

Company Number: SC278344

**The Companies Act 2006**

**Private Company Limited by Shares**

**Written Resolution**

**of**

**Balmer Care Homes Group Limited (the "Company")**

Circulation Date: 23 May 2019

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

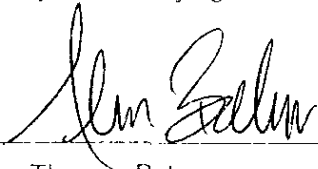
**Special Resolution**

That the articles of association in the form of the annexed draft, initialled for the purposes of identification, be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association of the Company.

**Agreement**

Please read the notes at the end of this document before signifying your agreement to the Special Resolution.

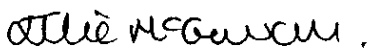
The undersigned, being entitled to vote on the Special Resolution on the circulation date noted above, hereby irrevocably agree to the Special Resolution.



Alan Thomas Balmer

23 May 2019

Date



Julie McGowan

23 May 2019

Date



SCT \*S872TEQH\* #4  
06/06/2019  
COMPANIES HOUSE

## Notes

1 If you agree with the Special Resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company using one of the following methods:

- By hand: delivering the signed copy to The Directors, Balmer Care Homes Group Limited, Campbell Dallas Llp, Titanium 1 Kings Inch Place, Renfrew, PA4 8WF; or
- By post: returning the signed copy by post to The Directors, Balmer Care Homes Group Limited, Campbell Dallas Llp, Titanium 1 Kings Inch Place, Renfrew, PA4 8WF

If you do not agree to the Special Resolution, 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 the Special Resolution, you may not revoke your agreement.

3 Unless by 28 days from the date of this notice sufficient agreement has been received for the Special Resolution to pass, it will lapse. If you agree to the Special Resolution, please ensure that your agreement reaches us before or during this date.

4 In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.

5 If you are signing the document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document.

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**The Companies Act 2006**

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**Private Company Limited by Shares**

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**Articles of Association**

**of**

**Balmer Care Homes Group Limited (the "Company")**

**(Adopted by special resolution on 23 May 2019)**

**1 Interpretation**

**1.1** In these Articles, unless the context otherwise requires:

"**A Ordinary Shares**" means the A ordinary shares of £0.10 each in the capital of the Company;

"**Act**" means the Companies Act 2006;

"**Additional Shares**" has the meaning given in article 14.2;

"**Allocation Notice**" has the meaning given in article 17.8;

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

"**Auditors**" the auditors of the Company for the time being unless auditors are not required pursuant to the Act and have not been appointed, in which case such reference shall mean the accountants of the Company;

"**B Ordinary Shares**" means the B ordinary shares of £0.10 each in the capital of the Company;

"**Business Day**" means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in Glasgow are generally open for non-automated over the counter business;

"**C Ordinary Shares**" means the C ordinary shares of £0.10 each in the capital of the Company;

"**Conflict**" means a situation in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company;

"**D Ordinary Shares**" means the D ordinary shares of £0.10 each in the capital of the Company;

"**Deemed Transfer Notice**" has the meaning given in article 18.2;

"**E Ordinary Shares**" means the E ordinary shares of £0.10 each in the capital of the Company;

**"Eligible Director"** means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);

**"Entitlement Period"** has the meaning given in article 14.2;

**"ET Shareholders"** means the registered holders of the B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares, F Ordinary Shares and any Future Alphabet Shares from time to time in their capacity as the registered holders of such classes of shares in the capital of the Company (and each a **"ET Shareholder"**);

**"Excess Sale Shares"** means the number of Sale Shares a Transfer Shareholder is willing to purchase in excess of his Respective Proportion of Sale Shares;

**"Expert"** means the Auditors or (if so specified in the relevant Transfer Notice or if the Auditors are unable or unwilling to act) an independent firm of Chartered Accountants appointed by the Company;

**"F Ordinary Shares"** means the F ordinary shares of £0.10 each in the capital of the Company;

**"Fair Value"** has the meaning given in article 19.1;

**"Fair Value Certificate"** has the meaning given in article 19.1;

**"Family Member"** means Thomas William Balmer and Anne Balmer, their three children, being Julie Anne McGowan, Alan Thomas Balmer and Graeme Joseph Balmer and their respective issue (including adopted issue);

**"Family Trust"** means (1) a trust of which at least 50% of the trustees are Family Members when established and thereafter may consist of non-Family Member successors in office, and (2) the beneficiaries of such trust being any individual Family Member, any combination of Family Members; and/or any charity recognised as charitable both in law and for tax purposes;

**"First Offer Period"** has the meaning given in article 17.4;

**"Future Alphabet Shares"** means each class of alphabet ordinary shares in the capital of the Company first allotted after the date of adoption of these Articles each such class to have a designation and nominal value as determined by the directors at the time of allotment of the first share of that class to be allotted;

**"Group"** means the Company, any subsidiary of the Company, any company of which the Company is a subsidiary (its holding company) and any other subsidiaries of any such holding company, in each case for the time being, and **"member of the Group"** shall mean any of them;

