

WEDNESDAY



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09/10/2013

COMPANIES HOUSE

#149

Company Number: SC228703

**THE COMPANIES ACTS 1985 AND 1989**

**COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**of**

**FITNUT LIMITED**

**(as amended by Special Resolution passed 1 October 2013)**

**INTERPRETATION**

**1. In these Articles of Association ("Articles"):-**

- (a) "the Act" means the Companies Acts 1985 as amended, modified or varied, by the Companies Act 1989 including any further statutory modification or re-enactment thereof for the time being in force.
- (b) "the Articles" means the Articles of the Company.
- (c) "clear days" in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.
- (d) "executed" includes any mode of execution.
- (e) "Office" means the registered office of the Company.
- (f) "the holder" in relation to shares means the member whose name is entered in the register of members as the holder of shares.
- (g) "Secretary" means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary.
- (h) "the United Kingdom" means Great Britain and Northern Ireland.
- (i) the masculine gender includes the feminine and neuter genders and the neuter gender includes the masculine and feminine genders.
- (j) the singular includes the plural and vice versa. Unless the context otherwise requires, words or expressions contained in these regulations bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these -regulations become binding on the Company.

2. The Regulations contained in Table A as prescribed by the Companies (Tables A to F) Regulations 1985 (S.I. 1985 No. 805) and amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (S.I. 1985 No. 1052) are hereby excluded and shall not apply to the Company.

#### SHARE CAPITAL

3. Subject to the provisions of the Act and without prejudice to any rights attached to any existing shares, any share may be issued with such rights or restrictions as the Company may by ordinary resolution determine.
4. Subject to the provisions of the Act, shares may be issued which are to be redeemed or are liable to be redeemed at the option of the Company or the holder on such terms and in such manner as may be provided by the Articles.
5. The Company may exercise the powers of paying commissions conferred by the Act. Subject to the provisions of the Act, any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid shares or partly in one way and partly in the other.
6. Except as required by law, no person shall be recognised by the Company as holding any share upon any trust and (except as otherwise provided by the Articles or by law) the Company shall not be bound by or recognise any interest in any share except an absolute right to the entirety thereof in the holder.
7.
  - (a) Shares which are comprised in the authorised share capital with which the Company is incorporated shall be under the control of the Directors who may (subject to Section 80 of the Companies Act 1985 and to paragraph (b) below) allot, grant options over or otherwise dispose of the same, to such persons, on such terms and in such manner as they think fit.
  - (b) The Directors are generally and unconditionally authorised, for the purposes of Section 80 of the Companies Act 1985, to exercise any power of the Company to allot and grant rights to subscribe for relevant securities (as defined in Section 80 of the Companies Act 1985) or convert securities into shares of the Company up to the amount of authorised share capital with which the Company is incorporated at any time or times during the period of five years from the date of incorporation of the Company and the directors may, after that period allot any shares or grant any such rights under this authority in pursuance of an offer or agreement so to do made by the Company within that period. The authority hereby conferred may, at any time (subject to the said Section 80) be renewed, revoked or varied by ordinary resolution of the Company.
  - (c) In accordance with Section 91 of the Act, Section 89(1) and Sections 90(1) to (6) of the Act inclusive are excluded from applying to the Company.
  - (d) No unissued shares in the present or any increased capital of the Company may be allotted to any person unless the Company has made an offer to each shareholder to allot to him on the same or more favourable terms a proportion of those shares which is as nearly as practicable equal to the proportion (by number) of the issued shares held by him and either the period during which such offer

may be accepted (being not less than fourteen days) has expired or the Company has received notice of the acceptance or refusal of every offer so made.

#### **SHARE CERTIFICATES**

8. Every member, upon becoming the holder of any shares, shall be entitled without payment to one certificate for all the shares of each class held by him (and, upon transferring a part of his holding of shares of any class, to a certificate for the balance of such holding). Every certificate shall be executed for and on behalf of the Company and shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid up thereon. The Company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.
9. If a share certificate is defaced, worn-out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and payment of the expenses reasonably incurred by the Company in investigating evidence as the directors may determine but otherwise free of charge, and (in the case of defacement or wearing-out) on delivery up of the old certificate.

#### **LIEN**

10. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share. The directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The Company's lien on a share shall extend to any amount payable in respect of it.
11. The Company may sell in such manner as the directors determine any shares on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen clear days after notice has been given to the holder of the share or to the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the shares may be sold.
12. To give effect to a sale the directors may authorise some person to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser. The title of the transferee to the shares shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
13. The net proceeds of the sale, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable, and any residue shall (upon surrender to the Company for cancellation of the certificate for the shares sold and subject to a like lien for any moneys not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

#### **CALLS ON SHARES AND FORFEITURE**

14. Subject to the terms of allotment, the directors may make calls upon the members in respect of any moneys unpaid on their shares (whether in respect of nominal value or premium) and each member shall (subject to receiving at least fourteen clear days notice

specifying when and where payment is to be made) pay to the Company as required by the notice the amount called on his shares. A call may be required to be paid by instalments. A call may, before receipt by the Company of any sum due thereunder, be revoked in whole or part and payment of a call may be postponed in whole or part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect whereof the call was made.

