

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

OF

PARADIGM DRILLING SERVICES LIMITED
(Company Number SC358773)
(the "Company")

FRIDAY



SCT *S8J8GMMI* 29/11/2019 #290
COMPANIES HOUSE

CIRCULATED ON: 12TH NOVEMBER 2019 (the "Circulation Date")

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

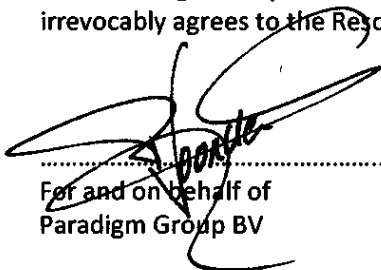
SPECIAL RESOLUTION

THAT the articles of association in the form attached hereto be and are hereby adopted as the articles of association of the Company to the exclusion of all existing articles of association of the Company.

AGREEMENT

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

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


.....
For and on behalf of
Paradigm Group BV

12/11/2019
.....
Date

.....
Neil Andrew Abercrombie Simpson

.....
Date

.....
For and on behalf of
BP INV1 LP

.....
Date

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

OF

**PARADIGM DRILLING SERVICES LIMITED
(Company Number SC358773)
(the "Company")**

CIRCULATED ON: 12TH NOVEMBER 2019 (the "Circulation Date")

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

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THAT the articles of association in the form attached hereto be and are hereby adopted as the articles of association of the Company to the exclusion of all existing articles of association of the Company.

AGREEMENT

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

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

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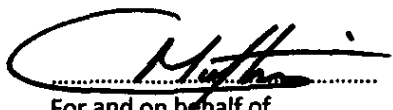


.....
For and on behalf of
BP INV1 LP

.....
12/11/2019
.....
Date

.....
For and on behalf of
SAEV Guernsey Holdings Limited

.....
Date


For and on behalf of
SAEV Guernsey Holdings Limited

12/11/2019
Date

ARTICLES OF ASSOCIATION

of

PARADIGM DRILLING SERVICES LIMITED

(Company Number SC358773)

Incorporated in Scotland on 28 April 2009

Adopted by Special Resolution passed on *12TH NOVEMBER* 2019



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Company Number: SC358773

THE COMPANIES ACT 2006
COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
of
PARADIGM DRILLING SERVICES LIMITED
REGISTERED IN SCOTLAND

Adopted by special resolution passed on 12TH NOVEMBER 2019

1. DEFINITIONS AND INTERPRETATION

1.1 In these Articles, unless the context otherwise requires the following words and phrases have the meanings stated:

2015 Preference Shares means the 2015 preference shares of £1.00 each in the capital of the Company.

Act means the Companies Act 2006 and every statutory modification or re-enactment of it for the time being in force.

Acting in Concert has the meaning ascribed to it by the City Code on Takeovers and Mergers as in force and construed at the Adoption Date.

Adoption Date means the date of adoption of these Articles.

A Preference Shares means the A preference shares of £1.00 each in the capital of the Company.

A Shareholder Majority means the holder or holders of not less than 50.1% of the A Shares for the time being in issue.

A Shares means the A ordinary shares of £0.01 each in the capital of the Company.

Associate means any corporation or undertaking which in relation to the person concerned is a holding company or parent undertaking or a subsidiary or subsidiary undertaking of any such holding company or parent undertaking or any partnership which is a subsidiary undertaking of the person concerned or of any such holding company.

Auditors means the auditors of the Company from time to time.

B Shares means the B ordinary shares of £0.01 each in the capital of the Company

Board means the board of Directors of the Company from time to time.

Board Meeting means a meeting of the Board.

Business Day(s) means a day (which for these purposes ends at 5.30pm) other than a Saturday or Sunday on which banks are open for commercial business in London and Aberdeen.

Buckthorn means BP INV1 LP, a limited partnership registered in Jersey and having its principal place of business at 26 New Street, St Helier, Jersey JE2 3RA.

Buckthorn Director means a director appointed in accordance with Article 13.1.2.

C Preference Shares means the C preference shares of £1.00 each in the capital of the Company.

Company means Paradigm Drilling Services Limited a company registered in Scotland with registered number SC358773, whose registered office is at 5 Carden Place, Aberdeen AB10 1UT. **Connected Persons** shall have the meaning provided by section 839 of the Income and Corporation Taxes Act 1988.

Convertible A Preference Loan Note Instrument has the meaning given to it in the Investment Agreement.

Convertible A Preference Loan Notes has the meaning given to it in the Investment Agreement.

Convertible C Preference Loan Note Instrument means the loan note instrument executed by the Company on 27 January 2015 as varied or amended from time to time.

Convertible C Preference Loan Notes means the convertible C preference loan notes of £1.00 each constituted by the Convertible C Preference Loan Note Instrument.

Convertible C Preference Loan Notes Redemption Amount means the Redemption Amount as that term is defined in paragraph 4.1 of Schedule 2 of the Convertible C Preference Loan Note Instrument.

Deed of Adherence means a deed of adherence in the form required by the Board.

Deemed Transfer Notice has the meaning given to it in Article 8.2.1.

Director means any director of the Company from time to time.

Drag Qualifying Offer means an offer by a third party (not involving any Connected Person of a Member) in writing received by an Investor Majority or an A Shareholder Majority to purchase all the Shares (including any Shares which may be allotted pursuant to the exercise of conversion rights existence at the date of such offer) which meets the following conditions:

- (a) is stipulated to be open for acceptance in the United Kingdom for at least 20 Business Days;
- (b) is on terms that the sale and purchase of all Shares will be completed at the same time;
- (c) makes provision for the redemption of the Loan Notes (to the extent not converted to Preference Shares) or, if the Company is unable lawfully to effect any such redemption, makes provision for the purchase of such Loan Notes at the price at which they would have been redeemed;
- (d) makes provision for the redemption of the Redeemable C Shares or, if the Company is unable lawfully to effect any such redemption, makes provision for the purchase of the Redeemable C Shares at the price at which they would have been redeemed; and
- (e) stipulates that the consideration shall be in cash and/or listed securities.

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

Equity Shares means the A Shares, B Shares and Redeemable C Shares and any shares derived from them whether by conversion, consolidation or subdivision or by way of rights or bonus issue or otherwise for the time being in issue.

Event of Default: any of the following events:

- (a) an administration order is made in relation to the Company; or
- (b) an order is made, or an effective resolution is passed, for the winding-up, liquidation, administration or dissolution of the Company (except for the purpose of reorganisation or amalgamation); or
- (c) a receiver is appointed of the whole or the major part of the assets or undertaking of the Company or if distress, execution or other legal process is levied or enforced against the whole or the major part of the assets of the Company and is not discharged, paid out, withdrawn or removed within 20 Business Days; or
- (d) the Company stops (or threatens to stop) payment of its debts generally or ceases (or threatens to cease) to carry on its business or a substantial part of its business; or
- (e) the Company is deemed for the purposes of section 123 Insolvency Act 1986 to be unable to pay its debts or compounds or proposes or enters into any reorganisation or special arrangement with its creditors generally; or
- (f) the Company takes any of the actions set out in Schedule 2 of the Investment Agreement without the requisite Board consent and, where required, prior written consent of the holders of the A Shares and the Redeemable C Shares pursuant to the terms of clause 7 of the Investment Agreement (Restrictions).

Executives has the meaning given to it in the Investment Agreement.

Fair Value means the price payable for any Shares determined pursuant to Article 8.3.2.

holder in relation to Shares, means the Member whose name is entered in the register of Members of the Company as the holder of such Shares.

Investment Agreement means the investment agreement among Paradigm, the Executives, Mr Boon, the Company and the Investors to be entered into on or around the Adoption Date, as the same may be amended or supplemented from time to time.

Investment Fund means any arrangement which for the time being is a collective investment scheme for the purpose of section 235 Financial Services and Markets Act 2000 or which would be such a scheme if it did not fall within an exemption or exclusion of that section.

Investor Consent means the prior written consent of an Investor Majority.

Investor Director means a Buckthorn Director or a SAEV Director or a director appointed in accordance with Article 13.1.5.

Investor Majority means the holder or holders of not less than 60% of the Redeemable C Shares for the time being in issue.

