

Company Number SC369531

The Companies Act 2006

Private Company Limited by Shares

Special Resolution

of

ACP: North Hub Limited (the "Company")

22 February 2018 (the "Circulation Date")

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the resolutions below are passed as ordinary or special resolutions (as indicated) ("**Resolutions**"):

Special Resolution

THAT, the new articles of association in the form of the annexed draft be adopted in substitution for and to the exclusion of the existing articles of association of the Company.

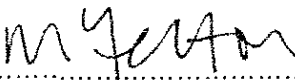
Ordinary Resolution

THAT, subject to the passing of the Special Resolution above, in accordance with section 551 of the Act, the Directors be generally and unconditionally authorised to allot (i) 300 Inverurie Campus C1 Shares in the Company and 300 Skye & Aviemore C1 Shares in the Company to Currie & Brown Equitix Limited; and (ii) 300 Inverurie Campus C2 Shares in the Company and 300 Skye & Aviemore C2 Shares in the Company to GT (North Hub) Investments Limited provided that (i) this authority shall, unless renewed, varied or revoked by the Company, expire on the fifth anniversary of the date the Resolutions were passed save that the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted and the Directors may allot shares in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired.

Agreement

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

The undersigned, being entitled to vote on the above Resolutions on 22 February 2018 hereby irrevocably agree to the Resolutions.


.....
For and on behalf of
Currie & Brown Equitix Limited

Date: 22 February 2018

Notes

1. If you agree with the Resolutions, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company. If you do not agree to the Resolutions, you do not need to do anything; you will not be deemed to agree if you fail to reply. *You can only agree to both Resolutions or none of them.*



2. Once you have indicated your agreement to the Resolutions, you may not revoke your agreement.
3. Unless by 28 days from the Circulation Date, sufficient agreement has been received for the Resolutions to pass, it will lapse. If you agree to the Resolutions, 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.

Company Number SC369531

The Companies Act 2006

Private Company Limited by Shares

Special Resolution

of

ACP: North Hub Limited (the "Company")

22 February 2018 (the "Circulation Date")

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the resolutions below are passed as ordinary or special resolutions (as indicated) ("**Resolutions**");

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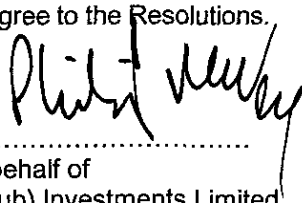
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Agreement

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.....
For and on behalf of
GT (North Hub) Investments Limited

Date: 22 February 2018

Notes

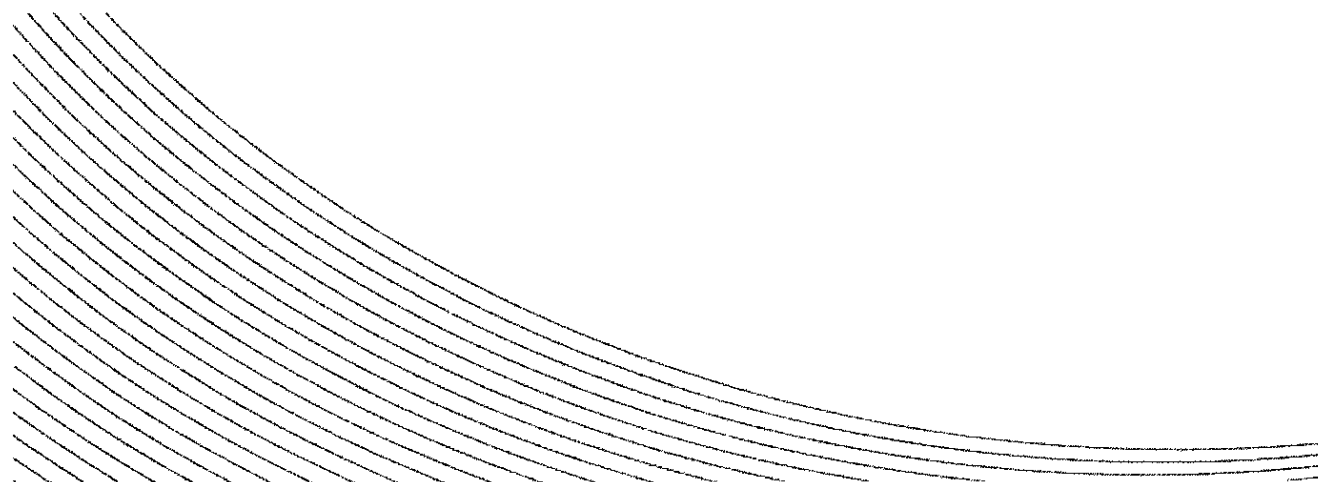
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Articles of Association