15. A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed.
16. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
17. If a call remains unpaid after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due and payable until it is paid at the rate fixed by the terms of the allotment of the share or in the notice of the call or, if no rate is fixed, at the appropriate rate (as defined by the Act) but the directors may waive payment of the interest wholly or in part.
18. An amount payable in respect of a share on allotment or at any fixed date, whether in respect of nominal value or premium or as an instalment of a call, shall be deemed to be a call and if it is not paid the provisions of the Articles shall apply as if that amount had become due and payable by virtue of a call.
19. Subject to the terms of allotment, the directors may make arrangements on the issue of shares for a difference between the holders in the amounts and times of payment of calls on their shares.
20. If a call remains unpaid after it has become due and payable the directors may give to the person from whom it is due not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued and all expenses that may have been incurred by the Company by reason of such non-payment. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the shares in respect of which the call was made will be liable to be forfeited.
21. If the notice is not complied with any share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the directors and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.
22. Subject to the provisions of the Act, a forfeited share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the directors determine either to the person who was before the forfeiture the holder or to any other person and at any time before sale, re-allotment or other disposition, the forfeiture may be cancelled on such terms as the directors think fit. Where for the purposes of its disposal a forfeited share is to be transferred to any person the directors may authorise some person to execute an instrument of transfer of the share to that person.

23. A person any of whose shares have been forfeited shall cease to be a member in respect of them and shall surrender to the Company for cancellation the certificate for the shares forfeited but shall remain liable to the Company for all moneys which at the date of forfeiture were presently payable by him to the Company in respect of those shares with interest at the rate at which interest was payable on those moneys before the forfeiture or, if no interest was so payable, at the appropriate rate (as defined in the Act) from the date of forfeiture until payment but the directors may waive payment wholly or in part or enforce payment with or without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
24. A statutory declaration by a director or the secretary that a share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share and the declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the share and the person to whom the share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his title to the share be affected by any irregularity in or invalidity of the proceedings in reference to the forfeiture or disposal of the share.

#### **TRANSFER OF SHARES**

25. Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.
26. No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
27. The company may retain any instrument of transfer which is registered.
28. The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
29. Subject to Article 30.2.2.3, if the directors refuse to register the transfer of a share, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.
30. Specific share transfer provisions

##### **30.1 Definitions**

Any reference in this Article 30 to:

- 30.1.1 "Independent Expert" means an umpire (acting as an expert and not as an arbiter) nominated by the parties concerned or in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants of Scotland.
- 30.1.2 "New Member" means Ms Georgina Louise Howden.
- 30.1.3 "Privileged Relation" means in relation to a person:-
- (i) that person's parents; or

- (ii) that person's spouse; or
- (iii) that person's partner provided that and for so long as the partner and such person are cohabiting as man and wife/civil partners; or
- (iv) such person's children and grandchildren (including step and adopted children and their issue); and
- (v) step and adopted children of such person's children.

30.1.4 "Termination Date" means:-

- (i) where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires;
- (ii) where a contract of employment is terminated by the employer and a payment is made in lieu of notice, the date on which notice of termination was served;
- (iii) where the New Member concerned is a director but not an employee, the date on which her contract for services with the Company is terminated; and
- (iv) in any other case, the date on which the contract of employment is terminated.

30.1.5 "Shares" shall mean the Ordinary shares of £0.10 each in the capital of the Company.

30.2. Transfer mechanics

30.2.1 No member shall, subject to the provisions of these articles, dispose of any interest in or create or permit to subsist any pledge, lien, charge over or any other form of encumbrance, or grant any option or other rights over all or any of the shares held or beneficially owned by him or renounce or assign any rights to receive or subscribe for any shares.

30.2.2 The directors shall refuse to register any transfer of shares made in contravention of the provisions of these articles but shall not otherwise be entitled to refuse to register any transfer of shares. For the purpose of ensuring that a particular transfer of shares is permitted under the provisions of these articles, the directors may request the transferor, or the person named as transferee in any transfer lodged for registration, to furnish the Company with such information and evidence as the directors may reasonably think necessary or relevant. Failing such information or evidence being furnished to the satisfaction of the directors within a period of 28 days after such request the directors shall be entitled to refuse to register the transfer in question.

30.3 Transfers with shareholder approval etc

Notwithstanding any other provisions of these articles a transfer of any shares approved by the holders of all the Shares other than the proposed transferor (if relevant), or in implement of the terms of an agreement between all the holders of the Shares, may be made without restriction as to price or otherwise and any such transfer shall be registered by the directors.

#### 30.4 Mandatory Transfers

If a New Member either:-

30.4.1 gives notice of resignation as, or ceases for whatever reason to be, an employee or director of the Company; or

30.4.2 commences or becomes interested (in any way) in a business in the same or a similar line of business as the Company or takes employment with a person or firm in the same or similar line of business as the Company or otherwise breaches his/her contract of employment with the Company; or

30.4.3 becomes, in the reasonable opinion of the directors of the Company (other than such New Member, if relevant), unable for whatever reason to be able to participate in or contribute to the future running, development or promotion of the business of the Company;

a Transfer Notice shall, unless the directors (other than such New Member, if relevant) unanimously resolve to disapply the application of this sub-article, be deemed to have been served on the relevant Termination Date (in the case of article 30.4.1) or the date the provisions of article 30.4.2 or 30.4.3 became applicable (in the case of articles 30.4.2 or 30.4.3 respectively) in respect of:-

- (i) all shares then held by the New Member whether legally, nominally or beneficially;
- (ii) all shares then held by any Privileged Relation of the New Member; and
- (iii) all shares then held by any company in which the New Member holds any shares.

30.5 If any New Member is deemed to have served a Transfer Notice pursuant to article 30.4 then a Transfer Notice shall, unless the directors resolve to disapply the application of this sub-article, also be deemed to be served in respect of any shares that may subsequently be allotted to such former New Member and any person or company referred to in sub-paragraphs (ii) and/or (iii) of article 30.4 immediately following their issue.