Investor Shares means the Redeemable C Shares held by the Investors.

Investors means SAEV and Buckthorn, and each an **Investor**.

Leaver has the meaning given to it in Article 9.1.

Leaver Sale Price has the meaning given to it in Article 9.3.

Listing has the meaning given to it in the Investment Agreement.

Loan Note Instruments means the Convertible A Preference Loan Note Instrument and the Convertible C Preference Loan Note Instrument.

Loan Notes means the Convertible A Preference Loan Notes and the Convertible C Preference Loan Notes.

Member means a person for the time being registered in the register of members of the Company as the holder of any Shares.

Member of the same group means, in relation to a body corporate, any other body corporate which is for the time being a holding company of that body corporate or a subsidiary of that body corporate or a subsidiary of any holding company of which that body corporate is also a subsidiary.

Mr Boon has the meaning given to it in the Investment Agreement.

Mr Simpson has the meaning given to it in the Investment Agreement.

Non Remediable Event of Default means any of the events described in (a), (b) or (c) of definition of Event of Default.

Paradigm means Paradigm Group BV a company registered in The Netherlands with number 30077474 whose registered office is at Ambachtsweg 7, 2964 LG Groot-Ammers, The Netherlands.

Permitted Issue means the issue of up to a maximum of:

- (a) 40,000 Redeemable C Shares to the Investors and Paradigm;
- (b) 5,000,000 A Preference Shares to an entity or entities approved by an A Shareholder Majority in satisfaction of the conversion in full of the Convertible A Preference Loan Notes; and
- (c) 5,000,000 C Preference Shares to an entity or entities approved by an Investor Majority in satisfaction of the conversion in full of the Convertible C Preference Loan Notes.

Permitted Transfer means a transfer of Shares permitted by Article 7.

Preference Shares means the 2015 Preference Shares, the A Preference Shares and the C Preference Shares.

Redeemable C Shares means the redeemable C ordinary shares of £0.01 each in the capital of the Company.

Redeemable C Shares Redemption Amount means an amount of £0.01 for each Redeemable C Share.

Reduced Shareholder Majority Consent means the prior written consent of an A Shareholder Majority and the prior written consent of the holder or holders of not less than 40% of the Redeemable C Shares for the time being in issue.

Remediable Event of Default means any of the events described in (d), (e) or (f) of definition of Event of Default.

SAEV means SAEV Guernsey Holdings Limited, a limited liability company incorporated under the laws of Guernsey, with company number 58038 whose principle office is at PO Box 255, Trafalgar Court, Les Banques, St. Peter Port, Guernsey, GY1 3QL.

SAEV Director means a director appointed in accordance with Article 13.1.3.

Sale has the meaning given to it in the Investment Agreement.

Shareholder Majority means an A Shareholder Majority and an Investor Majority.

Shareholder Majority Consent means the prior written consent of a Shareholder Majority.

Share(s) means share(s) in the capital of the Company of any class from time to time.

Significant Interest means a holding by either Investor of any Convertible A Preference Loan Notes, any Convertible C Preference Loan Notes or not less than 7.5% of the Equity Shares in issue.

Simpson Assignments has the meaning given to it in the Investment Agreement.

Specified Price means the amount per Share which is the same as that to which each Member holding Shares would be entitled if the total consideration payable by the proposed buyer for all the Shares was to be distributed to the Members holding Shares in accordance with the provisions of Article 3.2 expressed net of any transaction costs but subject to Article 10.3 in the case of Shares held by a Leaver and Transferred Shares.

Taxation means any payment in respect of or provision for corporation tax (including advance corporation tax or any applicable equivalent to corporation tax in the case of a jurisdiction outside the United Kingdom) and any other tax which may be imposed on or by reference to profits, gains, income or distributions.

Termination Date means:

- (a) where employment ceases by virtue of notice given by the employer to the employee, the date on which the notice of termination was served (whether or not a payment is made in lieu of notice of all or part of any notice period required to be given in respect of such termination);
- (b) where a contract of employment is terminated by the employee by giving notice to the employer, the date of that notice;
- (c) where the employee concerned is a director, the earlier of the date upon which he ceases to be a director of the relevant Group Company and the date upon which any contract for the provision of his services with or to the relevant company is terminated;
- (d) where an employer or employee or consultant wrongfully repudiates the contract of employment or contract for services and the other party to the contract accepts that the contract of employment or contract for services has been terminated, the date of such acceptance;
- (e) where a contract of employment is terminated under the doctrine of frustration, the date of the frustrating event; and
- (f) where a contract of employment, contract for services or directorship is terminated for any reason other than in the circumstances set out in paragraphs (a) to (e) above, the date on which the action or event giving rise to the termination occurs.

Transfer Notice means a notice given or deemed to have been given in relation to any Shares as specified in Article 8.

Valuers means the Auditors other than where:

- (a) a report on Fair Value is to be made pursuant to a Deemed Transfer Notice and, within 10 Business Days after the date of the Deemed Transfer Notice, the Vendor notifies the Board in writing that it objects to the Auditors making that report; or
- (b) the Auditors decline an instruction to report on Fair Value

when the Valuers for the purpose of that report shall be a firm of chartered accountants agreed between the Vendor and the Board or, in default of agreement within 20 Business Days after the event referred to in (a) or (b) above, nominated by the President of the Institute of Chartered Accountants in Scotland on the application of the Vendor or the Board and appointed following such nomination by the Board.

Vendor has the meaning given to it in Article 8.2.1.

- 1.2 The Regulations contained in the model articles for private companies limited by shares contained in Schedule 1 of The Companies (Model Articles) Regulations 2008 as amended prior to the date of these Articles (**Model Articles**) shall apply to the Company save insofar as they are excluded or varied by or are inconsistent with these Articles and such Regulations (save as so excluded, varied or inconsistent) and these Articles shall be the regulations of the Company.
- 1.3 Regulations 7, 8, 11(2), 11(3), 12, 13, 14(1) to 14(4) (inclusive), 15, 17(1), 18, 22(1), 22(2), 38, 48 and 51 to 53 (inclusive) of the Model Articles shall not apply to the Company.
- 1.4 In Regulation 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 1.5 Regulations 31(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide".
- 1.6 Regulation 44(3) of the Model Articles 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 Regulation.
- 1.7 In these Articles, where the context admits:
 - 1.7.1 reference to a gender includes the other gender, and reference to the singular includes the plural and vice versa; and
 - 1.7.2 headings are for ease of reference only and shall not affect the construction or interpretation of these Articles.
 - 1.7.3 words and phrases which have particular meanings in the Model Articles shall have the same meanings in these Articles unless they are already defined within these Articles or the context otherwise requires;

1.7.4 subject to 1.7.3 above or unless the context otherwise requires, words and phrases which have particular meanings in the Act shall have the same meanings in these Articles unless they are already defined within these Articles or the context otherwise requires but with reference to the interpretation of a "holding company" and "subsidiary", a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c) of the Act, as a member of another company even if its shares in that other company are registered in the name of (i) another person (or its nominee), whether by way of security or in connection with the taking of security, or (ii) its nominee (and unless the context otherwise requires, the application of the definition of "holding company" or "subsidiary" to any company at any time shall apply to the company as it is at that time).

1.8 References in these Articles to writing shall include any method of representing or reproducing words in a legible and non-transitory form.

2. SHARE CAPITAL

2.1 The issued share capital of the Company at Adoption Date is divided into:

2.1.1 16,238,690 2015 Preference Shares;

2.1.2 265,000 A Shares;

2.1.3 10,000 B Shares; and

2.1.4 435,000 Redeemable C Shares.

3. SHARE RIGHTS

The rights and restrictions attaching to the Preference Shares and the Equity Shares shall be as follows:

3.1 Dividends

3.1.1 The Board may at its discretion with Shareholder Majority Consent, pay dividends on the Equity Shares (pari passu as if the Equity Shares constituted one class of share and according to the amounts paid-up or credited as paid-up on such Equity Shares (disregarding any premium).

3.1.2 The Preference Shares shall not have any entitlement to dividends.

3.1.3 Notwithstanding any other provision of these Articles, the payment of any dividend or other distribution by the Company shall be subject to the Act.