**"Interested Director"** has the meaning given in article 11.1;

**"Majority Holding"** has the meaning given in article 20.2.1

**"Majority Shareholder"** means the holder or holders for the time being of more than 50% of the nominal value of the A Ordinary Shares from time to time;

**"Member Applicant"** has the meaning given in article 17.8;

**"Model Articles"** means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI

2008/3229), as amended prior to the date of adoption of these Articles and reference to a numbered Model Article is a reference to that article of the Model Articles;

**"Offeror"** has the meaning given in article 20.1.1;

**"Other A Ordinary Shareholders"** means the holder or holders for the time being of A Ordinary Shares other than the Majority Shareholder and each an **"Other A Ordinary Shareholder"**;

**"Proportionate Entitlement"** has the meaning given in article 14.2;

**"Proposed Buyer"** has the meaning given in article 20.2.2;

**"Proposed Sale Date"** has the meaning given in article 20.2.2;

**"Proposed Sale Notice"** has the meaning given in article 20.2.2;

**"Proposed Sale Shares"** has the meaning given in article 20.2.2;

**"Respective Proportion"** means, in relation to a Transfer Shareholder, the proportion which the number of A Ordinary Shares held by that Transfer Shareholder bears to the total number of issued A ordinary Shares excluding any A Ordinary Shares held by the Seller;

**"Qualifying Offer"** has the meaning given in article 20.1.1;

**"Sale Shares"** has the meaning given in article 17.1.1;

**"Same Class Allotment Shareholder"** has the meaning given in article 14.1;

**"Second Offer Period"** has the meaning given in article 17.7;

**"Seller"** a Shareholder who wishes, or is required, to transfer shares in the capital of the Company or any beneficial interest therein to a person to whom article 16 (Permitted transfers) does not apply;

**"Shareholders"** means the registered holders of any shares forming part of the share capital of the Company from time to time and each a **"Shareholder"**;

**"Statutes"** the Companies Act as defined in section 2 of the Act and every other statute, order, regulation, instrument or other subordinate legislation for the time being in force relating to companies and affecting the Company;

**"Transfer Event"** has the meaning given in article 18.1;

**"Transfer Notice"** has the meaning given in article 17.1;

**"Transfer Price"** has the meaning given in article 17.1.3 subject to article 17.7;

**"Transfer Shareholder"** has the meaning given in article 17.4; and

**"Transferor"** has the meaning given in article 16.2.

- 1.2 Unless expressly provided otherwise in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles. The final paragraph of Model Article 1 shall not apply to the Company.

- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to a numbered Article is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise in these Articles, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
- 1.5.1 any subordinate legislation made under it, whether before or after the date of adoption of these Articles; and
  - 1.5.2 any amendment or re-enactment, whether before or after the date of adoption of these Articles and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- This article 1.5 shall not apply to the definition of Model Articles in article 1.1.
- 1.6 A reference to a "**holding company**" or "**subsidiary**" means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Act and for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), a company shall be treated as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), by way of security or in connection with the taking of security, or (b) its nominee.
- 1.7 Any words following the terms "**including**", "**include**", "**in particular**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.8 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by, or are inconsistent with, these Articles.
- 1.9 Model Articles 2, 3, 4, 8(3), 9(2), 11(2) and (3), 14(1), (2), (3) and (4), 26(5), 30, 34, 38, 52 and 53 shall not apply to the Company.
- 1.10 Model Article 7 shall be amended by:
- 1.10.1 the insertion of the words "for the time being" at the end of Model Article 7(2)(a); and
  - 1.10.2 the insertion in Model Article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
- 1.11 In Model Article 8(2), the words "copies of which have been signed by each eligible director" shall be deleted and replaced with the words "of which each Eligible Director has signed one or more copies".
- 1.12 Model Article 20 shall be amended by the insertion of the words "and the company secretary (if any)" before the words "properly incur".
- 1.13 In Model Article 25(2)(c), the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 1.14 In Model Article 32(a), the words "the terms on which the share was issued" shall be deleted and replaced with "the rights attached to the share".

- 1.15 Model Article 44(3) shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that Model Article.
- 1.16 Model Article 45(1)(d) shall be deleted and replaced with the words "is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate".
- 1.17 Model Article 45(1) shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that Model Article.

## **2 Liability of members**

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

## **3 Directors' general authority**

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

## **4 Power to change the Company's name**

The directors may from time to time change the name of the Company to any name considered by the directors to be advantageous, expedient or otherwise desirable provided they have obtained the prior written consent of the Majority Shareholder.

## **5 Members' reserve power**

- 5.1 The members may, by special resolution or notice in writing from the Majority Shareholder, direct the directors to take, or refrain from taking, specified action.
- 5.2 No such special resolution or notice invalidates anything which the directors have done before the passing of the resolution or the receipt of the notice by the Company.