30.6 In the event that (i) any person ceases (which for the purposes of this sub-article shall include through death, separation or divorce) to be a Privileged Relation of the New Member, or (ii) the New Member disposes of her shares, then a Transfer Notice shall, unless the directors resolve to disapply the application of this sub-article, be deemed to have been served on the date upon which the Privileged Relation ceases to be a Privileged Relation of the New Member, or the New Member disposes of her shares, in respect of:-

- (a) all shares then held by the New Member's Privileged Relation(s);
- (b) all shares originally held by a Privileged Relation but then held by his/her Privileged Relations; and
- (c) all shares held by any company, partnership, or other body controlled (whether directly or indirectly) by such Privileged Relation.

For the purposes of this article 30.6:-

- (a) the date upon which separation occurs shall be deemed to be the date upon which the Privileged Relation and the New Member cease to cohabit as man and wife/civil partners;
- (b) the date upon which a person ceases to be the Privileged Relation of the New Member through divorce shall be deemed to be the date of granting of the decree of divorce by a court of competent jurisdiction; and
- (c) the date upon which the New Member disposes of her shares shall be the effective date of such disposal as entered in the registers of the Company.

Any transfer of shares in terms of the foregoing provisions of articles 30.4, 30.5 and/or 30.6 is hereinafter defined as a "Compulsory Transfer".

Pre-emption rights

#### Transfer Notices

- 30.7 Save as otherwise provided in these articles every member who desires to transfer any shares (hereinafter called "the Vendor") shall give to the Company notice in writing of such desire (in these articles called a "Transfer Notice"). Where the Transfer Notice is deemed to have been served it is referred to as a Deemed Transfer Notice. Transfer Notices and Deemed Transfer Notices shall constitute the Company the Vendor's agent for the sale of the shares specified therein (hereinafter called "the Sale Shares") in one or more lots, at the discretion of the directors, at the Sale Price.

#### Calculation of the Sale Price

- 30.8.1 Subject to article 30.8.2, the Sale Price for shares shall be the price agreed by the Vendor and the directors. If the Vendor and the directors are unable to agree a price within 28 days of the Transfer Notice being given or being deemed to have been given the Sale Price will instead be the price which the Independent Expert shall certify to be in his opinion the fair value thereof as at the date of the Transfer Notice. In arriving at his opinion the Independent Expert will value the shares on a going concern basis as between a willing seller and a willing buyer ignoring any reduction in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority interest and on the assumption that the Sale Shares are capable of transfer without restriction. The decision of the Independent Expert as to the Sale Price shall be final and binding.
- 30.8.2 In the event that the Vendor is a New Member and/or the Sale Shares are subject to, or circumstances exist which could give rise to, a Compulsory Transfer, the Sale Price shall be:-
- (i) where the transfer is occasioned by virtue of the provisions of article 30.6 (i), the par value thereof;
  - (ii) where the cessation of the connection with the Company of the Vendor (including, if relevant, for the purposes of determining the fair value for a transfer in terms of article 30.6 by the Vendor's Privileged Relation) was not for a Qualifying



Reason the fair value thereof calculated in accordance with article 30.8.1, the par value thereof; and

- (iii) where the cessation of the connection with the Company of the Vendor (including, if relevant, for the purposes of determining the fair value for a transfer in terms of article 30.6 by the Vendor's Privileged Relation) was for a Qualifying Reason, the fair value thereof calculated in accordance with article 30.8.1.

For the purposes of this article 30.8.2 a "Qualifying Reason" means circumstances which constitute:-

- (i) unfair or wrongful dismissal by the Company;
- (ii) non-renewal of the relevant New Member's contract of employment by the Company upon its expiry or termination of such contract by the Company by giving due notice thereunder;
- (iii) redundancy by the Company;
- (iv) death; or
- (v) retirement through ill health.

Right of the Vendor to reject partial sales

- 30.9 A Transfer Notice (but not a Deemed Transfer Notice) may contain a condition ("a Total Transfer Condition") that unless all the shares comprised therein are sold by the Company pursuant to this article none shall be sold. Any such provision shall be binding on the Company.

Certification of the Sale Price and right of the Vendor to cancel

- 30.10 If an Independent Expert is asked to certify the fair value his certificate shall be delivered to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Vendor. The Vendor shall be entitled by notice in writing given to the Company within ten days of the service upon him of the copy certificate to cancel the Company's authority to sell the Sale Shares unless the shares are to be sold pursuant to a Deemed Transfer Notice. The cost of obtaining the certificate shall be paid by the parties in the proportions as determined by the Independent Expert unless the Vendor cancels the Transfer Notice in which case the Vendor shall bear the whole cost.

Pre-emptive Offers - general

- 30.11 Once the Sale Price has been determined then unless the Vendor gives a valid notice of cancellation the Sale Shares shall be offered for sale as set out below. All offers made by the Company shall give details of the number and Sale Price of the Sale Shares.

First Offer

- 30.12 As soon as Sale Shares become available they shall, in the case of a transfer under the provisions of article 30.6 (i) be forthwith offered for sale to the New Member as referred to in such sub-article, and in any other case, be forthwith offered for sale by the Company to all holders of shares (other than the Vendor and any Privileged Relation(s) of the

Vendor) pro rata as nearly may be to the respective numbers of shares held by such members.