of

ACP: North Hub Limited (registered number SC369531)



The Companies Act 2006
Company Limited by Shares
Articles of Association of
ACP: North Hub Limited (the "Company")
(Adopted by special resolution on 22 February 2018)

1 Definitions and Interpretation

1.1 In these Articles, unless the context otherwise requires:

"Act" means the Companies Act 2006;

"Affiliates" means in relation to any body corporate, another body corporate (with the exception of the Company or any Subsidiary of the Company) in the same Group as the first body corporate;

"Anderson C1 Shares" means the Anderson C1 shares of £1 each in the issued capital of the Company;

"Anderson C2 Shares" means the Anderson C2 shares of £1 each in the issued capital of the Company;

"Articles" means these articles of association as from time to time altered;

"Board" means the Directors or any of them acting as the board of Directors of the Company;

"Business" means acting as the private sector development partner in relation to the North hub territory, the entering into of:

- (a) the Territory Shareholders Agreement;
- (b) the Territory Partnering Agreement; and
- (c) the Management Services Agreement in order to provide services to hubco;

and being a 60% Shareholder in DBFM HoldCos and any other business that is reasonably ancillary to the main Business objectives;

"Business Day" means a day, other than a Saturday or Sunday, on which banks are generally open for business in London and Edinburgh;

"Business Plan" means the annual business plan of the Company from time to time;

"Chair" means the person appointed as chairman of the board pursuant to Article 14.710;

"Company Secretary" means the company secretary of the Company from time to time;

"Connected Person" as defined in section 1122 CTA 2010;

"Deed of Adherence" means a deed of adherence to any shareholders agreement amongst the Shareholders from time to time;

"DBFM Co" means the single purpose vehicle established for each individual DBFM Project;

"DBFM HoldCo" means the holding company of a DBFM Co;

"DBFM Project" means a design, build, finance and maintain project procured in the North hub territory pursuant to the Territory Partnering Agreement;

"Director" means a director of the Company, including, where applicable, an alternate director;

"Electronic Form" has the meaning given to it in section 1168 of the Act;

"Elgin C1 Shares" means the Elgin C1 shares of £1 each in the issued capital of the Company;

"Elgin C2 Shares" means the Elgin C2 shares of £1 each in the issued capital of the Company;

"Fair Value" means:

- (a) the value of each of the Ordinary Shares, as may be agreed by the Managing Ordinary Shareholders from time to time; or
- (b) the value of the relevant Project Specific Shares, as may be agreed by the relevant Project Specific Shareholders from time to time; or
- (c) in respect of the Ordinary Shares only, such value as may be certified by the auditors of the Company or, in the event that the auditors shall decline to act, such firm of chartered accountants as may be nominated by the President (or his applicable deputy) of the Institute of Chartered Accountants of Scotland from time to time, and notified to each Managing Ordinary Shareholder as soon as practicable after such certification by the auditors or nominated chartered accountant (acting as expert and not as an arbiter, such certification being final and binding on the parties, in the absence of manifest error) as being, on the date the request was made to the auditors or the nominated chartered accountant to certify such value ("the Valuation Date"), (i) the fair value of each of the relevant Ordinary Shares determined on the basis of a sale between a willing seller and a willing buyer and on the assumption that the Company shall continue as a going concern and calculated by valuing the entire issued Ordinary Share capital of the Company at the Valuation Date and dividing by the total number of Ordinary Shares in issue as at the Valuation Date; or
- (d) in respect of a relevant class of Project Specific Shares only, such value as may be certified by the auditors of the Company or, in the event that the auditors shall decline to act, such firm of chartered accountants as may be nominated by the President (or his applicable deputy) of the Institute of Chartered Accountants of Scotland from time to time, and notified to each relevant Project Specific Shareholder as soon as practicable after such certification by the auditors or nominated chartered accountant (acting as expert and not as an arbiter, such certification being final and binding on the parties, in the absence of manifest error) as being, on the date the request was made to the auditors or the nominated chartered accountant to certify such value ("the Valuation Date"), (i) the fair value of each of the relevant Project Specific Shares determined on the basis of a sale between a willing seller and a willing buyer and on the assumption that the Company shall continue as a going concern and calculated by valuing the entire issued relevant Project Specific Share capital of the Company at the Valuation Date and dividing by the total number of relevant Project Specific Shares in issue as at the Valuation Date;

