of that meeting), the question may, before the conclusion of that meeting, be referred to the Chairman whose ruling in relation to any Director (other than the Chairman) is to be final and conclusive.
- 11.4 If a question arises at a Directors' meeting or a meeting of a committee of Directors as to the right of the Chairman to vote or count in the quorum at that meeting (or part of that meeting), that question is to be decided by a decision of the Directors Participating at that meeting (provided that in relation to that question, the Chairman is not entitled to vote or count in the quorum).

## **12 QUORUM FOR DIRECTORS' MEETINGS**

- 12.1 At a Directors' meeting, unless a quorum is Participating, no proposal is to be voted on, except a proposal to call another meeting.
- 12.2 The quorum for Directors' meetings is two provided that in aggregate they hold together more than 50% in number of the Shares or represent members holding in aggregate more

than 50% in number of the Shares. For the purpose of this Article and Article 13 a director shall be treated as representing a member if the member in question has given notice in writing countersigned by the director in question to the Company to that effect and such notice has not been revoked or suspended by a conflicting notice dated later. This Article applies unless:

12.2.1        there is only one Director (in which case the provisions of Article 8.2 shall apply); or

12.2.2        the purpose of the meeting (or part of the meeting) is to consider the giving of an Authorisation and, by virtue of the provisions of Article 16.2, there is only one Director whose vote would be counted and who would be counted in the quorum at that meeting (or part of that meeting), in which case that Director alone shall constitute a quorum at that meeting (or part of that meeting).

### **13        VOTING AT DIRECTORS' MEETINGS**

Subject to the other provisions of these articles, each Director Participating in a Directors' meeting has one vote for every Share held by him or by the member he represents on each proposed resolution.

### **14        CHAIRING OF DIRECTORS' MEETINGS**

14.1        The Directors may appoint a Director to be the Chairman.

14.2        The Directors may terminate the Chairman's appointment at any time.

14.3        If the Chairman is not Participating in a Directors' meeting within 10 minutes of the time at which it was to start, the Participating Directors must appoint one of themselves to chair it.

### **15        CHAIRMAN'S CASTING VOTE**

If at any Directors' meeting the numbers of votes for and against a proposal are equal, the Chairman (or other Director chairing the meeting) shall not have a casting vote.

### **16        SITUATIONAL CONFLICTS OF INTEREST**

16.1        Subject to the other provisions of these articles, the Directors may, in accordance with (but subject to) the provisions of section 175 of the Act and this Article 16, authorise any matter which would, if not authorised, result in a Director (the "Conflicted Director")

being in breach of his duty under section 175 of the Act to avoid a situation in which he has, or could have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (a “Conflict”).

16.2 Any authorisation given under Article 16.1 (an “Authorisation”) (and any subsequent variation or termination of an Authorisation) will only be effective if:

16.2.1 any requirement as to the quorum at the Directors’ meeting at which the matter is considered is met without counting the Conflicted Director (or any other interested Director); and

16.2.2 the matter was agreed to without the Conflicted Director (or any other interested Director) voting or would have been agreed to if his (or any other interested Director’s) vote had not been counted.

16.3 The Directors may at any time:

16.3.1 make any Authorisation subject to such terms and conditions as they think fit; and

16.3.2 vary or terminate any Authorisation (provided that this will not affect anything done by the relevant Conflicted Director or the Company in accordance with that Authorisation before any such variation or termination).

16.4 Unless as a condition of the relevant Authorisation the Directors provide otherwise, a Conflicted Director who has received an Authorisation in relation to a Conflict:

16.4.1 may vote at any future Directors’ meeting (or meeting of a committee of the Directors) on any resolution in respect of that Conflict (and if he does vote his vote shall be counted) and he shall be taken into account in determining whether a quorum is Participating at that meeting;

16.4.2 may absent himself from the whole or any part of any Directors’ meeting (or meeting of a committee of the Directors) at which anything relating to that Conflict may be discussed;

16.4.3 shall not be required to disclose to the Company (or use for its benefit) any confidential information he obtains otherwise than in his capacity as a

Director, as a result of that Conflict where to do so would be a breach of any duty of confidence owed by him to a third party; and

- 16.4.4 shall not be liable to account to the Company for any benefit he or any of his Connected Persons derive as a result of that Conflict.

## 17 **TRANSACTIONAL CONFLICTS OF INTEREST**

17.1 If a Director (the "Interested Director") is in any way directly or indirectly interested in a proposed or existing transaction or arrangement with the Company (the "Transaction") he must declare the nature and extent of that interest to the other Directors in accordance with the provisions of the Act.

17.2 Subject to the provisions of the Act, Article 17.1 and the terms of any relevant Authorisation, an Interested Director:

17.2.1 may be a party to, or otherwise be interested in, the relevant Transaction;

17.2.2 may vote at any Directors' meeting (or meeting of a committee of the Directors) on any resolution in respect of that Transaction (and if he does vote his vote shall be counted) and he shall be taken into account in determining whether a quorum is Participating in that meeting; and

17.2.3 shall not be liable to account to the Company for any benefit he or any of his Connected Persons derive as a result of that Transaction and that Transaction shall not be liable to be avoided on the ground of his interest.

## 18 **RECORDS OF DECISIONS TO BE KEPT**

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 Decision and Majority Decision.

## 19 **DIRECTORS' DISCRETION TO MAKE FURTHER RULES**

Subject to the other provisions of these articles, the Directors may make any rule they think fit about how they take decisions and about how such rules are to be recorded or communicated to Directors.

## **20 METHODS OF APPOINTING DIRECTORS**

- 20.1 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:
- 20.1.1 by Ordinary Resolution; or
  - 20.1.2 pursuant to article 20.4.
- 20.2 In any case where, as a result of death or bankruptcy, the Company has no Shareholders and no Directors, the Transmittée(s) of the last Shareholder to have died or have a bankruptcy order made against him (as the case may be) have the right, by notice in Writing to the Company, to appoint a natural person to be a Director.
- 20.3 For the purposes of Article 20.2, where two 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.
- 20.4 In addition to any other method of appointing Directors a Shareholder holding 50% or more of the issued share capital of the Company shall be entitled in their absolute discretion, by notice in Writing to the Company to appoint himself or any other person as a Director.