Any offer made by the Company under this sub-article will (i) state the number of shares such members are entitled to purchase on such pro rata basis and (ii) invite the relevant members to state in writing the maximum number of the Sale Shares offered to them that they wish to purchase, and will remain open for 21 days ("the First Offer Period"). In the event of a transfer under the provisions of article 30.6 (i) and the New Member does not state her desire to purchase the shares of her former Privileged Relation(s) as so offered to her within 21 days of them being offered, such shares shall thereupon be offered (which offer will remain open for 21 days) for sale by the Company to all holders of shares (other than the Vendor and the New Member) pro rata as nearly may be to the respective numbers of shares held by such members, and such subsequent offer shall be deemed to be an extension to and part of the First Offer Period.

#### Second Offer

- 30.13 If at the end of the First Offer Period there are any Sale Shares offered which have not been allocated (the "Remaining Shares") the Company shall offer the Remaining Shares to such members as have stated in writing their willingness to purchase all the Sale Shares previously offered to them, or if there be none, to all other holders (if any) of shares of any class who have not in the First Offer Period been offered the opportunity to purchase any of the Sale Shares.

This offer will invite the relevant members to state in writing the maximum number of Remaining Shares they wish to purchase. If there are insufficient Remaining Shares to meet the demand then the directors will allocate the Remaining Shares pro rata as nearly as may be in proportion to the number of shares held by the relevant members. This offer will remain open for a further period of 21 days ("the Second Offer Period").

#### Transfer procedure for pre-emptive offers

- 30.14 If the Company finds a purchaser for all or any of the Sale Shares under the terms of this article the Vendor shall be bound upon receipt by the Company (as agent for the Vendor) or the Vendor of the Sale Price to transfer the Sale Shares (or such of the same for which the Company shall have found a purchaser or purchasers) to such persons. If the Vendor then defaults in transferring the Sale Shares the Company shall, if so required by the person or persons willing to purchase such Sale Shares, receive and give a good discharge for the purchase money on behalf of the Vendor and shall authorise some person to execute transfers of the Sale Shares in favour of the purchasers and shall enter the names of the purchasers in the Register of Members as the holder of such of the Sale Shares as shall have been transferred to them.

#### Transfers free of pre-emption

- 30.15 If the Company does not find purchasers for all of the Sale Shares under the terms of this article the Vendor shall at any time within three months after the final offer by the Company to its members be free to sell and transfer such of the Sale Shares as have not been so sold ("the Final Remaining Shares") to any person not being a member of the Company approved of by the directors at a price which is not less than the Sale Price. However if the Sale Shares were the subject of a Total Transfer Condition such a sale may only be made of all the Final Remaining Shares and not part only.

#### Effect of non-compliance

- 30.16 Any purported transfer of shares otherwise than in accordance with the provisions of these articles shall be void and have no effect.

#### Transfer of control

- 30.17.1 No sale or transfer of the legal or beneficial interest in any shares in the Company may be made or validly registered without the consent in writing of 66% of all of the holders of the shares, ("a Shareholder Majority") if as a result of such sale or transfer and registration thereof a Controlling Interest (meaning an interest, direct or indirect, in shares conferring in the aggregate 50% or more of the total voting rights conferred by all the issued shares) would be obtained in the Company by:

30.17.1.1 a company (other than a company to which the immediately following sub-article applies) or by a person or persons (other than a company) who is not an existing member unless the proposed transferee or transferees or his or their nominees are independent third parties acting in good faith and has or have offered to purchase all the shares at the Specified Price (calculated as set out below);

30.17.1.2 a company in which one or more of the members of the Company or its or their Connected Person(s) (as defined by section 839 Income and Corporation Taxes Act 1988) has or have an interest.

If any part of the Specified Price is to be paid otherwise than in cash then each holder of shares may, at his option, elect to take a price per share of such cash sum as may be agreed by them and the proposed transferee having regard to the transaction as a whole.

#### Calculation of the Specified Price

- 30.17.2 In this article 30.17 the "Specified Price" means:

(a) the consideration (in cash or otherwise) per share equal to that offered or paid or payable by the proposed transferee or his or their nominees for the shares being acquired; plus

(b) the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of such shares 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 per share; plus

(c) all arrears and accruals of the dividends on such shares calculated down to the date of the sale or transfer.

In the event of disagreement the calculation of the Specified Price shall be referred to an Independent Expert whose decision shall be final and binding.

#### Compulsory purchases

- 30.18.1 If an offeror for shares in the Company, having either (i) made an offer in terms of article 30.17.1 to all the holders of shares which is equal in all respects as regards each of the shares (the "Offer"), receives valid acceptances which would, on completion of the transfer of shares pursuant to such acceptances ("Completion") result in such offeror

becoming the holder of not less than 50% of the issued equity share capital of the Company, or (ii) with the consent of a Shareholder Majority obtained, would upon Completion obtain a Controlling Interest, then:

30.18.1.1 such offeror may during the Compulsory Purchase Period (as hereafter defined) give notice ("a Compulsory Purchase Notice") to any holder of shares who has not accepted the Offer requiring such shareholder(s) to accept the Offer within 14 days and stating that, failing such acceptance, he/she shall be deemed to have accepted such Offer in respect of all shares held by him/her and irrevocably to have waived any pre-emption rights he/she may have in relation to any shares the subject of such Offer;

30.2.18.1.2 upon the expiry of the period referred to in the Compulsory Purchase Notice each recipient thereof shall be obliged to deliver to the offeror (or as he may direct) an executed stock transfer form and share certificate(s) in respect of the shares which were the subject of the Compulsory Purchase Notice together with an executed waiver of pre-emption rights, if appropriate;

30.18.1.3 if any such member fails to deliver executed stock transfer form(s), share certificate(s) and pre-emption waiver(s) (if appropriate) as set out above he/she shall be deemed to have appointed any director of the Company to be his/her agent and attorney to execute such documents on his/her behalf and, against receipt by the Company (on trust for such member) of the appropriate purchase moneys, to deliver such executed transfer(s) and pre-emption waiver(s) (if appropriate) to the offeror, and it shall be no impediment to completion of the transfer that such member's share certificate(s) has/have not been produced;

30.18.1.4 after such offeror or his nominee has been registered as the holder of the shares transferred in accordance with this article 30.18.1 the validity of such transaction shall not be questioned by any person.