## **6 Share rights**

- 6.1 The capital of the Company shall comprise of A Ordinary Shares, B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares, F Ordinary Shares and any Future Alphabet Shares. Except as otherwise provided in these Articles, the A Ordinary Shares, B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares, F Ordinary Shares and Future Alphabet Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.

### **6.2 Dividends**

- 6.2.1 The profits of the Company available for distribution, to the extent determined by the directors, shall:
- 6.2.1.1 be distributed to the holder(s) of the A Ordinary Shares as may be declared by the Company in general meeting, so that a dividend may be declared on the A Ordinary Shares to the exclusion of the other classes of shares;

- 6.2.1.2 be distributed to the holder(s) of the B Ordinary Shares as may be declared by the Company in general meeting, so that a dividend may be declared on the B Ordinary Shares to the exclusion of the other classes of shares;
- 6.2.1.3 be distributed to the holder(s) of the C Ordinary Shares as may be declared by the Company in general meeting, so that a dividend may be declared on the C Ordinary Shares to the exclusion of the other classes of shares;
- 6.2.1.4 be distributed to the holder(s) of the D Ordinary Shares as may be declared by the Company in general meeting, so that a dividend may be declared on the D Ordinary Shares to the exclusion of the other classes of shares;
- 6.2.1.5 be distributed to the holder(s) of the E Ordinary Shares as may be declared by the Company in general meeting, so that a dividend may be declared on the E Ordinary Shares to the exclusion of the other classes of shares;
- 6.2.1.6 be distributed to the holder(s) of the F Ordinary Shares as may be declared by the Company in general meeting, so that a dividend may be declared on the F Ordinary Shares to the exclusion of the other classes of shares; and
- 6.2.1.7 be distributed to the holder(s) of a class of Future Alphabet Shares as may be declared by the Company in general meeting, so that a dividend may be declared on a class of Future Alphabet Shares to the exclusion of the other classes of shares.
- 6.2.2 Each dividend on a particular class of share in the capital of the Company shall be distributed to the appropriate Shareholders holding the relevant class pro rata according to the number of shares of that class held by them respectively and shall accrue daily (assuming a 365-day year).

### 6.3 Return of capital

- 6.3.1 On a return of capital on winding-up or otherwise (but not in respect of any conversion, redemption or purchase by the Company of any shares), the surplus assets of the Company remaining after the payment of its debts and liabilities shall be applied in the following manner and order of priority:
  - 6.3.1.1 distributing amongst the holders of the B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares, F Ordinary Shares and each class of Future Alphabet Shares the nominal value of such B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares, F Ordinary Shares and Future Alphabet Shares plus an additional 10% of the nominal value thereof; and
  - 6.3.1.2 distributing the balance among the holders of the A Ordinary Shares pro rata to their respective shareholdings.

### 6.4 Voting

- 6.4.1 On a vote on a written resolution every holder of A Ordinary Shares shall have one vote for each A Ordinary Share of which he is the holder. At a general meeting:
  - 6.4.1.1 on a resolution put to a vote on a show of hands every holder of A Ordinary Shares who is present in person or by proxy shall have one vote, unless the proxy himself is a Shareholder entitled to vote; and

6.4.1.2 on a resolution put to a vote on a poll every holder of A Ordinary Shares who is present in person or by proxy shall have one vote for each A Ordinary Share of which he is the holder.

6.4.2 The B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares, F Ordinary Shares and each class of Future Alphabet Shares shall not carry any right to vote on a written resolution or at a general meeting.

6.4.3 The registered holders of A Ordinary Shares, B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares, F Ordinary Shares and each class of Future Alphabet Shares shall be entitled to receive notice of, attend and speak at general meetings.

## **7 Variation of class rights**

7.1 Whenever the share capital of the Company is divided into different classes of shares, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding-up) with the consent in writing of the holders of more than 75 per cent in nominal value of the issued shares of that class.

7.2 The provisions of these Articles relating to: (i) general meetings of the Company and to their proceedings (and adjournments); and (ii) written resolutions, shall, with the necessary changes being made, apply to every separate meeting of the holders of any class of share, except that:

7.2.1 the necessary quorum shall be one person holding or representing by proxy at least one third in nominal amount of the issued shares of that class;

7.2.2 every holder of shares of the class present in person or by proxy shall be entitled on a poll to one vote for every such share held by it; and

7.2.3 any holder of shares of the class present in person or by proxy may demand a poll.

## **8 Number and appointment of directors**

8.1 Unless otherwise determined by ordinary resolution, the number of directors shall not be subject to any maximum but shall not be less than one. A sole director shall have all the powers, duties and discretions conferred on or vested in the directors by these Articles.

8.2 The Majority Shareholder may at any time by notice in writing to the Company:

8.2.1 appoint any person or persons as a director or directors of the Company; and

8.2.2 remove any director or directors from office.