3.2 **Capital**

3.2.1 On a return of capital on liquidation or capital reduction or other return or distribution of capital or assets, any capital or assets of the Company remaining after the payment of its liabilities for distribution among the Members shall be applied as follows:

- (a) first, in paying pari passu pro rata to each holder of the C Preference Shares £2 per C Preference Share;
- (b) second, in paying pari passu pro rata to each holder of the 2015 Preference Shares £2.404351 per 2015 Preference Share;
- (c) third, in paying pari passu pro rata to each holder of the A Preference Shares £3 per A Preference Share;
- (d) thereafter, in distributing the balance of such assets amongst the holders of the Equity Shares (pari passu as if they constituted one class of Share) in proportion to the aggregate number of the Equity Shares held by them respectively.

3.2.2 Neither the purchase price paid by the Company on a purchase by it of its own Shares nor the monies paid by it to redeem any of its Shares shall be regarded as a return of capital for the purposes of this Article 3.2.

3.2.3 Upon a Sale which is a sale of Shares, notwithstanding any term to the contrary of such Sale (unless all of the Members immediately prior to the Sale have agreed in writing to the contrary expressly for the purposes of this provision and, where applicable for the purposes of Article 10 or Article 11) the Members who sell Shares (irrespective of class) in such a Sale shall only be entitled to share in the proceeds of the Sale as if the same amount had been distributed to those Members in the manner and order of priority set out under the above provisions of this Article 3.2 and the Directors shall refuse to register any transfer of any such Shares (irrespective of class) unless the sale proceeds are so distributed.

3.3 **Voting**

3.3.1 Subject to Article 3.3.2 and 3.3.3, the holders of the Equity Shares shall be entitled to receive notice of and to attend and speak at any general meeting of the Company and such holders who (being individuals) are present in person or by proxy or (being a corporation) are present by duly authorised representatives or by proxy shall, on a show of hands, have one vote each, and on a poll shall have one vote each for every Equity Share held.

- 3.3.2 The holders of the Preference Shares shall be entitled to receive notice of and to attend and speak but not vote at any general meeting of the Company.
- 3.3.3 Subject to Article 3.3.4, if, at the date of any general meeting or the circulation date of any written resolution, an Event of Default has occurred or is subsisting the number of voting rights attaching to the Redeemable C Shares (as a class) shall be such number as is equal to 95% of the total voting rights attaching to all Shares at that meeting (calculated after the application of this Article 3.3.3) (**Enhanced Voting Rights**).
- 3.3.4 Enhanced Voting Rights shall be exercisable only in accordance with and subject to the following terms of this Article 3.3.4:
- (a) an Investor Majority shall have first given written notice to the Company and to each of the Members (an **Activation Notice**) giving reasonable details of the Event of Default;
 - (b) where the Event of Default is a Remediable Event of Default, the Activation Notice shall specify a date not earlier than 20 Business Days from the date of service of the Activation Notice (the **Remediation Date**) on or before which the Remediable Event of Default is to be remedied;
 - (c) where the Event of Default is a Non Remediable Event of Default, Enhanced Voting Rights shall attach to the Redeemable C Shares with effect from the date of service of the Activation Notice;
 - (d) where the Event of Default is a Remediable Event of Default which is not remedied by the Remediation Date, Enhanced Voting Rights shall attach to the Redeemable C Shares with effect from the Remediation Date;
 - (e) where a Remediable Event of Default has been remedied by the Remediation Date Enhanced Voting Rights shall not attach to the Redeemable C Shares;
 - (f) once attached Enhanced Voting Rights shall remain attached:
 - (i) for so long as the relevant Event of Default continues to subsist; or
 - (ii) until such matter is waived or otherwise remedied to the reasonable satisfaction, confirmed in writing, of an Investor Majority; or
 - (iii) the Activation Notice shall have been revoked in writing by an Investor Majority,

whereupon the voting rights attached to the Redeemable C Shares shall be as provided for in Article 3.3.1 unless and until Enhanced Voting Rights shall become exercisable pursuant to the service of a further Activation Notice in accordance with this Article 3.3.4.

3.4 Redemption of Redeemable C Shares

- 3.4.1 Subject to the provisions of the Act and these Articles, on the date of payment of the Convertible C Preference Loan Notes Redemption Amount the Company shall be entitled to redeem all of the Redeemable C Shares then in issue.
- 3.4.2 On the date the Company exercises its entitlement to redeem the Redeemable C Shares, the Redeemable C Shares Redemption Amount shall become a debt due and payable by the Company to the holders of the Redeemable C Shares, whether or not the Company has sufficient profits available for distribution or other requisite funds to pay the same.
- 3.4.3 The Redeemable C Shares Redemption Amount shall be paid to (or to the order of) each holder of Redeemable C Shares in respect of those Redeemable C Shares against receipt of the relevant share certificate (or an indemnity in a form which is reasonably satisfactory to the Board in respect of a share certificate which cannot be produced). *If a holder of Redeemable C Shares produces neither the share certificate nor a satisfactory indemnity, the Company may retain the Redeemable C Shares Redemption Amount due to that holder pending delivery of the certificate or a satisfactory indemnity.*
- 3.4.4 If the Company is unable at any time to redeem in accordance with the Companies Acts the number of Redeemable C Shares then due to be redeemed pursuant to this Article 3.4, the Company shall redeem on the date fixed for redemption such number of Redeemable C Shares as it is then able to redeem in accordance with the Companies Acts and shall redeem the balance as soon as it is able to do so (and the Redeemable C Shares shall be redeemed pro rata as between the holders of the Redeemable C Shares).
- 3.4.5 The Company shall cancel the share certificates in respect of the redeemed Redeemable C Shares.

4. VARIATION OF RIGHTS

- 4.1 Whenever the capital of the Company is divided into different classes of Shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding-up, only with the consent in writing of the holders of 75% or more of the issued Shares of that class, or with the sanction of a special

resolution passed at a separate general meeting of the holders of that class of Share, but not otherwise. Any attempt to vary the rights of the Preference Shares and the Equity Shares other than in accordance with this Article 4 shall be void and have no effect.

4.2 Without prejudice to the provisions of Article 4.1, the special rights attached to the Preference Shares and the Equity Shares shall be deemed to be varied by any of the following unless Shareholder Majority Consent is obtained to the contrary:

4.2.1 any alteration of these Articles;

4.2.2 the application by way of capitalisation of any sum in or towards paying up any share or loan capital of the Company;

4.2.3 the redemption or cancellation of any Shares (other than in accordance with these Articles);

4.2.4 an increase, reduction or other alteration (including any sub-division or consolidation or redenomination of Shares or any allotment of any Share, whether conditional or otherwise) of any Shares or the creation of any new class of Shares or a variation in the rights attaching to any class of such Shares (but excluding any increase, reduction or alteration arising out of:

(a) a redemption of Shares in accordance with these Articles; or

(b) a Permitted Issue);

4.2.5 the grant of an option or other right to subscribe for Shares or the issue of any securities or instruments convertible into Shares;

4.2.6 the creation by the Company of any mortgage, charge, pledge, lien, encumbrance or other security interest (excluding an interest arising by operation of law in the ordinary course of business);

4.2.7 the acquisition of any interest in any share or loan stock in the capital of the Company;

4.2.8 any alteration to the accounting reference date of the Company;

4.2.9 the making of any material change (including cessation) in the nature of the business of the Company;

4.2.10 the transfer of Shares in breach of the transfer provisions in these Articles;

4.2.11 the declaration or payment of any dividend or the making or any other distribution in respect of the profits, assets or reserves of the Company other than as permitted by these Articles;

- 4.2.12 the institution of any proceedings for, or the passing of any resolution for, the winding up or administration of the Company;
- 4.2.13 the removal of any Investor Director otherwise than in accordance with the Investment Agreement;
- 4.2.14 the entry into of any agreement with the Auditors purporting to limit or exclude the Auditor's liabilities; or
- 4.2.15 the Company and/or the Directors are in breach of clause 7 of the Investment Agreement (Restrictions).

5. FURTHER ISSUES OF SHARES

5.1 Otherwise than in respect of a Permitted Issue, the Directors shall not exercise any power to issue or allot Shares or to grant rights to subscribe for, or to convert any security into, any Shares (**New Shares**) unless such issue, allotment and/or grant (i) receives Reduced Shareholder Majority Consent; and (ii) is made in accordance with this Article 5.