30.18.2 If as a result of either (i) an Offer or (ii) a sale or transfer of shares with the consent of a Shareholder Majority, any person ("the Purchaser") obtains, when aggregated with any legal or beneficial interest of his Connected Persons, a Controlling Interest, then during the Compulsory Sale Period (as hereafter defined):-

30.18.2.1 without prejudice to articles 30.4 to 30.6 hereof, any holder of shares ("the Remaining Shareholders") whose shares have not been acquired by the Purchaser, may during the Compulsory Sale Period give notice ("a Compulsory Sale Notice") to the Purchaser requiring the Purchaser to purchase all shares held by such shareholder(s) at the same price (being the aggregate of the cash and any other consideration received or receivable by the other shareholders pursuant to the Offer) as that in the Offer;

30.18.2.2 the Purchaser shall be obliged to purchase all such shares within 14 days of receipt of the Compulsory Sale Notice and against payment of the price for such shares the Remaining Shareholder(s) shall be obliged to deliver to the Purchaser (or as he may direct) an executed stock transfer form and share certificate(s) in respect of the shares which were the subject of the Compulsory Sale Notice; and

30.18.2.3 after the Purchaser (or as he may direct) has been registered as the holder of shares transferred in accordance with this article 30.18.2 the validity of such transaction shall not be questioned by any person.

#### Interpretation

30.18.3 In sub-article 30.18:-

30.18.3.1 the expression "Compulsory Purchase Period" means the period from and including Completion and expiring on the date falling 30 days after Completion.

30.18.3.2 the expression "Compulsory Sale Period" means either (i) the period of 30 days from the day immediately following the last day of the Compulsory Purchase Period or (ii) if no Compulsory Purchase Notice is given or served, the period of 30 days from the date upon which the Remaining Shareholder(s) receive written notice from the Company of the acquisition of a Controlling Interest.

#### **TRANSMISSION OF SHARES**

31. If a member dies the survivor or survivors where he was a joint holder, and his personal representatives where he was a sole holder or the only survivor of joint holders, shall be the only persons recognised by the Company as having any title to his interest; but nothing herein contained shall release the estate of a deceased member from any liability in respect of any share which had been jointly held by him.
32. A person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such evidence being produced as the directors may properly require, to elect either to become the holder of the share or to have some person nominated by him registered as the transferee. If he elects to become the holder he shall give notice to the Company to that effect. If he elects to have another person registered he shall execute an instrument of transfer of the share to that person. All the Articles relating to the transfer of shares shall apply to the notice or instrument of transfer as if it were an instrument of transfer executed by the member and the death or bankruptcy of the member had not occurred.
33. A person becoming entitled to a share in consequence of the death or bankruptcy of a member shall have the rights to which he would be entitled if he were the holder of the share, except that he shall not, before being registered as the holder of the share, be entitled in respect of it to attend or vote at any meeting of the Company or at any separate meeting of the holders of any class of shares in the Company.

#### **ALTERATION OF SHARE CAPITAL**

34. The Company may by ordinary resolution:-

- (a) increase its share capital by new shares of such amount as the resolution prescribes;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

- (c) subject to the provisions of the Act, sub-divide its shares, or any of them, into shares of smaller amount and the resolution may determine that, as between the shares resulting from the sub-division, any of them may have any preference or advantage as compared with the others; and
  - (d) cancel shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.
35. Whenever as a result of a consolidation of shares any members would become entitled to fractions of a share, the directors may, on behalf of those members, sell the shares representing the fractions for the best price reasonably obtainable to any person (including subject to the provisions of the Act the Company) and distribute the net proceeds of sale in due proportion among those members, and the director may, in order to give effect to such a sale, authorise some person to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
36. Subject to the provisions of the Act, the Company may by special resolution reduce its share capital, any capital redemption reserve and any share premium account in any way.

#### **PURCHASE OF OWN SHARES**

37. Subject to the provisions of the Act, the Company may purchase its own shares (including any redeemable shares) and, if it is a private Company, make a payment in respect of the redemption or purchase of its own shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares.

#### **GENERAL MEETINGS**

38. All general meetings other than annual general meetings shall be called extraordinary general meetings.
39. The directors may call general meetings and, on the requisition of members pursuant to the provisions of the Act, shall forthwith proceed to convene an extraordinary general meeting for a date not later than eight weeks after receipt of the requisition. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any member of the Company may call a general meeting.

#### **NOTICE OF GENERAL MEETINGS**

40. An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least twenty one clear days' notice. All other extraordinary general meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed:-

- (i) in the case of an annual general meeting, by all the members entitled to attend and vote thereat; and
- (ii) in the case of any other meeting by a majority in number of the members having a right to attend and vote being a majority together holding not less than ninety five per cent in nominal value of the shares giving that right.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such. Subject to the provisions of the Articles and to any restrictions imposed on any shares, the notice shall be given to all the members, to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the directors and auditors.