8.3 Any appointment or removal pursuant to article 8.2 shall take effect when it is delivered to the registered office of the Company or, if it is produced at a meeting of the directors, when it is so produced or, if sent by electronic means to an address generally used by the Company, when it is sent (and article 24.1.3 shall not apply to it). Any such removal shall be without prejudice to any claim that a director may have under any contract between him and the Company.

8.4 If the Company has no directors and, by virtue of death or bankruptcy, no member is capable of acting, the transmittee of the last member to have died or to have had a bankruptcy order made against him has the right, by notice in writing, to appoint a person to be a director.

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

- 9.1 Subject to article 9.2, the quorum for the transaction of business at a meeting of directors is any two Eligible Directors or, where there is only one director in office for the time being, that director.
- 9.2 For the purposes of any meeting (or part of a meeting) held pursuant to article 11 to authorise a Conflict, if there is only one Eligible Director in office other than the Interested Director(s) (as defined in article 11.1), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.

## 10 **Transactions or other arrangements with the Company**

- 10.1 Subject to section 177(5) and (6) and section 182(5) and (6) of the Act, and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:
- 10.1.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
  - 10.1.2 shall be an Eligible Director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
  - 10.1.3 shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested;
  - 10.1.4 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
  - 10.1.5 may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
  - 10.1.6 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit, nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.
- 10.2 The provisions of article 10.1 1 to article 10.1.6 (inclusive) are subject, where applicable, to any terms and conditions imposed by the directors in accordance with article 11.3.
- ## 11 **Directors' conflicts of interest**
- 11.1 The directors may, in accordance with the requirements set out in this article 11, authorise any Conflict proposed to them by any director which would, if not authorised, involve a director (an "**Interested Director**") breaching his duty under section 175 of the Act to avoid conflicts of interest.
- 11.2 Any authorisation under this article 11 will be effective only if:
- 11.2.1 to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be

proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;

11.2.2 any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and

11.2.3 the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.

11.3 Any authorisation of a Conflict under this article 11 may (whether at the time of giving the authorisation or subsequently) impose on the Interested Director such conditions or limitations, or be granted subject to such terms, as the directors may think fit for the purposes of dealing with the Conflict and the Interested Director will be obliged to conduct himself in accordance with any such terms and conditions.

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

11.5 A director, notwithstanding his office, may be a director or other officer of, employed by, or otherwise interested (including by the holding of shares) in, any member of the Group and no further authorisation under article 11.1 or otherwise shall be necessary in respect of any such interest.

11.6 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit that he derives from or in connection with a relationship involving a Conflict which has been authorised by these Articles or by the directors in accordance with these Articles (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

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

Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in a form that enables the directors to retain a copy of such decisions.

## 13 **Secretary**

The directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and on such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

## 14 **Issue of new shares**

14.1 Save to the extent authorised by these Articles, the directors shall not allot any shares of a particular class unless written notice is given to each person registered as the holder of the class of shares which are proposed to be issued (each a **"Same Class Allotment Shareholder"**) and, in the event that the class of shares which are proposed to be issued are not A Ordinary Shares, all of the holders of the A Ordinary Shares from time to time, such notice specifying the number and class of shares which are proposed to be issued, the consideration payable on the shares, and any other material terms or conditions of the proposed issue.

14.2 Each Same Class Allotment Shareholder shall be entitled to subscribe for shares in proportion (as nearly as may be) to their existing holdings of shares of the relevant class (the **"Proportionate Entitlement"**). It shall be open to each such Same Class Allotment Shareholder to specify if he/it is willing to subscribe for shares in excess of his/its

Proportionate Entitlement (the "**Additional Shares**") and, if the Same Class Allotment Shareholder does so specify, he/it shall state the number of Additional Shares. The notice specified in article 14.1 shall invite each Same Class Allotment Shareholder to state in writing within ten Business Days from the date of such notice (the "**Entitlement Period**") whether he/it will subscribe for any shares, and if so, how many shares.

14.3 Within ten Business Days of the expiry of the Entitlement Period the directors shall allocate the shares in the following manner:

14.3.1 if the total number of shares applied for is equal to or less than the available number of shares to be issued the Company shall allocate the number applied for in accordance with the applications and may (subject to receipt of the prior written consent of the Majority Shareholder) dispose of any shares not accepted by the Same Class Allotment Shareholders in such manner as they think most beneficial to the Company provided that such shares shall not be disposed of on terms that are more favourable to the allottee than the terms on which they were offered under this article 14; or

14.3.2 if the total number of shares applied for is more than the available number of shares to be issued, each Same Class Allotment Shareholder shall be allocated his/its Proportionate Entitlement (or such lesser number of shares to be issued for which he/it may have applied) and applications for Additional Shares shall be allocated in accordance with such applications or, in the event of competition, to each Same Class Allotment Shareholder willing to subscribe for Additional Shares in proportion (as nearly as may be) to the proportion which the shares held by a Same Class Allotment Shareholder bear to the total number of shares held by all Same Class Allotment Shareholders applying for Additional Shares provided that any Same Class Allotment Shareholder shall not be allocated more Additional Shares than he/it shall have stated himself willing to take.