## **21 TERMINATION OF DIRECTOR'S APPOINTMENT**

A person ceases to be a Director as soon as:

- 21.1 he ceases to be a Director by virtue of any provision of the Act or is prohibited from being a Director by law;
- 21.2 a bankruptcy order is made against him;
- 21.3 a composition is made with his creditors generally in satisfaction of his debts;
- 21.4 a registered medical practitioner who is treating him gives an opinion in Writing to the Company stating that he has become physically or mentally incapable of acting as a Director and may remain so for more than three months;
- 21.5 by reason of his mental health, a court makes an order which wholly or partly prevents him from personally exercising any powers or rights which he would otherwise have;

- 21.6 notification is received by the Company from him that he is resigning from office and that resignation has taken effect in accordance with its terms; or
- 21.7 a Shareholder holding 50% or more of the issued share capital of the Company gives notice in Writing to the Company that the director is to be removed from office..

## **22 DIRECTORS' REMUNERATION**

- 22.1 Any Director may undertake any services for the Company that the Directors decide.
- 22.2 A Director is entitled to such remuneration as the Directors determine:
- 22.2.1 for his services to the Company as a Director; and
  - 22.2.2 for any other service which he undertakes for the Company.
- 22.3 Subject to the other provisions of these articles, a Director's remuneration may:
- 22.3.1 take any form; and
  - 22.3.2 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.
- 22.4 Unless the Directors decide otherwise, each Director's remuneration accrues from day to day.
- 22.5 Unless the Directors decide otherwise, no Director is accountable to the Company for any remuneration which he receives as a director, other officer or employee of any other Group Company or of any other company in which the Company is interested.

## **23 DIRECTORS' EXPENSES**

The Company may pay any reasonable expenses which any Director (or any Alternate) properly incurs in connection with his attendance at:

- 23.1 Directors' meetings or meetings of committees of Directors;
- 23.2 general meetings; or
- 23.3 separate meetings of the Holders of any class of Shares or of debentures of the Company;

or otherwise in connection with the exercise of his powers and the discharge of his responsibilities in relation to the Company.

## **24 APPOINTMENT AND REMOVAL OF ALTERNATES**

24.1 Any Director (the “Appointor”) may appoint as an alternate director (an “Alternate”) any other Director, or any other person approved by resolution of the Directors, to:

24.1.1 exercise the Appointor’s powers; and

24.1.2 carry out the Appointor’s responsibilities;

in relation to the taking of decisions by the Directors in the absence of the Appointor.

24.2 Any appointment or removal of an Alternate must be effected by notice in Writing to the Company signed by the Appointor or in any other manner approved by the Directors.

24.3 The notice must:

24.3.1 identify the proposed Alternate; and

24.3.2 in the case of a notice of appointment, contain a statement signed by the proposed Alternate that he is willing to act as the Alternate of the Appointor.

24.4 A person may act as the Alternate of more than one Director.

## **25 RIGHTS AND RESPONSIBILITIES OF ALTERNATES**

25.1 An Alternate has the same rights, in relation to any Directors’ meeting or Unanimous Decision, as his Appointor.

25.2 Except as otherwise provided by these articles, an Alternate:

25.2.1 is deemed for all purposes to be a Director;

25.2.2 is liable for his own acts and omissions;

25.2.3 is subject to the same restrictions as his Appointor; and

25.2.4 is not deemed to be an agent of or for his Appointor.

25.3 Subject to the other provisions of these articles, a person who is an Alternate but is not otherwise a Director:



- 25.3.1 shall be counted in the quorum at any Directors' meeting in which he is Participating (but only if his Appointor would be counted in the quorum and is not Participating);
  - 25.3.2 may vote at any Directors' meeting in which he is Participating (but only if his Appointor would be eligible to vote and is not Participating); and
  - 25.3.3 may participate in taking any Unanimous Decision (but only if his Appointor is an Eligible Director for the purposes of that Unanimous Decision and does not himself participate in taking that Unanimous Decision).
- 25.4 No Alternate may be counted as more than one Director for determining whether a quorum is Participating at any Directors' meeting.
- 25.5 A Director who is also an Alternate has an additional vote on behalf of each of his Appointors who:
- 25.5.1 is not Participating in the relevant Directors' meeting; and
  - 25.5.2 would have been entitled to vote if that Appointor was Participating in it.
- 25.6 An Alternate is not entitled to receive any remuneration from the Company for serving as an Alternate except such part of his Appointor's remuneration as that Appointor may direct by notice in Writing made to the Company.

## **26 TERMINATION OF APPOINTMENT OF ALTERNATES**

An Alternate's appointment as an Alternate terminates:

- 26.1 when his Appointor revokes the appointment by notice in Writing to the Company specifying when it is to terminate;
- 26.2 on the occurrence (in relation to that Alternate) of any event which, if it occurred in relation to his Appointor, would result in the termination of that Appointor's appointment as a Director;
- 26.3 on the death of his Appointor; or
- 26.4 when his Appointor's appointment as a Director terminates.

27      **AUTHORITY TO ALLOT SHARES AND PRE-EMPTION RIGHTS ON ALLOTMENT**

27.1      The Directors may allot Shares or grant rights to subscribe for or to convert any security into such Shares only when so authorised by Ordinary Resolution and cannot rely on the general authority conferred by section 550 of the Act.

27.2      Except with Shareholder Special Consent, all Equity Securities which the Directors propose to allot after the Adoption Date shall first be offered to the Shareholders in accordance with the provisions of this Article 27.

27.3      Any offer of Equity Securities pursuant to Article 27.1 (an **"Offer"**) shall be made by notice in Writing (an **"Offer Notice"**) to the Shareholders at that time. The Offer Notice shall specify:

27.3.1      the aggregate number of Equity Securities offered (the **"Offered Securities"**);

27.3.2      the price per Offered Security;

27.3.3      that each Shareholder is entitled to apply for all or any of the Offered Securities; and

27.3.4      the period (the **"Offer Period"**) (which shall be at least 14 days from the date of the Offer Notice) within which each Shareholder must deliver his application for Offered Securities to the Company.

27.4      After the expiration of the Offer Period:

27.4.1      if the total number of Offered Securities applied for is equal to or less than the total number of Offered Securities, each Shareholder shall be allotted the number of Offered Securities he applied for; or

27.4.2      if the total number of Offered Securities applied for exceeds the total number of Offered Securities:

27.4.2.1      the Company shall allot the Offered Securities, in the Relevant Proportions, to the Shareholders who have applied for them (but without allotting to any Shareholder more Offered Securities than he applied for); and

27.4.2.2 any remaining Offered Securities shall be allotted, in the Relevant Proportions, to those Shareholders whose applications for Offered Securities have not yet been satisfied in full (but without allotting to any Shareholder more Offered Securities than he applied for) and any remaining Offered Securities shall be apportioned by re-applying the provisions of this Article 27.4.2.2; and

27.4.3 any Offered Securities not allotted or not capable of being allotted as specified above except by way of fractions, shall be under the control of the Directors, who may allot, grant options over or otherwise dispose of them to such persons, on such terms, and in such manner as they think fit, provided that those Offered Securities shall not be disposed of on terms which are more favourable than the terms on which they were offered to the Shareholders.