5.2 No New Shares will be issued and/or allotted unless each Member with rights under this Article 5 has first been given an opportunity which shall remain open for not less than 10 (ten) Business Days (the date at the end of such chosen period being the **End Date**) to subscribe, at the same time and on the same terms, for its Relevant Entitlement of the New Shares (and in the case of a stapled security, the offer must be conditional upon such Member agreeing to subscribe for the stapled security, and not the equity share component only). Such opportunity shall be offered to each of such Members in the form of a written notice from the Company (the **New Issue Notice**).

5.3 For the purposes of this Article 5, **Relevant Entitlement** shall mean, (i) in respect of the issue and allotment of Equity Shares (including any other class of ordinary shares in issue from time to time), pro rata to each holder of Equity Shares' holding of Equity Shares; and (ii) in respect of the issue and allotment of Preference Shares (including any other class of preferred shares in issue from time to time), pro rata to each holder of Preference Shares' holding of Preference Shares, calculated on an as converted basis (including, for the avoidance of doubt, the conversion in full of the Loan Notes so that any holder of Loan Notes shall be deemed holders of an equal number of Preference Shares).

5.4 The New Issue Notice shall specify:

- 5.4.1 the total number of New Shares to be issued;
- 5.4.2 the Relevant Entitlement of each Member; and
- 5.4.3 the subscription price of each New Share.

5.5 If and to the extent that a Member wishes to subscribe for any or all of its Relevant Entitlement, it shall give notice in writing to the Company at its registered office on or before the End Date, failing which the Member shall be deemed to have declined to subscribe for its Relevant Entitlement in connection with the New Issue Notice. Any notice given in writing by a Member pursuant to this Article 5.5 shall be irrevocable.

5.6 If by 5 p.m. London time on the End Date, the Company has not received notice in writing in respect of all of the New Shares (the New Shares in respect of which no notice has been received being the **Excess Shares**), the Board shall offer such Excess Shares to the Members who have given notice in writing to the Company under Article 5.5. Such Members shall be given a further reasonable period of time (being not less than 5 (five) Business Days, the date at the end of such chosen period being the **Second End Date**) to apply to subscribe for such number of the Excess Shares as they wish and on the same terms on which they subscribed for the New Shares pursuant to the New Issue Notice (and if the requests exceed the number of Excess Shares they shall be allocated pro rata to each requesting Member's Relevant Entitlement provided that no Member may be allocated more than the maximum number of Excess Shares applied for by it).

5.7 Within 5 (five) Business Days of the End Date or, if there is one, the Second End Date, the Company shall notify each Member of:

5.7.1 the number and price of the New Shares (and Excess Shares, as applicable) which that Member has committed to subscribe for; and

5.7.2 the place and time, being the date 20 (twenty) Business Days after the date the notice gives pursuant to this Article 5.7, on which the subscription is to be completed and the account details for the electronic transfer of the required subscription monies..

5.8 Save as otherwise required by law or provided in these Articles, the Company shall not be compelled to recognise any equitable, contingent, future or partial interest in any Share or any fraction of a Share, except the absolute right of the registered holder to the entirety of such interest.

6. **TRANSFER OF SHARES**

6.1 General

6.1.1 For the purposes of these Articles the expression 'transfer' in relation to Shares shall be deemed (without limitation) to include:

- (a) any disposition of the legal, beneficial or equitable interest in a Share;
- (b) the grant of any security interest over any Share; and

- (c) any direction (whether by way of renunciation or otherwise) by a person entitled to an allotment or transfer of Shares that any Share be allotted or issued or transferred to some other person.
- 6.1.2 Without prejudice to the provisions of Regulation 26 of the Model Articles (as modified hereby) but notwithstanding any other provision of these Articles, the Directors shall not register any transfer of Shares:
 - (a) except pursuant to a transfer permitted by or made in accordance with these Articles; and
 - (b) unless the proposed transferee has entered into a Deed of Adherence.
- 6.1.3 Without prejudice to the provisions of Regulation 26 of the Model Articles (as modified hereby), the Directors may, in their absolute discretion, decline to register the transfer of any Shares to any person who, in the opinion of a Shareholder Majority acting reasonably, is carrying on business directly or indirectly in competition with the Company, except that this restriction will not apply to any transfers pursuant to Articles 10 or 11.
- 6.1.4 Without prejudice to the provisions of Regulation 26 of the Model Articles (as modified hereby), the Directors shall decline to register the transfer of, save with Investor Consent or in respect of a Permitted Transfer, any A Share or B Share unless:
 - (a) all the *Convertible C Preference Loan Notes* have been redeemed in accordance with the *Convertible C Preference Loan Note Instrument*; and
 - (b) all Redeemable C Shares have been redeemed in accordance with these Articles.
- 6.1.5 For the purpose of ensuring that a particular transfer of Shares is permitted under these Articles and/or is not being made in contravention of these Articles (including, without limitation, having regard to Articles 7, 8 and 10) the Directors may, from time to time, require:
 - (a) the transferor, or the person named as the transferee in any transfer lodged for registration;
 - (b) any Member;
 - (c) the legal personal representatives of any deceased Member;
 - (d) the trustee in bankruptcy of any Member; or
 - (e) the receiver, administrative receiver or liquidator of any corporate Member;

to furnish to the Company such information and evidence as the Directors may think fit regarding any matter which they may deem relevant to such purpose.

6.1.6 Where such information or evidence as is referred to in Article 6.1.5 above:

(a) is not furnished to the satisfaction of the Directors within 15 Business Days after their request, the Directors shall be entitled to refuse to register the transfer in question or, in a case where no transfer is in question, may resolve to require by notice in writing that a Transfer Notice be given in respect of the Shares concerned; or

(b) discloses that circumstances have arisen whereby a Member is bound to give, or is deemed to have given, a Transfer Notice, the Directors may resolve, by notice in writing, to require that a Transfer Notice be given in respect of the Shares concerned and a resolution of the Directors hereunder shall be binding upon the Member concerned who shall be bound to give a Transfer Notice in respect of the Shares concerned immediately upon receipt of such notice from the Directors.

6.1.7 In any case where the Directors have duly required a Transfer Notice to be given in respect of any Shares, and such Transfer Notice is not duly given within a period of one week, such Transfer Notice shall be deemed to have been given at the expiry of the said period, and the provisions of these Articles relating to Transfer Notices shall take effect accordingly.

6.1.8 A Transfer Notice given or deemed to be given pursuant to this Article 6 or Article 9 may not be revoked, nor may it contain any condition that unless all relevant Shares are sold by the Company pursuant to the Transfer Notice, none shall be so sold. Save as provided to the contrary in this Article 6 or Article 9, the provisions of Article 8 shall apply to any Transfer Notice given or deemed to be given under or pursuant to this Article 6 or Article 9.

6.1.9 In any case where a Member or his personal representatives has/have been required to give or has been deemed to have given a Transfer Notice pursuant to the provisions of this Article and subsequently becomes the holder of further Shares by virtue of the holding of any Shares comprised in such Transfer Notice (whether by way of rights or bonus issue, conversion, transfer or otherwise howsoever), such Member or his personal representatives, as appropriate, shall be deemed to have served a Transfer Notice pursuant to this Article 6 in respect of such further Shares.

6.1.10 Where any Shares are the subject of a Transfer Notice, no transfer of any such Shares shall be permitted pursuant to Article 7.

7. PERMITTED TRANSFERS

7.1 Transfers by the Investor

Notwithstanding Regulation 26(5) of the Model Articles or any other provision in these Articles the following transfers of Shares held by the Investors may be made by the Investors without restriction as to price or otherwise and any such transfers shall be registered by the Directors:

- 7.1.1 a transfer to the beneficial owner or owners in respect of which the relevant Investor is/are a trustee or nominee or custodian or to any other trustee or nominee or custodian for such beneficial owner or owners; or
- 7.1.2 a transfer to another Investment Fund which is managed or advised by the same manager or adviser as the relevant Investor or by a manager or adviser which is a member of the same group as the relevant Investors' manager or adviser; or
- 7.1.3 a transfer to any unitholder, shareholder, partner (including any person to whom such partner may have assigned its partnership interest or any interest therein) participant, manager or adviser (or an officer or employee, past or present, of such partner, participant, manager or adviser) (each a **Relevant Participant**), or any Relevant Participant of any Relevant Participant in or of the relevant Investor or of any Investment Fund, collective investment agreement or any co-investment scheme in respect of which the relevant Investor or any Associate of it is a nominee or custodian, or to any manager, administrator or advisor of it or of any such fund or scheme which otherwise co-invests with the relevant Investor; or
- 7.1.4 a transfer to any custodian, nominee, other person so authorised or any Associate of the relevant Investor or of any of the persons referred to in Articles 7.1.1 to 7.1.3.