14.4 If there are no shares of the same class of shares in issue at the time the directors propose to issue shares of that class then the directors shall (if there are any A Ordinary Shares in issue) offer such shares to each Shareholder registered as the holder of the class of A Ordinary Shares and articles 14.1 to 14.3 (inclusive) and the definition of the Same Class Allotment Shareholder should be construed accordingly and interpreted subject to this article 14.4 *mutatis mutandis*.

14.5 Pursuant to the Act, all statutory rights of pre-emption shall be excluded from applying to the Company. In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to any allotment of equity securities (within the meaning of section 560 of the Act) by the Company.

14.6 The directors are authorised to allot any shares to any person if all of the Shareholders holding A Ordinary Shares have given their prior written consent to the allotment and if such consent is given then articles 14.1 to 14.4 (inclusive) shall not apply to the relevant allotment of shares.

## 15 **Transfer of shares general provisions**

Subject to the provisions of article 16, no transfer of any share in the capital of the Company shall be made or registered unless such transfer complies with the provisions of these Articles.

## 16 **Permitted transfers**

16.1 Notwithstanding the provisions of any other article, the transfers set out in this article 16 shall be permitted (and approved by the directors) without restriction and the provisions of articles 17 (Voluntary transfers) and 20 (Transfer to a third party buyer) shall have no application to transfers set out in this article 16.

## 16.2 Permitted transfers by Family Member and Family Trusts

Any Shareholder who is a Family Member or a Family Trust (the "**Transferor**") may transfer any shares (without restriction as to price or otherwise) to another Family Member or a Family Trust. If a trust ceases to be a Family Trust at any time, such trust must forthwith transfer any share in the Company held by it back to the Transferor (or, as the case may be, to another Family Member or Family Trust). If such trust fails to effect such transfer upon its ceasing to be a Family Trust, the Company may execute a transfer of the relevant shares on behalf of the trust and register the Transferor (or, as the case may be, another Family Member or Family Trust) as the holder of such shares.

## 16.3 Permitted transfers by the transmittee of a deceased individual

The transmittee of a deceased Shareholder who is the holder of shares of that deceased Shareholder or who is entitled to become the holder of shares of that deceased Shareholder may transfer any of such shares (without restriction as to price or otherwise) to a Family Member or a Family Trust.

## 16.4 Permitted transfers by all Shareholders

16.4.1 Any Shareholder may at any time transfer any shares in accordance with the provisions of the Statutes to the Company.

16.4.2 Any Shareholder may at any time transfer all or any of his shares to any other Shareholder who is a Family Member or a Family Trust.

16.4.3 Any Shareholder may at any time transfer all or any of his shares with the prior written consent of all of the holders of the A Ordinary Shares from time to time.

## 17 **Voluntary transfers**

17.1 Except as permitted under article 16 any Seller who wishes to transfer shares of a particular class shall give notice in writing (the "**Transfer Notice**") to the Company of his wish specifying:

17.1.1 the number of shares of each class (the "**Sale Shares**") which he wishes to transfer;

17.1.2 the name of the third party to whom he wishes to transfer the Sale Shares;

17.1.3 the price at which he wishes to transfer the Sale Shares (the "**Transfer Price**"); and

17.1.4 whether the Transfer Notice is conditional on all, or a specific number, of the Sale Shares being sold in which case no Sale Shares can be sold unless offers are received for all or the minimum number (as applicable) of the Sale Shares.

17.2 Where any Transfer Notice is deemed to have been given in accordance with article 18 all the shares registered in the name of the Seller shall be included for transfer, and the provisions of article 17.1.4 shall not apply.

17.3 Once given, a Transfer Notice may not be withdrawn unless it is permitted under article 17.6 or the Majority Shareholder shall approve such withdrawal. In the event of a Transfer Notice being withdrawn the Seller shall bear all costs relating to such Transfer Notice.

17.4 The Transfer Notice shall constitute the directors of the Company as the agents of the Seller for the sale of the Sale Shares at the Transfer Price. As soon as reasonably practicable following receipt by the Company of a Transfer Notice, the directors shall give notice to all Shareholders (other than the Seller) registered as the holders of the A Ordinary Shares (each a "**Transfer Shareholder**") inviting each Transfer Shareholder to notify the Company

in writing within ten Business Days from the date of such offer (the "**First Offer Period**") confirming: (i) if he/it requires the Sale Shares to be valued; and (ii) if he/it does not, the maximum number of Sale Shares they wish to purchase at the Transfer Price (it shall be open to each Transfer Shareholder to specify if he is willing to purchase Excess Sale Shares).

17.5 If before the expiry of the First Offer Period any Transfer Shareholder confirms in writing that he/it requires the Sale Shares to be valued in accordance with article 17.4, the directors shall instruct the Expert to undertake a valuation in accordance with article 19.