- 41. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

#### **PROCEEDINGS AT GENERAL MEETINGS**

- 42. No business shall be transacted at any meeting unless a quorum is present. Two persons entitled to vote upon the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation, shall be a quorum, unless the Company has only one member in which case the quorum shall be one person present in person or by duly appointed proxy or representative.
- 43. If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or such time and place as the directors may determine.
- 44. The chairman, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he shall be chairman.
- 45. If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.
- 46. A director shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of shares in the Company.
- 47. The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken

place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.

48. A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:-

- (i) by the chairman; or
- (ii) by at least two members having the right to vote at the meeting; or
- (iii) by a member or members representing not less than one tenth of the total voting rights of all the members having the right to vote at the meeting; or
- (iv) by a member or members holding shares conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one tenth of the total sum paid up on all the shares conferring that right;

and a demand by a person as proxy for a member shall be the same as a demand by the member.

49. Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

50. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.

51. A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

52. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall be entitled to a casting vote in addition to any other vote he may have.

53. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.



54. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is to be demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
55. A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more members.

#### **VOTES OF MEMBERS**

56. Subject to any rights or restrictions attached to any shares, on a show of hands every member or proxy for a member who (being an individual) is present in person or proxy or (being a corporation) is present by a duly authorised representative or proxy shall have one vote and on a poll every member so present shall have one vote for every share of which he is the holder.
57. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and seniority shall be determined by the order in which the names of the holders stand in the register of members.
58. A member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, curator bonis or other person authorised in that behalf appointed by that court, and any such receiver, curator bonis or other person may, on a poll, vote by proxy. Evidence to the satisfaction of the directors of the authority of the person claiming to exercise the right to vote shall be deposited at the Office, or at such other place as is specified in accordance with the Articles for the deposit of instruments of proxy, not less than forty eight hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.
59. No member shall vote at any general meeting or at any separate meeting of the holders of any class of shares in the Company, either in person or by proxy, in respect of any share held by him unless all moneys presently payable by him in respect of that share have been paid.
60. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
61. On a poll votes may be given either personally or by proxy. A member may appoint more than one proxy to attend on the same occasion.
62. An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointer and shall be in the following form (or in a form as near thereto as

circumstances allow or in any other form which is usual or which the directors may approve):-

"[ ] PLC/Limited  
I/we, [ ], of [ ], being a member/members of the above named Company,  
hereby appoint [ ] of [ ], as my/our proxy to vote  
in my/our name(s) and on my/our behalf at the annual/extraordinary general meeting of  
the Company to be held on [ ] 20[ ], and at any adjournment thereof.

Signed on [ ] 20[ ]."

63. Where it is desired to afford members an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve):-

"[ ] PLC/Limited  
I/we, [ ], of [ ] being a member/members of the  
above named Company, hereby appoint [ ], of [ ] or  
failing him, [ ], as my/our proxy to vote in my/our name(s) and on  
my/our behalf at the annual/extraordinary general meeting of the Company to be held on  
[ ] 20[ ], and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:-

Resolution No. 1 \*for \*against

Resolution No. 2 \*for \*against

etcetera

\* Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed on [ ] 20[ ]."

64. The instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the directors may:-

- (i) be deposited at the Office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument or proxy sent out by the Company in relation to the meeting not less than forty eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or

- (ii) in the case of a poll taken more than forty eight hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than twenty four hours before the time appointed for the taking of the poll; or
- (iii) where the poll is not taken forthwith but is taken not more than forty eight hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any director;
- (iv) (with the consent of the Chairman) be delivered at the meeting at which the proxy proposes to vote;

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

65. A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Company at the Office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

#### **NUMBER OF DIRECTORS**

66. The maximum and minimum number respectively of the directors may be determined from time to time by ordinary resolution in general meeting of the Company. Subject to and in default of any such determination there shall be no maximum number of directors and the minimum number of directors shall be one. Whensoever the minimum number of directors shall be one, a sole director shall have authority to exercise all the powers and discretions by the Articles expressed to be vested in the directors generally and regulation 88 will be modified and construed accordingly.

#### **ALTERNATE DIRECTORS**

67. Any director (other than an alternate director) may appoint any other director, or any other person approved by resolution of the directors and willing to act, to be an alternate director and may remove from office an alternate director so appointed by him.
68. An alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointer is a member, to attend and vote at any such meeting at which the director appointing him is not personally present, and generally to perform all the functions of his appointer as a director in his absence but shall not be entitled to receive any remuneration from the Company for his services as an alternate director. It shall not be necessary to give notice of such a meeting to an alternate director who is absent from the United Kingdom.
69. An alternate director shall cease to be an alternate director if his appointer ceases to be a director.

70. Any appointment or removal of an alternate director shall be by notice to the Company signed by the director making or revoking the appointment or in any other manner approved by the directors.
71. Save as otherwise provided in the Articles, an alternate director shall be deemed for all purposes to be a director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the director appointing him.
72. A director, or any such other person as is mentioned in regulation 67 may act as an alternate director to represent more than one director and an alternate director shall be entitled in the absence of his appointer(s) at any meeting of the directors, or of any committee of the directors to one vote for each director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one for the purpose of determining whether a quorum is present.