7.2 Transfers within groups of companies

- 7.2.1 Any Member which is a body corporate may at any time transfer any Shares held by it to a Member of the same group.
- 7.2.2 Where Shares have been transferred under Article 7.2.1 (whether directly or by a series of such transfers) from a Member (a **Transferor**, which expression shall not include a second or subsequent transferor in such a series of transfers) to a Member of the same group (the **Transferee**) as the Transferor and subsequently the Transferee ceases to be a Member of the same group as the Transferor, the Transferee shall immediately transfer all the Shares held by it to the Transferor, for such consideration as they agree, within 10 Business Days of the cessation, or, failing such transfer within that period, shall during the remainder of the 15 Business Day period after the cessation, give a Transfer Notice in respect of all of the Shares then held by the Transferee.

7.3 Transfers with consent

Notwithstanding Regulation 26(5) of the Model Articles or any other provisions of these Articles a transfer of any Shares which has with Shareholder Majority Consent may be made without restriction as to price or otherwise and any such transfer shall be registered by the Directors.

7.4 Transfers made pursuant to Article 9 (Mandatory Transfers), Article 10 (Tag Along Rights) and Article 11 (Drag Rights) shall be deemed Permitted Transfers and shall not require Shareholder Majority Consent save as expressly provided for in those Articles.

8. PRE-EMPTION RIGHTS

8.1 Notwithstanding the following provisions of this Article 8, save for Permitted Transfers or any transfer pursuant to a Transfer Notice which if not pre-empted in terms of this Article 8 could result in a transfer pursuant to Article 11 (Drag Rights), no Shares may be transferred (or offered for transfer) without Shareholder Majority Consent.

8.2 Transfer Notice

8.2.1 Save as provided in Article 7 (Permitted Transfers) or Article 9 (Mandatory Transfers) or where Article 10 (Tag Along Rights) or Article 11 (Drag Rights) apply, every Member who desires to transfer Shares (*the Vendor*) shall give the Company written notice (a **Transfer Notice**) intimating that such Member wishes to transfer Shares. Where the Transfer Notice is deemed to have been given pursuant to these Articles it is referred to as a **Deemed Transfer Notice**. Transfer Notices and Deemed Transfer Notices shall constitute the Directors as the Vendor's agent for the sale of all (unless Shareholder Majority Consent shall be obtained for the sale of some only) of the Shares held by the Vendor (*the Sale Shares*) at the price per Sale Share (*the Sale Price*) set out therein or as determined in accordance with Article 8.3 below (as the case may be).

8.2.2 In the case where there is a third party to whom the Vendor proposes to sell the Sale Shares (**Third Party Purchaser**), the Transfer Notice must specify:

- (a) the name of the Third Party Purchaser; and
- (b) the Sale Price which the Third Party Purchaser has offered the Vendor.

8.2.3 In the case where there is no Third Party Purchaser the Sale Price shall be determined in accordance with Article 8.3 below.

8.3 Calculation of the Sale Price

8.3.1 Subject to Article 9 in relation to Mandatory Transfers, the Sale Price of the Sale Shares for which there is no Third Party Purchaser shall be such price as may be

agreed on an arms' length basis between the Board and the Vendor and in the absence of such agreement, shall be Fair Value as determined in accordance with Article 8.3.2.

8.3.2 The Fair Value shall be determined by the Valuers. The Valuers shall act as experts and not as arbitrators and their determination shall be final and binding. The terms of appointment of the Valuers shall be determined by the Board acting reasonably. The costs of the Valuers shall be payable by the Company unless the Board (with Shareholder Majority Consent) has offered a price for the Shares which has not been accepted by the Vendor and the Fair Value is determined to be equal to or less than that price, in which case, the costs of the Valuers shall be borne by the Vendor.

8.3.3 In determining the Fair Value, the Valuers shall first calculate the value of the Company as a whole:

- (a) assuming if the Company is then carrying on business as a going concern, that it will continue to do so;
- (b) assuming that the entire issued share capital of the Company is being sold as between a willing buyer and a willing seller by arm's length private treaty for cash payable in full on completion;
- (c) taking account of any bona fide offer for the Company received from an unconnected third party within six months of the Transfer Notice being served or deemed to have been served; and
- (d) on the assumption that the Sale Shares are capable of transfer without restriction.

Having valued the Company as a whole, the Valuers shall determine the Fair Value of the Shares concerned without applying any discount for a minority interest.

8.4 **Transfer Notice Irrevocable**

In the case of a Transfer Notice other than a Deemed Transfer Notice, once given a Transfer Notice shall be irrevocable.

8.5 **Offer Notice**

8.5.1 The Company shall give notice (an **Offer Notice**) in writing to each of the Members who are on the Register of Members at the close of business on the date that the Transfer Notice is received by the Company (other than the Vendor or any other Member who has served or who is deemed to have served a Transfer Notice which is still outstanding) (a **Relevant Member**) informing them that the Sale Shares are available and of the Sale Price and shall invite him to state in writing within 20

Business Days from the date of the said notice whether he is willing to purchase any and, if so, how many of the Sale Shares.

8.5.2 An Offer Notice shall:

- (a) specify the Sale Price; and
- (b) invite the relevant Members to apply in writing, before expiry of the Offer Notice, to purchase Sale Shares.

8.5.3 Sale Shares of a particular class specified in column (1) in the table below shall be treated as offered:

- (a) in the first instance to all persons in the category set out in the corresponding line of column (2) in the table below; and
- (b) to the extent not accepted by persons in column (2), to all persons in the category set out in the corresponding line in column (3) in the table below

but no Share shall be treated as offered to the Vendor or any other Member who is then bound to give or deemed to have given a Transfer Notice in relation to which the procedures in these Articles have not been completed.

(1) Class of Sale Shares	(2) Offered first to	(3) Offered secondly to	(3) Offered thirdly to
A Preference Shares	Members holding A Preference Shares	Members holding C Preference Shares	Members holding Equity Shares
C Preference Shares	Members holding C Preference Shares	Members holding A Preference Shares	Members holding Equity Shares
A Shares	Members holding A Shares	Members holding Redeemable C Shares	-
B Shares	Members holding B Shares	Members holding A Shares	-
Redeemable C Shares	Members holding Redeemable C Shares	Members holding A Shares	-

8.5.4 After expiry of the Offer Notice, the Board shall, in the priorities and in respect of each class of persons set out in the columns in the table in Article 8.5.3 allocate the Sale Shares in accordance with the applications received, subject to the other provisions of these Articles, save that:

- (a) if there are applications from any class of Members for more than the total number of Sale Shares available for that class of Members, they shall be

allocated to those applicants in proportion (as nearly as possible but without allocating to any Member more Sale Shares than the maximum number applied for by him) to the number of Shares of the relevant class then held by them respectively;

- (b) *if it is not possible to allocate Sale Shares without involving fractions, those fractions shall be aggregated and allocated amongst the applicants of the relevant class in such manner as the Board thinks fit.*