27.5 The requirements of sections 561 and 562 of the Act shall not apply to any allotment of Equity Securities by the Company.

## **28 ALL SHARES TO BE FULLY PAID UP**

28.1 Subject to Article 28.2, 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.

28.2 Article 28.1 does not apply to the Shares taken on the formation of the Company by the subscribers to the Company's memorandum.

## **29 POWERS TO ISSUE DIFFERENT CLASSES OF SHARES**

Subject to the other provisions of these articles, but without prejudice to the rights attached to any existing Shares, the Company may:

29.1 issue Shares with such rights or restrictions as may be determined by Ordinary Resolution; and

29.2 issue Shares which are to be redeemed or are liable to be redeemed at the option of the Company or the Holder.

**30 COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS**

Except as required by law, no person is to be recognised by the Company as holding any Shares on any trust and, except as otherwise required by law or these articles, the Company is not in any way to be bound by, or obliged to recognise, any interest in any Shares other than the Holder's absolute ownership of them and all the rights attaching to them.

**31 SHARE CERTIFICATES**

31.1 The Company must issue each Shareholder, free of charge, with one or more certificates in respect of the Shares which that Shareholder holds.

31.2 Every certificate must specify:

31.2.1 in respect of how many Shares, of what class, it is issued;

31.2.2 the nominal value of those Shares;

31.2.3 that the Shares are Fully Paid; and

31.2.4 any distinguishing numbers assigned to them.

31.3 No certificate may be issued in respect of Shares of more than one class.

31.4 If more than one person holds a Share, only one certificate may be issued in respect of it.

31.5 Certificates must:

31.5.1 have affixed to them the Company's common seal; or

31.5.2 be otherwise executed in accordance with the Act.

**32 REPLACEMENT SHARE CERTIFICATES**

32.1 If a certificate issued in respect of a Shareholder's Shares is:

32.1.1 damaged or defaced; or

32.1.2 said to be lost, stolen or destroyed;

that Shareholder is entitled to be issued with a replacement certificate in respect of the same Shares.

32.2 A Shareholder exercising the right to be issued with a replacement certificate pursuant to Article 32.1:

- 32.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;
- 32.2.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and
- 32.2.3 must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the Directors decide.

### **33 SHARE TRANSFERS: GENERAL**

- 33.1 The Directors shall only refuse to register a transfer of Shares if they are specifically required or authorised to do so by these articles. If the Directors do refuse to register a transfer of Shares, they must, as soon as practicable and in any event within two months after the date on which the relevant Transfer Form was lodged with the Company, return that Transfer Form to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.
- 33.2 The Directors shall refuse to register any transfer of Shares made in contravention of the provisions of these articles.
- 33.3 Any transfer of Shares made or purported to be made in contravention of the provisions of these articles shall be of no effect.
- 33.4 Except for a transfer pursuant to Articles 34 to 38 (inclusive), no Shares may be transferred without Shareholder Simple Consent.
- 33.5 Shares shall be transferred by means of a Transfer Form.
- 33.6 No fee may be charged for registering any Transfer Form or other document relating to or affecting the title to any Shares.
- 33.7 The Company may retain any Transfer Form which is registered.
- 33.8 The transferor remains the Holder of a Share until the transferee's name is entered in the register of members as Holder of it.

34      **PERMITTED TRANSFERS**

34.1      **Transfers to the Company**

Any Shareholder may at any time transfer any Shares to the Company in accordance with the Act and these articles.

34.2      **Transfers with Shareholder Consent**

Notwithstanding any other provisions of these articles, any transfer of Shares made with Shareholder Simple Consent may be made without restriction.

34.3      **Transfers pursuant to Article 37**

Notwithstanding any other provision of these articles, any transfer of Shares made in accordance with Article 37 shall be registered by the Directors (subject only to stamping).

35      **VOLUNTARY TRANSFERS**

35.1      Any Shareholder who wishes to transfer any Shares other than pursuant to Article 34 (the "Seller") shall give the Company notice in Writing (the "Transfer Notice"). Once given the Transfer Notice shall be irrevocable.

35.2      The Transfer Notice shall specify:

35.2.1      the number of Shares the Seller wishes to transfer (the "Sale Shares");

35.2.2      whether the Seller has received an offer from a third party for the Sale Shares and if so the identity of that third party and the price offered by that third party for the Sale Shares;

35.2.3      the price per share at which the Seller wishes to sell the Sale Shares; and

35.2.4      whether the Seller wishes to impose a condition that unless all the Sale Shares are sold none shall be sold (a "Total Sale Condition").

35.3      By giving the Transfer Notice, the Seller appoints the Company (acting by the Directors) as his agent with the power to sell the Sale Shares (with all rights attaching to them) in accordance with the provisions of these articles.

35.4      The Sale Price shall be the Fair Price. If the Fair Price is to be determined by an Expert:

- 35.4.1 the Company shall immediately instruct the Expert to determine the Fair Price on the basis which, in the Expert's opinion, represents a fair price for the Sale Shares at the Transfer Notice Date as between a willing seller and a willing buyer and, in making that determination, the Expert shall ignore the fact that the Sale Shares represent (if that is the case) a minority or majority interest in the share capital of the Company and can be subject to the compulsory transfer requirements of Articles 36 and 37);
  - 35.4.2 the Expert shall certify the Fair Price as soon as possible after being instructed by the Company and in so certifying the Expert shall be deemed to be acting as expert and not as arbitrator and the Arbitration Act 1996 shall not apply;
  - 35.4.3 the certificate of the Expert shall, in the absence of manifest error, be final and binding; and
  - 35.4.4 the Company shall procure that any certificate required pursuant to this Article 35.4 is obtained as soon as possible and the cost of obtaining that certificate shall be borne equally by the Company and the Seller unless the Expert directs otherwise.
- 35.5 Within seven days of the Sale Price being agreed or determined in accordance with these articles, the Company shall give notice in Writing (the **"Transfer Offer Notice"**) to the Eligible Shareholders offering for sale the Sale Shares at the Sale Price. The Transfer Offer Notice shall specify:
- 35.5.1 that each Eligible Shareholder:
    - 35.5.1.1 is entitled to apply for some or all of the Sale Shares; and
    - 35.5.1.2 shall, if he wishes to apply, have a period of 25 days from the date of the Transfer Offer Notice (the **"Acceptance Period"**) within which to deliver his application for Sale Shares to the Company; and
  - 35.5.2 whether the Transfer Notice contained a Total Sale Condition.
- 35.6 Subject to Article 35.7, on the expiry of the Acceptance Period:

35.6.1 if the total number of Sale Shares applied for is equal to or less than the total number of Sale Shares, the Company:

35.6.1.1 shall allocate to each Eligible Shareholder the number of Sale Shares he applied for; and

35.6.1.2 may allocate any remaining Sale Shares to itself (and it shall, subject to the Act, be entitled to acquire them); or

35.6.2 if the total number of Sale Shares applied for is greater than the total number of Sale Shares, the Company shall allocate:

35.6.2.1 the Sale Shares, in the Transfer Proportions, amongst the Eligible Shareholders who have applied for them (but without allocating to any Eligible Shareholder more Sale Shares than he applied for); and

35.6.2.2 any remaining Sale Shares, in the Transfer Proportions, to those Eligible Shareholders whose applications for Sale Shares have not yet been satisfied in full (but without allocating to any Eligible Shareholder more Sale Shares than he applied for) and any remaining Sale Shares shall be allocated by re-applying the provisions of this Article 35.6.2.2.