#### **POWERS OF DIRECTORS AND THE COMPANY**

73. Subject to the provisions of the Act, the Memorandum and the Articles and to any directions given by special resolution, the business of the Company shall be managed by the directors who may exercise all the powers of the Company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this regulation shall not be limited by any special power given to the directors by the Articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.
74. The directors may, by power of attorney or otherwise, appoint any person to be the attorney of the Company with full power to act for and on behalf of the Company for such purposes and on such conditions as the directors may determine, including without prejudice to the foregoing generality, authority for the attorney on his own or otherwise, to execute all or any formal documents or others for and on its behalf, and for the attorney to delegate all or any of his powers.

#### **DELEGATION OF DIRECTORS' POWERS**

75. The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the Articles regulating the proceedings of directors so far as they are capable of applying.

#### **APPOINTMENT AND RETIREMENT OF DIRECTORS**

76. The Directors shall not be required to retire by rotation.
77. No person shall be appointed a director at any general meeting unless:-
  - (a) he is recommended by the directors: or

- (b) not less than fourteen nor more than thirty five clear days before the date appointed for the meeting, notice executed by a member qualified to vote at the meeting has been given to the Company of the intention to propose that person for appointment stating the particulars which would, if he were so appointed, required to be included in the Company's register of directors together with notice executed by that person of his willingness to be appointed.
78. Subject as aforesaid, the Company may by ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director.
79. The directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director, provided that the appointment does not cause the number of directors to exceed any number fixed by or in accordance with the Articles as the maximum number of directors.

#### **DISQUALIFICATION AND REMOVAL OF DIRECTORS**

80. The office of a director shall be vacated if:-
- (a) he ceases to be a director by virtue of any provision of the Act or he becomes prohibited by law from being a director; or
  - (b) he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
  - (c) he is, or may be, suffering from mental disorder and either:-
    - (i) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1984; or
    - (ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
  - (d) he resigns his office by notice to the Company; or
  - (e) he shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated; or
  - (f) he becomes incapable by reason of illness or injury of managing and administering his property and affairs.

#### **REMUNERATION OF DIRECTORS**

81. The directors shall be entitled to such remuneration as the Company may by ordinary resolution determine and, unless the resolution provides otherwise the remuneration shall be deemed to accrue from day to day.

## **DIRECTORS' EXPENSES**

82. The directors may be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings or separate meetings of the holders of any class of shares or of debentures of the Company or otherwise in connection with the discharge of their duties.

## **DIRECTORS' APPOINTMENTS AND INTERESTS**

83. Subject to the provisions of the Act, the directors may appoint one or more of their number to the office of managing director or to any other executive office under the Company and may enter into an agreement or arrangement with any director for his employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the directors determine and they may remunerate any such director for his services as they think fit.
84. Subject to the provisions of the Act, and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:-
- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;
  - (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and
  - (c) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.
85. For the purposes of regulation 84:-
- (a) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be notice that the director has an interest in any such transaction of the nature and extent so specified; and
  - (b) an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

## **DIRECTORS' BENEFITS AND PENSIONS**

86. The directors may provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any director who has held but no longer holds any executive office or employment with the Company or with any body corporate which is or has been a subsidiary of the Company or a predecessor in business of the Company or of any such subsidiary, and for any member of his family (including a spouse and a former spouse) or any person who is or was dependent on him, and may (as well before as after he ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

#### **PROCEEDINGS OF DIRECTORS**

87. Subject to the provisions of the Articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the directors. It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote.
88. The quorum for the transaction of the business of the directors may be fixed by the directors and unless so fixed at any other number (subject to the provisions of regulation 66 for a sole director) shall be two.
89. The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number, but, if the number of the directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.
90. The directors may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office. Unless he is unwilling to do so, the director appointed shall preside at every meeting of directors at which he is present. If there is no director holding that office, or if the director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.
91. All acts done by a meeting of directors, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated the office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.
92. A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the like form each signed by one or more directors; but a resolution signed by an alternate director need not also be signed by his appointer and, if it is signed by a director who has appointed an alternate director, it need not be signed by the alternate director in that capacity.
93. A director may vote, at any meeting of directors or of any committee of directors, on any resolution, notwithstanding that it in any way concerns or relates to a matter in which he

has directly or indirectly any kind of interest whatsoever, and if he shall vote on any such resolution as aforesaid his vote shall be counted; and in relation to any such resolution as aforesaid he shall (whether or not he shall vote on the same) be taken into account in calculating the quorum present at the meeting.

94. If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any director other than himself shall be final and conclusive.

#### **SECRETARY**

95. Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

#### **MINUTES**

96. The directors shall cause minutes to be made in books kept for the purpose:-
- (a) of all appointments of officers made by the directors; and
  - (b) of all proceedings at meetings of the Company, of the holders of any class of shares in the Company, and of the directors, and of committees of directors, including the names of the directors present at each such meeting.

#### **DIVIDENDS**

97. Subject to the provisions of the Act, the Company may by ordinary resolution declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the directors.
98. Subject to the provisions of the Act, the directors may pay interim dividends if it appears to them that they are justified by the profits of the Company available for distribution. If the share capital is divided into different classes, the directors may pay interim dividends on shares which confer deferred or non-preferred rights with regard to dividend as well as on shares which confer preferential rights with regard to dividend, but no interim dividend shall be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrears. The directors may also pay at intervals settled by them any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment. Provided the directors act in good faith they shall not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on any shares having deferred or non-preferred rights.
99. Except as otherwise provided by the rights attached to shares, all dividends shall be declared and paid according to the amounts paid up on the shares on which the dividend is paid. All dividends shall be apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid; but, if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.