- 8.5.5 The Board shall, within 5 Business Days after expiry of the Offer Notice, give notice in writing (a **Sale Notice**) to the Vendor and to each person to whom Sale Shares have been allocated (each a **Purchaser**) specifying the name and address of each Purchaser, the number of Sale Shares allocated to him, the aggregate price payable for them, and the time for completion of each sale and purchase.
- 8.5.6 Completion of a sale and purchase of Sale Shares pursuant to a Sale Notice shall take place at the registered office of the Company at the time specified in the Sale Notice (being not less than 5 Business Days nor more than 20 Business Days after expiry of the Offer Notice, unless agreed otherwise in relation to any sale and purchase by both the Vendor and the Purchaser concerned) when the Vendor shall, upon payment to him by a Purchaser of the Sale Price in respect of the Sale Shares allocated to that Purchaser, transfer those Sale Shares and deliver the relative share certificates to that Purchaser.
- 8.5.7 If a Vendor fails to transfer any Sale Shares when required pursuant to this Article 8, the Board may authorise any person (who shall be deemed to be the attorney of the Vendor for the purpose) to execute the necessary transfer of such Sale Shares and deliver it on the Vendor's behalf. The Company may receive the purchase money for the Sale Shares from the Purchaser and shall, upon receipt of the duly stamped transfer, register the Purchaser as the holder of those Sale Shares. The Company shall hold the purchase money in a separate bank account on trust for the Vendor but shall not be bound to earn or pay interest on any money so held. The Company's receipt for the purchase money shall be a good discharge to the Purchaser (who shall not be concerned to see to the application of it). After the name of the Purchaser has been entered in the Register of Members in purported exercise of the power conferred by this Article 8.5.7, the validity of that exercise shall not be questioned by any person.
- 8.5.8 Any Equity Share transferred to a Member holding a different class of Equity Shares shall (without further authority than is herein contained being necessary) immediately on such transfer be deemed to have been converted into the class of

Equity Share already held by the transferee having all the rights, privileges and restrictions attaching to such class of Equity Shares.

8.5.9 In the case where there are both (i) Sale Shares for which a Sale Notice has not been given and (ii) a Third Party Purchaser, the Vendor may sell Sale Shares to the Third Party Purchaser at the Sale Share.

9. MANDATORY TRANSFERS

9.1 If the holder of B Shares is:

9.1.1 an employee of the Company who ceases for any reason (including death or bankruptcy) to be an employee of the Company (regardless of whether or not he is or remains a director or consultant of the Company), or

9.1.2 a director of the Company who ceases for any reason (including death, bankruptcy) to be a director of the Company, or

9.1.3 a consultant of the Company who ceases for any reason (including death or bankruptcy) to be a consultant of the Company (regardless of whether or not he is or remains an employee or director of the Company),

(each of the persons described above being a **Leaver**) then, unless the Board (with Shareholder Majority Consent) otherwise resolves within 30 Business Days following the Termination Date, a Transfer Notice shall be deemed to have been served:

- (a) on the date on which such 30 Business Days period expires in respect of:
 - (i) all or some of the Shares held by the Leaver; and
 - (ii) all or some of the Shares (**Transferred Shares**) which have been transferred by the Leaver in accordance with Article 9.1 above, together with any Shares which have been allotted in respect of Transferred Shares;
- (b) in respect of all Shares subsequently acquired by the Leaver and the holders of the Transferred Shares after the date of the deemed service of a Transfer Notice under this Article 9.1:
 - (i) by way of rights or bonus issue, conversion, transfer or otherwise; and/or
 - (ii) under any option scheme or other arrangement which was made prior to the Termination Date (and in this case the Transfer Notice will be deemed served on the date that such Shares are acquired by the Leaver or his transferees),

and the provisions of Article 8 and the following provisions of this Article 9 shall apply in relation to such Transfer Notices.

9.2 Unless the Board (with Shareholder Majority Consent) otherwise resolves, upon a person becoming a Leaver:

9.2.1 any Transfer Notice previously issued or deemed issued in relation to his Shares shall immediately be cancelled (unless all the Shares subject to it have already been sold) and no further Transfer Notice shall be issued or deemed to be issued in respect of such Shares (except under Article 9.1 above); and

9.2.2 none of the Shares which are the subject of the Deemed Transfer Notice shall entitle the transferor of such Shares to receive notice of, attend or vote at any general meeting of the Company or meeting of the holders of Shares of the same class and such Shares shall not be counted in determining the total number of votes which may be cast at any such meeting or for the purposes of a written resolution of any Members or class of Members provided that all Shares so disenfranchised shall on a transfer in accordance with this Article 9 or Article 10 or Article 11 be re-enfranchised.

9.3 In respect of a deemed Transfer Notice under this Article 9, the Sale Price for the Shares the subject of such Transfer Notice (the **Leaver Sale Price**) shall be:

9.3.1 where Mr Simpson is the Leaver, Fair Value and

9.3.2 where Mr Boon is the Leaver, £50 in aggregate.

9.4 The Fair Value shall be calculated as at the Termination Date. In the case of a mandatory transfer pursuant to Article 9.1.2, the Sale Price applicable to the relevant Sale Shares shall be the price that would have applied in accordance with these Articles had the Shares been the subject of a mandatory transfer on the Termination Date. In any particular case, the Board (with Shareholder Majority Consent) may agree with the transferor some price other than the Fair Value.

9.5 If a Leaver fails to transfer any shares the subject of a Deemed Transfer Notice when required pursuant to this Article 9, the Board may authorise any person (who shall be deemed to be the attorney of the Leaver for that purpose) to execute the necessary transfer of such shares and deliver it on the Leaver's behalf. The Company may receive the purchase money for the relevant shares from the Purchaser and shall, upon receipt of the duly stamped transfer, register the Purchaser as the holder of those shares. The Company shall hold the purchase money in a separate bank account on trust for the Leaver but shall not be bound to earn or pay interest on any money so held. The Company's receipt for the purchase money shall be a good discharge to the Purchaser (who shall not be concerned to see to the application of it). After the name of the Purchaser has been entered in the Register of

Members in purported exercise of the power conferred by this Article 9.5, the validity of that exercise shall not be questioned by any person.

- 9.6 Where a Leaver remains the holder of Shares for any reason, the price payable to the Leaver for all such Shares on any subsequent transfer of the Shares pursuant to these Articles shall not exceed the Leaver Sale Price, unless the Board (with Shareholder Majority Consent) agrees otherwise. Likewise, the price payable to any person holding Transferred Shares on any transfer of such shares pursuant to these Articles shall not exceed the Leaver Sale Price, unless the Board (with Shareholder Majority Consent) agrees otherwise.

10. TAG ALONG RIGHTS

- 10.1 If an A Shareholder Majority or an Investor Majority (as the case may be) (**Tag Seller**) wishes to accept an offer by a third party (not involving any Connected Person of a Member) to purchase more than 50% of the Equity Shares held by such Members (and, where applicable, the drag rights under Article 11 have not been exercised), the proposed buyer shall be required to make an offer (**Tag Offer**) to the holders of the A Shares or the Redeemable C Shares (whichever is not the Tag Seller) and the holders of the B Shares to purchase all of such Members' Shares (including any Shares which may be allotted pursuant to the exercise of conversion rights existence at the date of such offer) on the terms set out in this Article 10.

- 10.2 The Tag Offer will be made by written notice, accompanied by all documents which are required to be executed by the Members to give effect to the relevant transfer (**Tag Along Documents**) and shall:

10.2.1 be open for acceptance in the United Kingdom for at least 20 Business Days;

10.2.2 be on terms that the sale and purchase of Shares in respect of which the offer is accepted will be completed at the same time;

10.2.3 make provision for the redemption of the Loan Notes (to the extent not converted to Preference Shares) or, if the Company is unable lawfully to effect any such redemption, make provision for the purchase of such Loan Notes at the price at which they would have been redeemed;

10.2.4 make provision for the redemption of the Redeemable C Shares or, if the Company is unable lawfully to effect any such redemption, makes provision for the purchase of the Redeemable C Shares at the price at which they would have been redeemed;

10.2.5 specify the Specified Price;

10.2.6 specify the identity of the proposed buyer;

10.2.7specify the proposed place, date and time of completion of the sale and purchase of Shares and redemption or purchase (as the case may be) of any outstanding Loan Notes;

10.2.8specify any terms to which the Members are required to adhere; and

10.2.9specify the form of consideration (which must be in cash and/or listed securities).

10.3Any Member which wishes to accept the Tag Offer (**Accepting Member**) must serve an *irrevocable and unconditional notice on the proposed buyer and the Company confirming its acceptance of the Tag Offer (Acceptance Notice)*.

10.4The Acceptance Notice will make the Company the agent of the Accepting Member(s) for the sale of the Accepting Member's Shares on the terms of the Tag Offer, together with all rights attached and free from encumbrances.