35.7 If the Transfer Notice contained a Total Sale Condition the Company shall not allocate any of the Sale Shares pursuant to Article 35.6 unless all of the Sale Shares can be so allocated.

35.8 If any of the Sale Shares are allocated by the Company pursuant to Article 35.6:

35.8.1 the persons to whom they are allocated (each an "**Allocated Person**") shall be bound to acquire the Sale Shares allocated to them on the terms on which they were offered for sale; and

35.8.2 the Company shall immediately on allocating any Sale Shares give notice in Writing (the "**Sale Notice**") to the Seller and to each Allocated Person specifying:



- 35.8.2.1 the number of Sale Shares allocated to that Allocated Person and the aggregate price payable for those Sale Shares; and
- 35.8.2.2 the time, date and place of Completion (which shall be not less than seven and not more than 28 days after the date of the Sale Notice).

35.9 On Completion:

35.9.1 each Allocated Person (other than the Company) shall pay the purchase price in respect of the relevant Sale Shares:

35.9.1.1 to the Seller; or

35.9.1.2 if the Seller is not present at Completion, to the Company to be held on trust (without interest) for the Seller (and the receipt of the Company for the purchase price shall be a good discharge to that Allocated Person (who shall not be bound to see to the application of it));

35.9.2 if the Company is an Allocated Person, it shall:

35.9.2.1 pay the purchase price for the relevant Sale Shares to the Seller; or

35.9.2.2 if the Seller is not present at Completion, hold the purchase price for the relevant Sale Shares on trust (without interest) for the Seller; and

35.9.3 the Seller shall transfer the relevant Sale Shares to the relevant Allocated Person and deliver the relevant share certificates.

35.10 If the Seller defaults in transferring any Sale Shares to an Allocated Person pursuant to Article 35.9, the Company is unconditionally and irrevocably authorised to appoint any person as agent of the Seller to execute a Transfer Form for those Sale Shares in the name, and on behalf, of the Seller (and to do such other things as are necessary to transfer the relevant Sale Shares pursuant to this Article 35) and when that Transfer Form has been duly stamped:

35.10.1 where the Allocated Person is not the Company, the Company shall cause the name of that Allocated Person to become the Holder of those Sale Shares; or

35.10.2 where the Allocated Person is the Company, the Company shall cause those Sale Shares to be cancelled in accordance with the Act;

and after that, the validity of the proceedings shall not be questioned by any person.

35.11 Any money held on trust by the Company for the Seller in respect of any Sale Shares shall only be released to the Seller on production of the relevant share certificates (or an appropriate indemnity for any lost share certificates) for the Sale Shares that have been transferred to Allocated Persons.

35.12 If the Company cannot allocate all of the Sale Shares pursuant to Article 35.6, the Company shall immediately notify the Seller in Writing and the Seller shall not be entitled to sell or transfer any of the remaining Sale Shares.

#### 36 MANDATORY TRANSFERS IN RESPECT OF LEAVERS

36.1 Any person who becomes a Leaver shall immediately give the Company notice in Writing detailing the relevant circumstances.

36.2 Any Leaver shall (unless a Shareholder Simple Majority otherwise determines in writing) be deemed to have served a Transfer Notice on the Leaving Date in respect of the Leaver's Shares and the provisions of Article 35 shall apply except that:

36.2.1 the Seller shall be the Leaver;

36.2.2 the Sale Shares shall be the Leaver's Shares;

36.2.3 the Transfer Notice Date shall be the Leaving Date;

36.2.4 the Sale Price for the Leaver's Shares shall be:

36.2.4.1 in the case of a Good Leaver, the Fair Price; and

36.2.4.2 in the case of a Bad Leaver, the lower of the Issue Price and the Fair Price;

36.2.5 in relation to the Fair Price, the Leaver and the Company shall have 10 days after the Leaving Date or (if later) the date on which all the Directors become

aware of the fact that the Leaver is a Leaver, in which to agree the Fair Price before the matter is referred to an Expert;

36.2.6 if a Leaver is a Bad Leaver, any other person who becomes a Leaver as a consequence shall also be deemed to be a Bad Leaver;

36.2.7 that Transfer Notice shall be deemed not to contain a Total Sale Condition; and

36.2.8 in relation to any Shares that have not been allocated pursuant to Article 35.6, a Transmittee who produces such evidence of entitlement to those Shares as the Directors may properly require, may choose either to become the Holder of those Shares or to have them transferred to any Family Member of the relevant Shareholder and the provisions of Articles 40 and 41 shall apply but so that such choice or transfer shall not give rise to any obligation to serve a Transfer Notice in respect of the unsold Share..

## 37 DRAG ALONG

37.1 If the Shareholder Simple Majority want to transfer all their Shares (the "**Relevant Shares**") on arms length terms and in good faith to a Third Party Purchaser they shall have the option (the "**Drag Option**") to require the other Shareholders (the "**Dragged Shareholders**") to transfer all their Shares (the "**Dragged Shares**") to the Third Party Purchaser in accordance with this Article 37.

37.2 To exercise the Drag Option the Shareholder Simple Majority shall give an irrevocable notice in Writing (the "**Drag Notice**") to the Dragged Shareholders. The Drag Notice shall specify:

37.2.1 that the Dragged Shareholders are required to transfer their Dragged Shares to the Third Party Purchaser;

37.2.2 the price receivable by the Shareholder Simple Majority for the Relevant Shares (including details of any non-cash consideration ("**Non-Cash Consideration**") receivable by the Shareholder Simple Majority (or any of them) which, having regard to the substance of the transaction as a whole,

can reasonably be regarded as an addition to the price paid or payable for the Relevant Shares (or any of them));

37.2.3 the price the Dragged Shareholders will receive for each Dragged Share (the "Drag Price") and details of how that price has been calculated;

37.2.4 the name of the Third Party Purchaser; and

37.2.5 the proposed date for completion of the transfer of the Relevant Shares and the Dragged Shares (which shall be at least seven days after the date of the Drag Notice).