100. Any dividend or other moneys payable in respect of a share may be paid by cheque sent by post to the registered address of the person entitled or, if two or more persons are the holders of the share or are jointly entitled to it by reason of the death or bankruptcy of the holder to the registered address of that one of those persons who is first named in the register of members or to such person and to such address as the person or persons entitled may in writing direct. Every cheque shall be made payable to the order of the person or persons entitled or to such other person as the persons entitled may in writing direct and payment of the cheque shall be a good discharge to the Company. Any joint holder or other person jointly entitled to a share as aforesaid may give receipts for any dividend or other moneys payable in respect of the share.
101. No dividend or other moneys payable in respect of a share shall bear interest against the Company unless otherwise provided by the rights attached to the share.
102. Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the directors so resolve, be forfeited and cease to remain owing by the Company.

#### **POWER TO SATISFY DIVIDENDS *IN SPECIE*, FRACTIONAL CERTIFICATES AND CASH ADJUSTMENTS**

103. With the sanction of an ordinary resolution of the Company, and upon the recommendation of the directors, any dividend may be paid and satisfied, whether wholly or in part, by the distribution of specific assets, and in particular of paid-up Shares or shares or debentures of any other company, or partly in one way and partly in another or others, and where any difficulty arises in regard to the distribution, the directors may settle the same as they think expedient, and in particular they may issue fractional certificates, and may fix the value for distribution of such specific assets or any part thereof, and may determine that cash payments shall be made to any member upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees upon such trusts for the person entitled to the dividend as may seem expedient to the directors.

#### **ACCOUNTS**

104. No member shall (as such) have any right of inspecting any accounting records or other book or document of the Company except as conferred by statute or authorised by the directors or by ordinary resolution of the Company.

#### **CAPITALISATION OF PROFITS**

105. The directors may with the authority of an ordinary resolution of the Company:-
  - (a) subject as hereinafter provided, resolve to capitalise any undivided profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of the Company's share premium account or capital redemption reserve;
  - (b) appropriate the sum resolved to be capitalised to the members who would have been entitled to it if it were distributed by way of dividend and in the same

proportions and apply such sum on their behalf either in towards paying up the amounts, if any, for the time being unpaid on any shares held by them respectively, or in paying up in full unissued shares or debentures of the Company of a nominal amount equal to that sum, and allot the shares or debentures credited as fully paid to those members, or as they may direct in those proportions, or partly in one way and partly in the other; but the share premium account, the capital redemption reserve, and any profits which are not available for distribution may, for the purposes of this regulation, only be applied in paying up unissued shares to be allotted to members credited as fully paid;

- (c) make such provision by the issue of fractional certificates or by payment in cash or otherwise as they determine in the case of shares or debentures becoming distributable under this regulation in fractions; and
- (d) authorise any person to enter on behalf of all the members concerned into an agreement with the Company providing for the allotment to them respectively, credited as fully paid, of any shares or debenture to which they are entitled upon such capitalisation, any agreement made under such authority being binding on all such members.

## NOTICES

- 106. Any notice to be given to or by any person pursuant to the Articles shall be in writing except that a notice calling a meeting of directors (including committee meetings) need not be in writing.
- 107. The Company may give any notice to a member either personally or by sending it by post in a prepaid envelope addressed to the member at his registered address or by leaving it at that address. In the case of joint holders of a share, all notices shall be given to the joint holder whose name stands first in the register of members in respect of the joint holding and notice so given shall be sufficient notice to all the joint holders. A member whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notices may be given to him shall be entitled to have notices given to him at that address, but otherwise no such member shall be entitled to receive any notice from the Company.
- 108. A member present, either in person or by proxy, at any meeting of the Company or of the holders of any class of shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 109. Every person who becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the register of members, has been duly given to a person from whom he derives his title.
- 110. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall, unless the contrary is proved, be deemed to be given at the expiration of forty eight hours after the envelope containing it was posted.
- 111. A notice may be given by the Company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending or delivering it, in any manner

authorised by the Articles for the giving of notice to a member, addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt or by any like description at the address, if any, within the United Kingdom supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

## **WINDING UP**

112. If the Company is wound up, the liquidator may, with the sanction of an extraordinary resolution of the Company and any other sanction required by the Act, divide among the members in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and determine how the division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the members as he with the like sanction determines, but no member shall be compelled to accept any assets upon which there is a liability.

## **INDEMNITY**

113. Save and except so far as the provisions of this Article shall be voided by any provisions of the Act the Directors, their Alternates, Executive Directors, Auditors, Secretary and other officers for the time being of the Company and the trustees (if any) for the time being acting in relation to any of the affairs of the Company, and their respective executors or administrators, shall be indemnified and held harmless out of the assets of the Company from and against all actions, costs, charges, losses, damages and expenses (including any such liability as is mentioned in the Act) which they or any of them or their or any of their executors or administrators shall or may incur or sustain by reason of any act done, concurred in, or omitted in or about the execution of their duty or supposed duty in their respective offices or trusts, except such (if any) as they shall incur or sustain through their own wilful neglect or wilful default respectively, and none of them shall be answerable for the acts, receipts, neglects or defaults of any of them, or for joining in any receipt for the sake of conformity, or for any bankers or other persons with whom any monies or effects of the Company shall be lodged or deposited for safe custody, or the insufficiency or deficiency of any security upon which any monies of the Company shall be placed out or invested, or for any other loss, misfortune or damage which may happen in the execution of their respective offices or trusts, or in relation thereto, except if the same shall happen by or through their own wilful neglect or wilful default respectively. The Company may purchase and maintain insurance cover as necessary for any of the officers of the Company against any such liability.