10.5On completion of the Tag Offer, each Accepting Member will deliver duly executed Tag Along Documents in respect of his Shares and/or Loan Notes (as the case may be) to the Company against payment by the proposed buyer.

10.6Notwithstanding the foregoing provisions of this Article 10, where Mr Simpson is an Accepting Member he shall be bound to grant warranties (a) as to full and unencumbered title to the his Shares and (b) that his Shares are not effected by any conditions other than in terms of the Articles but, save as above, he shall not be obliged to give any other covenants, warranties, indemnities or guarantees in respect of his Shares.

11. **DRAG RIGHTS**

11.1Subject to Article 8 but notwithstanding any other provision of these Articles, if a Drag Qualifying Offer is received by an A Shareholder Majority or an Investor Majority, then an A Shareholder Majority or an Investor Majority (as the case may be) shall have the right (the **Drag Right**) to require (in the manner set out in Article 11.2) all of the other Members (the **Called Shareholders**) to accept the Drag Qualifying Offer in full and to sell and transfer all of their Shares (irrespective of class) to the proposed buyer (or as the proposed buyer shall direct) free from all encumbrances and together with all rights attaching to them in accordance with this Article 11.

11.2In order to exercise the Drag Right, written notice of the exercise of the Drag Right (the **Drag Notice**) must be given to the Called Shareholders at the same time as, or within 5 Business Days following the making of the Drag Qualifying Offer by the third party buyer. The Drag Notice will be accompanied by all documents which are required to be executed by the Called Shareholders to give effect to the relevant transfer (**Drag Along Documents**) and shall include the following information:

11.2.1the Specified Price;

- 11.2.2 the identity of the proposed buyer;
 - 11.2.3 the proposed place, date and time of completion of the sale and purchase of Shares and redemption or purchase (as the case may be) of any outstanding Loan Notes;
 - 11.2.4 any terms to which the Members are required to adhere; and
 - 11.2.5 the form of consideration (which must be in cash and/or listed securities).
- 11.3 On receipt of the Drag Notice, each of the Called Shareholders will be bound to accept the Drag Qualifying Offer in respect of its entire holding of Shares and to comply with the obligations assumed by it by virtue of such acceptance.
- 11.4 On completion of the Drag Qualifying Offer, each Called Shareholder will deliver duly executed Drag Along Documents in respect of his Shares and/or Loan Notes (as the case may be) to the Company against payment by the proposed buyer.
- 11.5 If any Called Shareholder fails to transfer any of the Shares held by it in accordance with this Article or otherwise fails to take any action required of it under the terms of the Drag Qualifying Offer:
- 11.5.1 such defaulting Called Shareholder will be deemed to have irrevocably appointed any person so nominated by the Board to be his agent to undertake any action required under the terms of the Drag Qualifying Offer on the part of that Called Shareholder; including (without limitation):
 - (a) accepting such Drag Qualifying Offer on behalf of the Called Shareholder in question;
 - (b) executing the necessary transfer(s) of the relevant Shares on behalf of the Called Shareholder in question; and
 - (c) subject to receipt by the Company (on trust for the relevant Called Shareholder) of the purchase monies or any other consideration payable for the relevant Shares and compliance by the proposed buyer with the other terms of the relevant Drag Qualifying Offer, delivering the transfer(s) of the relevant Shares to the Buyer,
 - 11.5.2 the Company shall if so required by the proposed buyer or a Shareholder Majority receive on trust for the relevant Called Shareholder the purchase monies or any other consideration payable for the relevant Shares and give the proposed buyer a good discharge for the same on behalf of the relevant Called Shareholder and shall enter the name of the proposed buyer in the Register of Members as the holder of such of the Shares as have been transferred to it subject only to such transfer having been duly stamped.

After registration, the title of the proposed buyer (or its nominee) as registered holder of such Shares will not be affected by any irregularity in, or invalidity of such proceedings, which will not be questioned by any person. The Company shall procure that the consideration is held on trust for the Called Shareholder until the Called Shareholder shall deliver up the certificates for the relevant Shares to the Company (or an indemnity in respect of such certificates reasonably satisfactory to the Company) whereupon the Company shall pay over the consideration to the Called Shareholder. The Company shall have no liability to pay or account for any interest on the consideration.

11.6 Any transfer of Shares made by the Members in accordance with this Article 11 will not be subject to any other restrictions on transfer contained in these Articles.

11.7 Notwithstanding the foregoing provisions of this Article 11, where Mr Simpson is a Called Shareholder he shall be bound to grant warranties (a) as to full and unencumbered title to the his Shares and (b) that his Shares are not effected by any conditions other than in terms of the Articles but, save as above, he shall not be obliged to give any other covenants, warranties, indemnities or guarantees in respect of his Shares.

12. GENERAL MEETINGS and CLASS MEETINGS

12.1 Quorum

12.1.1 No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Subject to Article 12.1.2 and 12.1.3, the quorum at any general meeting shall be two persons, being Members present in person or by proxy or by duly authorised representative of a corporation.

12.1.2 For so long as there are any A Shares in issue, there shall be no quorum at a general meeting unless an A Shareholder Majority shall be present in person or by proxy or by duly authorised representative(s).

12.1.3 For so long as there are any Investor Shares in issue, there shall be no quorum at a general meeting unless an Investor Majority shall be present in person or by proxy or by duly authorised representative(s).

12.1.4 If no quorum is present at a general meeting then the meeting shall stand adjourned for a period of not less than 5 Business Days to such time and place as the Board shall agree and notify to the Members. If at the continuation of an adjourned general meeting a quorum is again not present then the meeting shall stand adjourned for a period of not less than 5 Business Days to such time and place as the Board shall agree and notify to the Members. If at the further continuation of an adjourned

general meeting a quorum is still not present the Members then present in person or by proxy or by duly authorised representative shall constitute a quorum.

12.1.5 If and for so long as the Company has only one Member, that Member present in person or by proxy, or, if that Member is a corporation, by a duly authorised representative, shall be a quorum.

12.2 Proxies

An instrument appointing a proxy shall be effective if such appointment is brought to the attention of the chairman of the meeting at any time prior to the taking of any vote (whether on a show of hands or on a poll) (including after the commencement of the meeting). A proxy shall be entitled to vote on a show of hands. Where a Member entitled to vote on a resolution has duly appointed more than one proxy, all such proxies taken together shall have the same number of votes on a show of hands as the Member who appointed them would have if it/he were present at the meeting.

12.3 Directors rights

A Director shall not be required to hold any share qualification, but nevertheless shall be entitled to attend and speak at any general meeting of the Company and at any separate general meeting of the holders of any class of Shares.

12.4 Class meetings

At meetings of the Members of one class of Shares for the purposes of Article 4 or otherwise, all of the provisions of these Articles relating to general meetings of the Company or to the proceedings thereat shall, mutatis mutandis, apply.

13. DIRECTORS

13.1 Appointment

13.1.1 An A Shareholder Majority shall have the right from time to time to appoint 3 persons to act as a director of the Company (each an **A Director**) and to remove any director so appointed from office and upon his removal to appoint another person to act as a director in his place.

13.1.2 For as long as Buckthorn holds a Significant Interest, Buckthorn shall have the right from time to time to appoint 1 person to act as non-executive director of the Company (each a **Buckthorn Director**) and to remove any director so appointed from office and upon his removal to appoint another person to act as a director in his place.

13.1.3 For as long as SAEV holds a Significant Interest, SAEV shall have the right from time to time to appoint 1 person to act as non-executive director of the Company (each a

SAEV Director) and to remove any director so appointed from office and upon his removal to appoint another person to act as a director in his place.

13.1.4 Subject to Article 13.1.5, in the event that, and for as long as, either Investor has an interest as debt provider to or Shareholder in the Company both of which do not comprise a Significant Interest, that Investor shall have the right from time to time to appoint 1 person to act as an observer to the board of the Company and to remove *any observer so appointed from office and upon his removal to appoint another person to act as an observer in his place.*

13.1.5 In the event that, and for as long as, both Investors have an interest as debt provider to or Shareholder in the Company both of which do not comprise a Significant Interest, the Investors shall together have the right from time to time to appoint 1 person to act as non-executive director of the Company and 1 person to act as an observer to the board of the Company and to remove any director and/or observer so appointed from office and upon his removal to appoint another person to act as a director and/or observer, as the case may be, in his place.