37.3 The Drag Price shall be equal to the price per Relevant Share receivable by the Shareholder Simple Majority (including the cash equivalent of any Non-Cash Consideration). Any dispute about the calculation of the Drag Price shall immediately be referred to an Expert (whose decision shall, in the absence of manifest error, be final and binding) and pending its determination neither the Relevant Shares nor the Dragged Shares shall be transferred to the Third Party Purchaser.

37.4 Unless the Shareholder Simple Majority and the Dragged Shareholders agree otherwise, the transfer of the Relevant Shares and the Dragged Shares (including payment of the consideration) shall take place on the same day.

The Company is unconditionally and irrevocably authorised to appoint any person as agent of each Dragged Shareholder to execute the required Transfer Forms for the Dragged Shares in the name and on behalf of that Dragged Shareholder and to do such other things as are necessary to transfer the Dragged Shares pursuant to this Article 37.

37.5 The provisions of this Article 37 shall prevail over any contrary provisions of these articles. Any Transfer Notice or deemed Transfer Notice served in respect of any Shares shall automatically be revoked by the service of a Drag Notice.

## 38 TAG ALONG

38.1 Subject to Articles 34 and 37, a Shareholder (the "Committed Shareholder") may not transfer any Shares (the "Controlling Shares") to any person (the "Proposed Controller") if it would result in any person (together with his Connected Persons and any persons Acting in Concert with him (together the "Interested Shareholders") other than

a person who was a Shareholder or a Connected Person of such Shareholder at the Adoption Date obtaining a Controlling Interest unless before that transfer is made the Proposed Controller has made a bona fide offer (the "**Tag Offer**") to the Shareholders (other than the Proposed Controller, the Committed Shareholder and the Interested Shareholders) (the "**Uncommitted Shareholders**") in accordance with this Article 38 to purchase all their Shares (including any Shares which may be allotted to any of them pursuant to the exercise or conversion of options or rights to subscribe for or securities convertible into Shares, in existence at the date of the Tag Notice) (the "**Uncommitted Shares**").

- 38.2 The Tag Offer shall be made by notice in Writing (the "**Tag Notice**") and shall specify:
- 38.2.1 the price the Uncommitted Shareholders will receive for each Uncommitted Share (the "**Tag Price**") and details of how that price has been calculated; and
  - 38.2.2 the date (the "**Close Date**") by which each Uncommitted Shareholder must accept the Tag Offer (which shall be at least 21 days after the date of the Tag Notice).
- 38.3 Any Uncommitted Shareholder who has not accepted the Tag Offer by the Close Date shall be deemed to have rejected the Tag Offer.
- 38.4 The Tag Price shall be equal to the highest price paid or payable by the Proposed Controller (or any Interested Shareholder) for any Share (including the cash equivalent of any non-cash consideration paid or payable which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for that Share). Any dispute about the calculation of the Tag Price shall be immediately referred to an Expert (whose decision shall, in the absence of manifest error, be final and binding) and pending its determination the Controlling Shares shall not be transferred to the Proposed Controller.
- 38.5 Each accepted Tag Offer shall be completed and the consideration in respect of it paid (except insofar as failure to complete is due to the fault of the relevant Uncommitted Shareholder) before any of the Controlling Shares are transferred to the Proposed Controller.

38.6 For the purpose of Article 38.1 the expression “transfer” shall include the renunciation of a renounceable letter of allotment.

#### 39 COMPLIANCE WITH TRANSFER PROVISIONS

39.1 For the purpose of ensuring compliance with the provisions of Articles 34 to 38 (inclusive), the Directors may require any Leaver or Shareholder to procure (to the extent he is able) that:

39.1.1 he;

39.1.2 any proposed transferee of any Shares; or

39.1.3 such other person as is reasonably believed to have information and/or evidence relevant to that purpose;

provides to the Directors any information and/or evidence relevant to that purpose and until that information and/or evidence is provided the Directors shall refuse to register any relevant transfer of Shares (except with Shareholder Consent).

39.2 Each Shareholder unconditionally and irrevocably authorises the Company to appoint any person as his agent to give effect to the provisions of these articles.

#### 40 TRANSMISSION OF SHARES

40.1 If title to a Share passes to a Transmitttee, the Company may only recognise that Transmitttee as having any title to that Share.

40.2 Subject to the other provisions of these articles, and pending any transfer of Shares to another person, a Transmitttee has the same rights as the Holder had but, except as provided by Article 20.2, a Transmitttee does not have the right to attend or vote at a general meeting or agree to a proposed written resolution, in respect of any Shares to which he is entitled by reason of the Holder's death or bankruptcy or otherwise, unless that Transmitttee becomes the Holder of those Shares.

#### 41 EXERCISE OF TRANSMITTEES' RIGHTS

41.1 A Transmitttee who in accordance with Article 35.6 or 36.2.8 chooses:

41.1.1 to become the Holder of any Shares to which he has become entitled, must notify the Company in Writing of that choice; and

41.1.2 to have a Share transferred to another person, must execute a Transfer Form in respect of it.

41.2 Any transfer made or executed under this Article 41 is to be treated as if it were made or executed by the person from whom the Transmittree has derived rights in respect of the relevant Share and as if the event which gave rise to the transmission had not occurred.

#### 42 TRANSMITTEES BOUND BY PRIOR NOTICES

If a notice is given to a Shareholder in respect of any Shares and a Transmittree is entitled to those Shares, that Transmittree is bound by the notice if it was given to that Shareholder before that Transmittree's name has been entered in the register of members as Holder of those Shares.

#### 43 PROCEDURE FOR DECLARING DIVIDENDS

43.1 The Company may by Ordinary Resolution declare dividends and the Directors may decide to pay interim dividends.

43.2 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.

43.3 No dividend may be declared or paid unless it is in accordance with Shareholders' respective rights.

43.4 Unless:

43.4.1 the Shareholders' resolution to declare, or Directors' decision to pay, a dividend; or

43.4.2 the terms on which Shares are issued;

specify otherwise, each dividend 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.

#### 44 PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS

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:

44.1 transfer to a bank or building society account specified by the relevant Distribution Recipient either in Writing or as the Directors may otherwise decide;

- 44.2 sending a cheque made payable to the relevant Distribution Recipient by post to him at his registered address (if he is a Holder of the Share), or (in any other case) to an address specified by him either in Writing or as the Directors may otherwise decide;
- 44.3 sending a cheque made payable to such person by post to such person at such address as the relevant Distribution Recipient has specified either in Writing or as the Directors may otherwise decide; or
- 44.4 any other means of payment as the Directors agree with the relevant Distribution Recipient either in Writing or by such other means as the Directors decide.