17.6 Within seven Business Days of receipt of the Fair Value Certificate the directors shall send a copy of such Fair Value Certificate to the Seller and the Seller shall be entitled to revoke the Transfer Notice by notice in writing to the directors within seven Business Days of receipt.

17.7 Once the Fair Value has been determined in accordance with article 19 and providing that the Transfer Notice is not revoked by the Seller in accordance with article 17.6, the directors shall give notice to all of the Transfer Shareholders (other than the Seller) confirming the value of the Sale Shares as determined in accordance with article 19 (which shall be the Transfer Price) inviting them to notify the Company in writing within fifteen Business Days from the date of such notice (the "**Second Offer Period**") confirming the maximum number of Sale Shares they wish to purchase at the new Transfer Price, including the number of Excess Sale Shares (if any).

17.8 Within ten Business Days of the expiry of: (i) the First Offer Period provided there is no Second Offer Period; or (ii) the Second Offer Period if one occurs, the directors shall allocate the Sale Shares in the following manner:

17.8.1 if the total number of Sale Shares applied for is equal to or less than the available number of Sale Shares the Company shall, subject to article 17.1.4, allocate the number applied for in accordance with the applications; or

17.8.2 if the total number of Sale Shares applied for is more than the available number of Sale Shares, each Transfer Shareholder shall be allocated his Respective Proportion of Sale Shares (or such lesser number of Sale Shares for which he may have applied) and applications for Excess Sale Shares shall be allocated in accordance with such applications or, in the event of competition, as nearly as may be to the proportion which A Ordinary Shares of the relevant class held by a Transfer Shareholder bear to the total number of A Ordinary Shares held by all Transfer Shareholders applying for Excess Sale Shares provided that any Transfer Shareholder shall not be allocated more Excess Sale Shares than he/it shall have stated himself willing to take,

and in either case the Company shall forthwith give notice of each such allocation (an "**Allocation Notice**") to the Seller and each of the persons to whom Sale Shares have been allocated (a "**Member Applicant**") and shall specify in the Allocation Notice the place and time (being not later than ten Business Days after the date of the Allocation Notice) at which the sale of the Sale Shares shall be completed.

17.9 Subject to article 17.10, the Seller shall be bound, on payment of the Transfer Price, to transfer to each Member Applicant free from any lien, charge or encumbrance the Sale Shares allocated to that Member Applicant. If the Seller makes default in so doing any director of the Company shall forthwith be deemed to be the duly appointed agent of the Seller with full power to execute, complete and deliver a transfer of the relevant Sale Shares and any director of the Company may receive and give a good discharge for the purchase money on behalf of the Seller and (subject to the transfer being duly stamped if required) enter the name of each Member Applicant in the Company's Register of Members. The directors of the Company shall forthwith pay such Transfer Price into a separate bank account in the Company's name and shall hold such money on trust (but without interest) for the Seller until he shall deliver up a validly executed transfer of the relevant shares and his

certificate(s) for the relevant shares (or an indemnity in respect of any lost certificate) to the Company when he shall thereupon be paid the Transfer Price.

- 17.10 If the provisions of article 17.1.4 apply or where any Transfer Notice is deemed to have been given in accordance with these Articles and if the total number of Sale Shares applied for by Transfer Shareholders is less than the number of Sale Shares the directors of the Company may within seven days of the date of the Allocation Notice determine that the Company shall (if it is permitted to do so under the Act) purchase some or all of the Sale Shares. The directors of the Company shall have a period of sixty days from the date of any such determination by the directors to obtain any necessary consents and authorities for any such purchase by the Company and to complete the purchase by the Company of the Sale Shares.
- 17.11 In the event of all of the Sale Shares not being sold under the preceding paragraphs of this article 17 the Seller may, subject to the Majority Shareholder giving its prior written consent, at any time within three months after receiving confirmation from the Company that the provisions herein contained have been exhausted, transfer all the Sale Shares (if article 17.1.4 does apply) or any Sale Shares which have not been sold (if article 17.1.4 does not apply) to any person or persons at any price not less than the Transfer Price.
- 17.12 If no Shareholder is the registered holder of A Ordinary Shares when a particular Transfer Notice is given or deemed given this article 17 shall have no effect.

## 18 Compulsory Transfers

### 18.1 A "Transfer Event" means:

- 18.1.1 where the Shareholder is an individual, the Shareholder being sequestered, being made bankrupt or entering into any voluntary composition or arrangement with his creditors;
- 18.1.2 where the Shareholder is an individual, the Shareholder becoming a patient for the purposes of any statute relating to mental health; or
- 18.1.3 a Shareholder attempting to deal with or dispose of any share or interest in a share or purporting to make a transfer otherwise than in accordance with these Articles,

unless in any of the above events the directors resolve that such event is not to be treated as a Transfer Event.