13.1.6 The number of directors to be appointed to the Company shall be a maximum of 5.

13.1.7 An A Director shall not be removed except with the prior written consent of an A Shareholder Majority.

13.1.8 A Buckthorn Director shall not be removed except with the prior written consent of Buckthorn.

13.1.9 A SAEV Director shall not be removed except with the prior written consent of SAEV.

13.1.10 A director appointed in accordance with Article 13.1.5 shall not be removed except with the prior written consent of both Investors.

13.1.11 For so long as an individual holds office as a director, the Company undertakes to pay him all reasonable out-of-pocket expenses properly and necessarily incurred by him whilst engaged on business of the Company.

13.2 Proceedings of directors

13.2.1 At a Board Meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

13.2.2 The quorum for the transaction of business at a Board Meeting shall be any three directors, however, a Board Meeting shall not be quorate (and accordingly no business shall be transacted thereat) unless an Investor Director is present (where one has been appointed).

13.2.3 If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision:

- (a) to appoint further directors, or
- (b) to call a general meeting so as to enable the Shareholders to appoint further directors.

13.2.4 The holders of A Shares may by notice in writing to the Company appoint one of the A Directors to act as chairman of the Board (**Chairman**), provided however that a "two strikes" policy shall apply and an Investor Majority shall be entitled to refuse to approve up to two people as Chairman in relation to the appointment of any Chairman.

13.2.5 Subject to having first obtained the prior written consent of an A Shareholder Majority (which consent shall not be unreasonably withheld or delayed) the holders of Redeemable C Shares may by notice in writing to the Company appoint one person to act as the Company's finance director or controller (**CFO**). The CFO shall not be removed except with the consent of an Investor Majority. For the avoidance of doubt, the CFO will not be a director.

13.2.6 All decisions made at any meeting of the directors shall be made only by resolution and resolutions at any meeting of the directors shall be decided by a majority of votes.

13.2.7 A decision of the Board may take the form of a resolution in writing, where each director has signed one or more copies of it, or to which each director has otherwise indicated agreement in writing.

13.2.8 At any Board Meeting:

- (a) each director shall be entitled to one vote; and
- (b) the Chairman shall not have a casting vote.

13.2.9 Not fewer than 10 Business Days' notice of each Board Meeting together with the agenda for the meeting and all supporting papers, shall be given to each Investor Director. Any matter which was not specifically listed or disclosed in such agenda may not be discussed at the Board Meeting unless an Investor Director agrees in writing (or waives this restriction in writing).

13.2.10 Notwithstanding Article 13.2.9, the directors may agree (with Investor Consent) to a shorter period of notice for a Board Meeting.

13.2.11 The Company and the Executives acknowledge that any Investor Director will act in accordance with his legal and general responsibilities as a director rather than in his

capacity as a nominee of the Investor and accordingly they recognise that any Investor Director is not authorised by the Investor to give investment advice to the Company and any investment advice sought by the Company from the Investor should be the subject of a separate formal approach to the Investor.

14. TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY

14.1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(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 (**Conflicted Director**) who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company (**Conflict Situation**):

14.1.1 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;

14.1.2 shall be an Eligible Director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested;

14.1.3 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 contract or proposed contract in which he is interested;

14.1.4 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;

14.1.5 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

14.1.6 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 contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, 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.

Directors' conflict of interest

14.2 For the purposes of Section 175 of the Act (**S.175**), the Directors shall have the power to authorise any matter proposed to them in accordance with these Articles which would, if not so authorised, involve a breach of the duty of a Director under S.175 to avoid a situation in

which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company. The provisions of Articles 14.2 to 14.8 do not apply to a conflict of interest arising in relation to a transaction or arrangement with the Company.

- 14.3 Any authorisation under Article 14.2 will be effective only if:
- 14.3.1 the matter in question shall have been proposed for consideration at a meeting of the Directors, in accordance with the Board's normal procedures or in such other manner as the Directors may approve, and Board approval includes the consent of an Investor Director;
 - 14.3.2 any requirement as to the quorum at a meeting at which the matter is considered is met without counting the Director in question or any other interested director and the matter was agreed to without their voting or would have been agreed to if their votes had not been counted.
- 14.4 Any authorisation of a matter under Article 14.2 may be given on such terms as the Directors may determine. Such authorisation may be given subject to any conditions or limitations the Directors impose, whether at the time of giving the authorisation or subsequently, but such authorisation is otherwise given to the fullest extent permitted. A Director shall comply with any obligations imposed upon him or undertakings given by him pursuant to such authorisation. The Directors may vary or terminate any such authorisation at any time.
- 14.5 Any authorisation of a matter pursuant to Article 14.2 shall extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised.
- 14.6 A Director shall not, in the absence of agreement by him to the contrary, be accountable to the Company for any profit, remuneration or other benefit which he (or a person connected with him) derives from any matter which has either been authorised by the Directors in accordance with Article 14.2 or by the Company in general meeting or by written resolution (subject in each case to any terms, limits or conditions attaching to that authorisation) and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such profit, remuneration or benefit.
- 14.7 Where the Directors have authorised a matter pursuant to Article 14.2 above in circumstances where the conflict of interest or possible conflict of interest arises out of the Director's relationship with another company or person, the Director may for so long as he believes, acting reasonably, that such conflict of interest or possible conflict of interest subsists:
- 14.7.1 withhold from the other Directors and the Company information which he obtains or has obtained as a result of that relationship and otherwise than as a Director and in respect of which he has a duty of confidentiality to another person (**Conflicted**

Confidential Information) where disclosure of that information would amount to a breach of that duty;

14.7.2 refrain from using Conflicted Confidential Information in performing his duties as a Director where such use would amount to a breach of that duty;

14.7.3 be absent from meetings of the Directors at which any matter relating or giving rise to the conflict of interest or possible conflict of interest may be discussed, or leave such meetings or refrain from participation in the discussion if this subject matter is raised;

14.7.4 request that all information to be supplied by the Company to the Directors related to such conflict or any matter giving rise to it be withheld from him or re-directed to his agent or professional adviser.

14.8 The Directors may require a Director to take any or all of the actions specified in Article 14.2 in the circumstances described in Article 14.2 as they think appropriate and a Director shall comply when required to do so.

14.9 Where the Directors authorise a conflict in terms of Article 14.2, the Director in receipt of such authorisation will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the conflict. Where the Director in receipt of such authorisation acts in accordance with such terms (if any) as the Directors impose in respect of the authorisation or, where relevant, in accordance with Articles 14.7 or 14.8 above, the Director will not by reason only of having so acted infringe any duty he owes to the Company by virtue of Sections 171 to 177 (inclusive) of the Act.

15. **MEANS OF COMMUNICATION TO BE USED**

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

15.1.1 if properly addressed and sent by prepaid United Kingdom recorded delivery 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); and

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

For the purposes of this Article, no account shall be taken of any part of a day that is not a working day.

- 15.2 *In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.*

16. INDEMNITY

- 16.1 Subject to Article 16.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

16.1.1 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 in the actual or purported execution and/or discharge of his duties, or in relation to them, including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are 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

16.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in Article 16.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

- 16.2 This Article 16 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.

- 16.3 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.

- 16.4 In this Article 16:

16.4.1a **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;

16.4.2 companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and

16.4.3a **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).

17. **DATA PROTECTION**

Each of the Members and Directors (from time to time) consent to the processing of their personal data by the Company, its Members and Directors (each a **Recipient**) for the purpose of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information amongst themselves. A Recipient may process such personal data either electronically or manually. The personal data which may be processed for such purposes under this Article shall include any information which may have a bearing on the prudence or commercial merits of investing, or disposing of any Shares or other investment or security in the Company. Subject to any confidentiality undertakings given to them by a Recipient, each of the Members and Directors (from time to time) consent to the transfer of such personal data to persons acting on behalf of any Recipient and to the offices of any Recipient both within and outside the European Economic Area for the purposes stated above, where it is necessary or desirable to do so.

18. **CONFLICT WITH SIMPSON ASSIGNMENTS**

In the event of any conflict between the Simpson Assignments and the Articles, the Simpson Assignments shall prevail.