**45 NO INTEREST ON DISTRIBUTIONS**

The Company may not pay interest on any dividend or other sum payable in respect of a Share unless otherwise provided by:

- 45.1 the terms on which that Share was issued; or
- 45.2 the provisions of another agreement between the Holder of that Share and the Company.

**46 UNCLAIMED DISTRIBUTIONS**

46.1 All dividends or other sums which are:

46.1.1 payable in respect of Shares; and

46.1.2 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.

46.2 The payment of any unclaimed dividend or other sum into a separate account does not make the Company a trustee in respect of it.

46.3 If:

46.3.1 12 years have passed from the date on which a dividend or other sum became due for payment; and

46.3.2 the relevant Distribution Recipient has not claimed it;

that Distribution Recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company.



**47 NON-CASH DISTRIBUTIONS**

47.1 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 that Share by transferring non-cash assets of equivalent value (including Shares or other securities in any company).

47.2 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:

47.2.1 fixing the value of any assets;

47.2.2 paying cash to any Distribution Recipient on the basis of that value in order to adjust the rights of recipients; and

47.2.3 vesting any assets in trustees.

**48 WAIVER OF DISTRIBUTIONS**

Any Distribution Recipient may waive his entitlement to a dividend or other distribution payable in respect of any Share by giving the Company notice in Writing to that effect, but if:

48.1 that Share has more than one Holder; or

48.2 more than one person is entitled to that 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 that Share.

**49 AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS**

49.1 Subject to the other provisions of these articles, the Directors may, if they are so authorised by an Ordinary Resolution:

49.1.1 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

49.1.2 appropriate any sum which they decide to capitalise in accordance with Article 49.1.1 (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.

49.2 Capitalised Sums must be applied:

49.2.1 on behalf of the Persons Entitled; and

49.2.2 in the same proportions as a dividend would have been distributed to them.

49.3 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.

49.4 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.

49.5 Subject to the other provisions of these articles, the Directors may:

49.5.1 apply Capitalised Sums in accordance with Articles 49.3 and 49.4 partly in one way and partly in another;

49.5.2 make such arrangements as they think fit to deal with Shares or debentures becoming distributable in fractions under this Article 49 (including the issuing of fractional certificates or the making of cash payments); and

49.5.3 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 49.

## 50 ATTENDANCE AND SPEAKING AT GENERAL MEETINGS

50.1 A person is able to exercise the right to speak at a general meeting when he is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which he has on the business of the meeting.

50.2 A person is able to exercise the right to vote at a general meeting when:

50.2.1 he is able to vote, during the meeting, on resolutions put to the vote at the meeting; and

50.2.2 his 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.

50.3 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.

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

50.5 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.

## **51 QUORUM FOR GENERAL MEETINGS**

51.1 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.

51.2 If the Company has only one Shareholder, one Qualifying Person in attendance at a general meeting is a quorum.

51.3 If the Company has more than one Shareholder, two Qualifying Persons in attendance at a general meeting are a quorum, provided that they hold together over 50% in number of the Shares and unless each is a Qualifying Person only because he is appointed as proxy of a Shareholder in relation to that meeting and they are proxies of the same Shareholder.

51.4 If a general meeting is adjourned due to it not being quorate and, if at the adjourned general meeting a quorum is not present within 30 minutes of the time at which the meeting was due to start, the Shareholder or Shareholders present, in person or by proxy, provided he or they hold together over 50% in number of the Shares, shall constitute a quorum.

## **52 CHAIRING GENERAL MEETINGS**

52.1 If the Directors have appointed a Chairman, the Chairman shall chair general meetings if present and willing to do so.

52.2 If the Directors have not appointed a Chairman or if the Chairman is unwilling to chair the relevant general meeting or is not present within 10 minutes of the time at which the relevant general meeting was due to start:

52.2.1 the Directors present; or

52.2.2 (if no Directors are present), the meeting;

must appoint a Director or Shareholder to chair that meeting and that appointment must be the first business of that meeting.

**53 ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS AT GENERAL MEETINGS**

53.1 Directors may attend and speak at general meetings whether or not they are Shareholders.

53.2 The Chairman of the Meeting may permit other persons who are not:

53.2.1 Shareholders; or

53.2.2 otherwise entitled to exercise the rights of Shareholders in relation to general meetings;

to attend and speak at any general meeting.

**54 ADJOURNMENT OF GENERAL MEETINGS**

54.1 If the persons attending a general meeting within 30 minutes of the time at which the meeting was due to start do not constitute a quorum or if during a general meeting a quorum ceases to be present, the Chairman of the Meeting must adjourn it.

54.2 The Chairman of the Meeting may adjourn a general meeting at which a quorum is present if:

54.2.1 that meeting consents to an adjournment; or

54.2.2 it appears to him that an adjournment is necessary to protect the safety of any person attending that meeting or ensure that the business of that meeting is conducted in an orderly manner.

54.3 The Chairman of the Meeting must adjourn a general meeting if directed to do so by that meeting.

54.4 When adjourning a general meeting, the Chairman of the Meeting must:

54.4.1 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

54.4.2 have regard to any directions as to the time and place of any adjournment which have been given by that meeting.

54.5 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 seven clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):

54.5.1 to the same persons to whom notice of the Company's general meetings is required to be given; and

54.5.2 containing the same information which such notice is required to contain.

54.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the relevant general meeting if the adjournment had not taken place.

## **55 VOTING AT GENERAL MEETINGS: GENERAL**

55.1 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 these articles.

55.2 On a vote on a resolution on a show of hands at a general meeting every Shareholder (whether present in person or by one or more proxies) has one vote.

55.3 On a vote on a resolution on:

55.3.1 a poll taken at a general meeting; or

55.3.2 a written resolution;

every Shareholder has one vote in respect of each Share held by him.

56      **ERRORS AND DISPUTES**

- 56.1      No objection may be raised to the qualification of any person voting at a general meeting except at that meeting or adjourned meeting at which the vote objected to is tendered and every vote not disallowed at that meeting is valid.
- 56.2      Any objection pursuant to Article 56.1 must be referred to the Chairman of the Meeting, whose decision is final.