- 18.2 Upon the happening of any Transfer Event, the Shareholder in question shall be deemed to have immediately given a Transfer Notice in respect of all the shares then held by him/it (a "**Deemed Transfer Notice**"). A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same shares except for shares which have then been validly transferred pursuant to that Transfer Notice.
- 18.3 The shares the subject of any Deemed Transfer Notice shall be offered for sale in accordance with article 17 as if they were Sale Shares in respect of which a Transfer Notice had been given save that:
- 18.3.1 a Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event or, if later, the date upon which the directors having become aware that the relevant event is a Transfer Event notify the Company that the relevant event is a Transfer Event;
- 18.3.2 the sale price shall be a price per Sale Share agreed between the Seller (or their executor or representatives) and the directors or, in default of agreement within fourteen Business Days after the date of the Transfer Event the Fair Value;

- 18.3.3 the provisions of Article 17.1.4 shall not apply to a Deemed Transfer Notice; and
- 18.3.4 the Sale Shares shall be sold together with all rights attaching thereto as at the date of the Transfer Event.

## 19 Fair Value

- 19.1 If an Expert is required to determine the price at which shares are to be transferred pursuant to these Articles, such price shall be the amount the Expert shall, on the application of the directors (which application shall be made promptly following the time it becomes apparent that a valuation is required), give their written opinion as to the price which represents a fair value for such shares as between a willing seller and a willing buyer as at the date the Transfer Notice or Deemed Transfer Notice is given (the "**Fair Value**"). The directors shall instruct the Expert to produce a certificate stating such value ("**Fair Value Certificate**") within twenty Business Days of being requested to do so.
- 19.2 In making such determination in respect of any A Ordinary Shares, the Expert shall not take any account of whether the Sale Shares comprise a majority or a minority interest in the Company nor the fact that transferability is restricted by these Articles.
- 19.3 In making such determination in respect of any shares which are not A Ordinary Shares the Expert shall take account of whether the shares comprise a majority or minority interest in the Company and whether the fact that ability to transfer such shares is restricted by the Articles.
- 19.4 The Expert shall act as an expert and not as an arbiter and their decision shall be conclusive and binding on the Company and all Shareholders (in the absence of fraud or manifest error).
- 19.5 The Expert's costs in making any determination referred to them under this article 19 shall (other than as specifically prescribed in these Articles) be borne by the Company unless the Expert shall otherwise determine provided that if a Seller revokes a Transfer Notice in accordance with article 17.6 such costs shall be borne by the Seller.

## 20 Transfer to a third party buyer

### 20.1 Drag-Along

- 20.1.1 In these Articles, a "**Qualifying Offer**" shall mean an offer in writing by or on behalf of any person who is a *bona fide* arm's length purchaser who is not a Family Member or a Family Trust (the "**Offeror**") to the holders of the entire issued share capital in the Company to acquire all their shares for any form of consideration.
- 20.1.2 If the Majority Shareholder wishes to accept the Qualifying Offer, then the provisions of articles 20.1.3 and 20.1.4 shall apply.
- 20.1.3 The Majority Shareholder shall give written notice to:
- 20.1.3.1 the Other A Ordinary Shareholders of their wish to accept the Qualifying Offer and the Other A Ordinary Shareholders shall thereupon become bound to accept the Qualifying Offer and to transfer their A Ordinary Shares to the Offeror (or his nominee) at the same price per A Ordinary Share as is to be paid to the Majority Shareholder, free from all mortgages, charges, guarantees or other security interests of any kind, on the date specified by the Majority Shareholder; and
- 20.1.3.2 the ET Shareholders of their wish to accept the Qualifying Offer and the ET Shareholders shall thereupon become bound to transfer their shares to the Offeror (or his nominee) for the nominal value of their B Ordinary

Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares, F Ordinary Shares and Future Alphabet Shares plus an additional 10% of the nominal value thereof, free from all mortgages, charges, guarantees or other security interests of any kind, on the date specified by the Majority Shareholder,

The Other A Ordinary Shareholders and the ET Shareholders shall not be required to agree to any other terms of the Qualifying Offer.

- 20.1.4 If any Other A Ordinary Shareholder and/or ET Shareholder shall not, within 5 Business Days of being required to do so, execute and deliver to the Company transfers in respect of the shares held by him or her and deliver the certificate(s) in respect of the same (or a suitable indemnity in lieu thereof), then any Majority Shareholder shall be entitled to execute, and shall be entitled to authorise and instruct such person as he thinks fit to execute, the necessary transfer(s) and indemnities on each relevant Other A Ordinary Shareholder's and/or ET Shareholder's behalf and, against receipt by the Company (on trust for such Other A Ordinary Shareholder and/or ET Shareholder) of the consideration payable for the relevant shares, deliver such transfer(s) and certificate(s) or indemnities to the Offeror (or his nominee) and register such Offeror (or his nominee) as the holder thereof and, after such registration, the validity of such proceedings shall not be questioned by any person.
- 20.1.5 The rights of pre-emption set out in article 17 shall not apply to any transfer of shares to an Offeror (or his nominee) pursuant to a sale for which notices have been duly served in accordance with article 20.1.3.