57      **POLL VOTES**

- 57.1      A poll on a resolution may be demanded:
- 57.1.1      in advance of the general meeting where it is to be put to the vote; or
  - 57.1.2      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.
- 57.2      A poll may be demanded by:
- 57.2.1      the Chairman of the Meeting;
  - 57.2.2      the Directors;
  - 57.2.3      two or more persons having the right to vote on the relevant resolution; or
  - 57.2.4      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 relevant resolution.
- 57.3      A demand for a poll may be withdrawn if:
- 57.3.1      the poll has not yet been taken; and
  - 57.3.2      the Chairman of the Meeting consents to the withdrawal.
- 57.4      Polls must be taken immediately and in such manner as the Chairman of the Meeting directs.

58      **CONTENT OF PROXY NOTICES**

- 58.1      Proxies may only validly be appointed by a notice in Writing (a "**Proxy Notice**") which:
- 58.1.1      states the name and address of the Shareholder appointing the proxy;

- 58.1.2 identifies the person appointed to be the proxy and the general meeting in relation to which he is appointed;
  - 58.1.3 is signed by or on behalf of the Shareholder appointing the proxy, or is authenticated in such manner as the Directors may determine; and
  - 58.1.4 is delivered to the Company in accordance with these articles and any instructions contained in the notice of the general meeting to which the Proxy Notice relates.
- 58.2 The Company may require Proxy Notices to be delivered in a particular form and may specify different forms for different purposes.
- 58.3 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.
- 58.4 Unless a Proxy Notice indicates otherwise, it must be treated as:
- 58.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the relevant general meeting; and
  - 58.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as that general meeting itself.

## 59 DELIVERY OF PROXY NOTICES

- 59.1 Any notice of a general meeting must specify the address or addresses (the “**Proxy Notification Address**”) at which the Company or its agents will receive Proxy Notices relating to that meeting, or any adjournment of it, delivered in Hard Copy Form or Electronic Form.
- 59.2 Subject to Articles 59.3 and 59.4, a Proxy Notice must be delivered to the Proxy Notification Address not less than 24 hours before the general meeting or adjourned meeting to which it relates.
- 59.3 In the case of a poll taken more than 48 hours after it is demanded, a Proxy Notice must be delivered to the Proxy Notification Address not less than 24 hours before the time appointed for the taking of the poll.

59.4 In the case of a poll not taken during the meeting but taken not more than 48 hours after it was demanded, the Proxy Notice must be delivered:

59.4.1 in accordance with Article 59.2; or

59.4.2 at the meeting at which the poll was demanded to the Chairman, company secretary or any Director.

59.5 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.

59.6 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 to the Proxy Notification Address.

59.7 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the general meeting or adjourned general meeting to which it relates.

59.8 If a Proxy Notice is not executed by the person appointing the proxy, it must be accompanied by evidence in Writing of the authority of the person who executed it to execute it on the person appointing the proxy's behalf.

## **60 AMENDMENTS TO RESOLUTIONS**

60.1 An Ordinary Resolution to be proposed at a general meeting may be amended by Ordinary Resolution if:

60.1.1 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 that meeting is to take place (or such later time as the Chairman of the Meeting may determine); and

60.1.2 the proposed amendment does not, in the reasonable opinion of the Chairman of the Meeting, materially alter the scope of the resolution.

60.2 A Special Resolution to be proposed at a general meeting may be amended by Ordinary Resolution if:



60.2.1 the Chairman of the Meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and

60.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

60.3 If the Chairman of the Meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, his error does not invalidate the vote on that resolution.

## **61 MEANS OF COMMUNICATION TO BE USED**

61.1 Subject to the other provisions of these articles:

61.1.1 anything sent or supplied by or to the Company under these articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company;

61.1.2 and the provisions of the Act, the Company may make any documents or information authorised or required by any provision of these articles or the Act to be sent or supplied by the Company to any Shareholder available on a website; and

61.1.3 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.

61.2 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.

61.3 Section 1147(5) of the Act shall not apply in relation to documents and information sent or supplied by the Company.

## **62 COMPANY SEALS**

62.1 Any common seal may only be used by the authority of the Directors.

62.2 The Directors may decide by what means and in what form any common seal is to be used.

62.3 Unless otherwise decided by the Directors, if the Company has a common seal and it is affixed to a document, that document must also be signed by at least one Authorised Person in the presence of a witness who attests the signature.

**63 NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**

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.

**64 DIRECTORS' INDEMNITY**

64.1 Subject to Article 64.2, a Relevant Director may be indemnified out of the Company's assets against:

64.1.1 any liability incurred by him in connection with any negligence, default, breach of duty or breach of trust in relation to any Group Company;

64.1.2 any liability incurred by him in connection with the activities of any Group Company in its capacity as a trustee of any occupational pension scheme (as defined in section 235(6) of the Act);

64.1.3 any other liability incurred by him as an officer of any Group Company.

64.2 Article 64.1 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.

**65 DIRECTORS' INSURANCE**

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.

## **SHAREHOLDERS AGREEMENT among**

**JASON WARREN TOPLEY**, residing at 6 Netherview Road, Aberdeen, AB21 7EP ("Mr Topley");

and

**ALISON TOPLEY**, residing at 6 Netherview Road, Aberdeen, AB21 7EP ("Mrs Topley");

and

**ABERDEEN WATERSPORTS AND LEISURE LIMITED**, a company incorporated in Scotland (registered number SC130145), having its registered office at 23 Carden Place, Aberdeen, AB10 1UQ ("Company");

### **WHEREAS**

(A) Mr Topley has previously been the sole shareholder of the Company; and

(B) Mr Topley has gifted shares to Mrs Topley and Mrs Topley recognises that Mr Topley has an interest in protecting the company from third party interests and is entitled to the options provided for in this agreement.

### **IT IS AGREED AS FOLLOWS:**

#### **1 Interpretation**

1.1 In this Agreement the following words shall have the following meanings unless the context otherwise requires:

"this Agreement"	means this agreement
"Articles"	means the Articles of Association of the Company from time to time
"Business Day"	means any day (other than a Saturday or Sunday) on which clearing banks are open for business in Aberdeen, Scotland
"Exercise Date"	means the date on which the Exercise Notice is served
"Exercise Notice"	means the notice given in accordance with clause 2.2
"Execution Date"	means the last date of execution of this Agreement
"Experts"	means the auditors or reporting accountants (as the case may be) of the Company from time to time unless the auditors or reporting accountants give notice that they decline an instruction to report on the Price whereupon the Experts shall be a firm of

chartered accountants agreed between the Shareholders or in default of agreement within 5 Business Days of the first name being proposed by one of them, appointed by the President of the Institute of Chartered Accountants in Scotland on the application of either Shareholder

"Option"	means the right granted by Mrs Topley to Mr Topley as set out in clause 2.1
"Option Shares"	means all the Shares registered in the name of Mrs Topley from time to time
"Price"	means the price of the Option Shares agreed or determined in accordance with Clause 2.5 of this Agreement
"Shares"	means any share in the capital of the Company from time to time
"Shareholders"	means the parties to this Agreement from time to time (other than the Company)

1.2 The Introduction and the headings are inserted for convenience only and shall not affect the interpretation of this Agreement.

1.3 In this Agreement (unless the context otherwise requires):

- 1.3.1 the singular shall include the plural and vice versa;
- 1.3.2 references to any statutory provisions shall be deemed to include any amendment or re-enactment thereof, and any statutory instrument or order made pursuant thereto, for the time being in force;
- 1.3.3 references to a sub-clause shall be to another sub-clause of the same clause;
- 1.3.4 the masculine shall include the feminine and neuter and vice versa; and
- 1.3.5 "person" includes all legal and natural persons (including individuals, firms and companies).

## 2 Call Option

2.1 Mr Topley shall have the option exercisable at any time and from time to time to purchase the Option Shares, on the exercise of which Mrs Topley will be bound to sell and Mr Topley will become bound to purchase the number of Option Shares specified in the Exercise Notice at the Price and on the terms set out in this Agreement.

- 2.2 The Option shall be exercised by Mr Topley giving notice in writing to Mrs Topley specifying the number of Option Shares in respect of which the Option is exercised.
- 2.3 The Option shall be exercisable in whole in respect of all the Option Shares or in part from time to time in respect of some only of the Option Shares on each occasion.
- 2.4 Upon an exercise of an Option Mrs Topley shall become bound to sell and Mr Topley shall be bound to buy the relevant number of Option Shares and the Shareholders shall complete such sale and purchase of the Option Shares in accordance with Clause 2.6.
- 2.5 The Price payable by Mr Topley on the exercise of an Option shall be £1.00.
- 2.6 Completion of the sale and purchase of those Option Shares specified in accordance with the Exercise Notice shall take place at the Company's Registered Office at 10am on the date falling ten Business Days after the Exercise Date or at such other place or at such other time or on such other day as the Shareholders may agree ("the Settlement Date") when Mrs Topley shall, upon payment of the Price due in respect thereof, deliver a duly executed transfer of those Option Shares specified in the Exercise Notice to Mr Topley and deliver the relevant share certificates (or a suitable indemnity in lieu thereof).
- 2.7 If Mrs Topley does not execute and deliver transfers in respect of the relevant Option Shares held by her and deliver the certificate(s) in respect of the same (or a suitable indemnity in lieu thereof) on the Settlement Date, then Mr Topley shall be entitled to execute the necessary transfer(s) and indemnities on Mrs Topley's behalf and, against receipt by the Company (on trust for Mrs Topley) of the Price payable for the relevant Option Shares, deliver such transfer(s) and certificate(s) or indemnities to the Company and register Mr Topley as the holder thereof and, after such registration, the validity of such proceedings shall not be questioned by any person.

### **3 Inconsistency with articles of association**

- 3.1 If, during the continuance of this Agreement, there shall be any conflict between the provisions of this Agreement and the provisions of the Articles, the provisions of this Agreement shall prevail.
- 3.2 Nothing contained in this Agreement shall be deemed to constitute an amendment to the Articles.

### **4 Fees and expenses**

- 4.1 All costs, legal fees and other expenses incurred in the preparation and execution of this Agreement shall be borne by the Company.

### **5 Entire agreement**

- 5.1 Except insofar as otherwise provided herein, this Agreement constitutes the entire understanding and agreement of the parties in relation to the matters herein provided for and supersedes all previous negotiations, arrangements and agreements relating to such matters. No variation of this Agreement shall be effective unless in writing and executed by all of the parties hereto.

## 6 **Waiver**

- 6.1 No failure or delay to exercise any rights under or pursuant to this Agreement shall constitute a waiver, nor shall any partial exercise thereof preclude any further exercise.

## 7 **Rights cumulative**

- 7.1 The rights under this Agreement are cumulative and not exclusive of any other rights under law.

## 8 **Assignment**

- 8.1 No party may assign this Agreement without the written consent of the other parties.

## 9 **Executors**

- 9.1 The rights and obligations under this Agreement shall transmit to and bind the executors of such of the parties as are individuals.

## 10 **Notices**

- 10.1 Every notice or other communication made under this Agreement shall be in writing, and delivered personally or sent by recorded delivery post to the address of the addressee as set out on the first page of this Agreement or to such other address as may be intimated for the purposes of this clause. Every notice or other communication shall be deemed to have been received when delivered personally, or if sent by recorded delivery, on the second day (not being a Saturday, Sunday or public holiday) after the day of posting.

## 11 **Duration**

- 11.1 If a Shareholder ceases to hold any Shares that Shareholder shall cease to be a party to this Agreement.

## 12 **Governing law and jurisdiction**

- 12.1 This Agreement shall be governed in all respects by Scots law and the parties submit to the non-exclusive jurisdiction of the Scottish Courts.

IN WITNESS WHEREOF these presents consisting of this and the preceding 5 pages are executed as follows:

They are subscribed by Jason Warren Topley as undernoted:-

\_\_\_\_\_  
Jason Warren Topley

Witness:- \_\_\_\_\_

Full Name: \_\_\_\_\_

At:- \_\_\_\_\_

Address:- \_\_\_\_\_

On:- \_\_\_\_\_

\_\_\_\_\_

They are subscribed by Lisa Topley as undernoted:-

\_\_\_\_\_  
**Jason Warren Topley**

At:- \_\_\_\_\_

On:- \_\_\_\_\_

Witness:- \_\_\_\_\_

Full Name: \_\_\_\_\_

Address:- \_\_\_\_\_

They are subscribed for and on behalf of Aberdeen Watersports and Leisure Limited as undernoted:-

\_\_\_\_\_  
**Director**

At:- \_\_\_\_\_

On:- \_\_\_\_\_

Witness:- \_\_\_\_\_

Full Name: \_\_\_\_\_

Address:- \_\_\_\_\_

**SHAREHOLDERS' AGREEMENT**

**AMONG**

**JASON WARREN TOPLEY**

**AND**

**ALISON TOPLEY**

**AND**

**ABERDEEN WATERSPORTS AND LEISURE LIMITED**

**THIS IS AN IMPORTANT DOCUMENT WHICH CONFERS LEGAL RIGHTS AND OBLIGATIONS ON THE PARTIES TO IT. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE BEFORE SIGNING THIS DOCUMENT AND SIGN ONLY IF YOU WANT TO BE LEGALLY BOUND BY ITS TERMS.**

**Brodies LLP  
23 Carden Place  
Aberdeen  
AB10 1UQ  
Tel: 01224 392242  
Fax: 01224 392244  
Ref: GES/ABE.45.4**