## 20.2 Tag-Along

- 20.2.1 If at any time the Majority Shareholder proposes to sell, in one or a series of related transactions, his A Ordinary Shares (the "**Majority Holding**") to any person (not being: (i) an Offeror for the purposes of clause 20.1.1; (ii) a Family Member; or (iii) a Family Trust) which would, if completed, result in the transferee obtaining a majority of the total voting rights normally exercisable at a general meeting of the Company, the Majority Shareholder may only sell the Majority Holding if they comply with the provisions of articles 20.2.2 and 20.2.3.
- 20.2.2 The Majority Shareholder shall give written notice (the "**Proposed Sale Notice**") to the other holders of the shares of such intended sale at least 10 Business Days prior to the date thereof. The Proposed Sale Notice shall set out, to the extent not described in any accompanying documents, the identity of the proposed buyer (the "**Proposed Buyer**"), the purchase price and other terms and conditions of payment, the proposed date of sale (the "**Proposed Sale Date**") and the number of shares proposed to be purchased by the Proposed Buyer (the "**Proposed Sale Shares**").
- 20.2.3 Within 5 Business Days of receipt of the Proposed Sale Notice:
- 20.2.3.1 an Other A Ordinary Shareholder may give the Majority Shareholder written notice that entitles such Other A Ordinary Shareholder to be permitted to sell all of his or her shares to the Proposed Buyer on the same terms and conditions as those set out in the Proposed Sale Notice; and /or
- 20.2.3.2 a ET Shareholder may give the Majority Shareholder written notice that entitles such ET Shareholder to be permitted to sell all its shares to the Proposed Buyer for the nominal value of such B Ordinary Shares, C Ordinary Shares, D Ordinary Shares, E Ordinary Shares, F Ordinary Shares and Future Alphabet Shares (as the case may be) plus an additional 10% of the nominal value thereof.

If an Other A Shareholder or an ET Shareholder gives the Majority Shareholder written notice in accordance with this article 20.2.3, completion of the sale by the Majority Shareholder shall be conditional on the purchase of all the shares held by such Other A Shareholder or ET Shareholder (as the case may be).

20.2.4 If any holder of shares is not given the rights accorded him or her by the provisions of articles 20.2.2 and 20.2.3, the Majority Shareholder shall be required not to complete their sale and the Company shall be bound to refuse to register any transfer intended to carry such a sale into effect.

20.2.5 The rights of pre-emption set out in article 17 should not apply to any transfer of shares by the Majority Shareholder or any other Shareholder pursuant to a sale for which the provisions of articles 20.2.2 and 20.2.3 have been complied with.

## **21 Quorum for general meetings**

21.1 Subject to article 21.2, no business shall be transacted at any general meeting unless a quorum is present. A Majority Shareholder present in person or by proxy shall be the quorum at any general meeting.

21.2 No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.

21.3 Where the Company has only one Shareholder for the time being, one qualifying person (as defined in section 318 of the Act) present at the meeting shall be a quorum.

## **22 Procedure for declaring dividends**

22.1 The Company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.

22.2 A dividend must not be declared unless the directors have made a recommendation in respect of it. Such a dividend must not exceed any amount recommended by the directors.

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

22.4 Unless the Shareholders' resolution to declare or directors' decision to pay a dividend, or the rights attached to any shares, specify otherwise, it must be paid by reference to each Shareholder's holding of shares on the date of the resolution or decision to declare or pay it.

22.5 If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrears.

22.6 The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

22.7 If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

## **23 Non-cash distributions**

23.1 Subject to the rights attaching to the share in question, the directors may decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash rights and/or assets (including, without limitation, shares or other securities in any company).

23.2 For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including:

23.2.1 fixing the value of any shares, rights and/or assets;

23.2.2 paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and

23.2.3 vesting any rights and/or assets in trustees.

## 24 Means of communication to be used

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

24.1.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five Business Days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);

24.1.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;

24.1.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and

24.1.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this article 24, no account shall be taken of any part of a day that is not a Business Day.

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

## 25 Indemnity and insurance

25.1 Subject to article 25.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

25.1.1 each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:

25.1.1.1 in the actual or purported execution and/or discharge of his duties, or in relation to them; and

25.1.1.2 in relation to the Company's (or any associated company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, or regulatory investigation or action, in which judgment or

decree is given in his favour or in which he is acquitted or the proceedings are, or the investigation or action is, otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated company's) affairs; and

- 25.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings, investigation, action or application referred to in article 25.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 25.2 This article 25 does not authorise any indemnity to the extent that such indemnity would be prohibited or rendered void by any provision of the Statutes or by any other provision of law and any such indemnity is limited accordingly.
- 25.3 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.
- 25.4 In this article 25:
  - 25.4.1 **"associated company"** means any member of the Group and **"associated companies"** shall be construed accordingly;
  - 25.4.2 a **"relevant loss"** means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company; and
  - 25.4.3 a **"relevant officer"** means any director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).