"Group" means in relation to a company, any holding company (as defined in the Companies Act 2006) of such company, any subsidiary (as defined in the Companies Act 2006) of such company and any subsidiary of any such holding company;

"Group Member" means:

- (e) in relation to each Shareholder, the ultimate holding company or parent undertaking of such Shareholder and any other company which is a subsidiary or subsidiary undertaking of such ultimate holding company or parent undertaking from time to time; and
- (f) *in the case of a specific Shareholder, any company in which at least 50% of the issued share capital carrying full voting rights is held by the specific Shareholder or its ultimate holding company or parent undertaking or any other company which is a subsidiary or subsidiary undertaking of such ultimate holding company or parent undertaking from time to time but excluding the Company;*

"hubco" means Hub North Scotland Limited (company number SC390666);

"I&F C1 Shares" means the I&F C1 Shares of £1 each in the issued share capital of the Company;

"I&F C2 Shares" means the I&F C2 Shares of £1 each in the issued share capital of the Company;

"Instrument" means a document in hard copy form;

"Inverurie Campus C1 Shares" means the Inverurie Campus C1 Shares of £1 each in the issued share capital of the Company;

"Inverurie Campus C2 Shares" means the Inverurie Campus C2 Shares of £1 each in the issued share capital of the Company;

"Investment Fund" means any arrangement constituting a collective investment scheme for the purpose of section 75 of the Financial Services Act 1986 (as amended or re-enacted for the time being) or which would constitute such a scheme if it did not fall within an exemption or exclusion to that section;

"In Writing" means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether comprised in Electronic Form or otherwise, and "written" shall be construed accordingly;

"Management Services Agreement" means the management services agreement among hubco, the Company, Sweett Group plc and Galliford Try Corporate Holdings Limited dated 27 and 28 January 2011;

"Managing Ordinary Shareholders" means the holders of Ordinary Shares from time to time;

"Managing Ordinary Shareholder Director" has the meaning given to it in Article 11.1;

"Member" means a member of the Company;

"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;

"O&C C1 Shares" means the O&C C1 Shares of £1 each in the issued share capital of the Company;

"O&C C2 Shares" means the O&C C2 Shares of £1 each in the issued share capital of the Company;

"Ordinary Shares" means the ordinary shares of £1 each in the issued capital of the Company;

"Project Specific C1 Shares" means the Elgin C1 Shares, the O&C C1 Shares, the I&F C1 Shares, the SoTC C1 Shares, the Wick C1 Shares, the Anderson C1 Shares, the Inverurie Campus C1 Shares and the Skye & Aviemore C1 Shares together with any other Shares that are designated as "Project Specific C1 Shares" from time to time;

"Project Specific C2 Shares" means the Elgin C2 Shares, the O&C C2 Shares, the I&F C2 Shares, the SoTC C2 Shares, the Wick C2 Shares, the Anderson C2 Shares, the Inverurie Campus C2 Shares and the Skye & Aviemore C2 Shares together with any other Shares that are designated as "Project Specific C1 Shares" from time to time;

"Project Specific Director" has the meaning given to it in Article 11.2;

"Project Specific Shareholder" means the holder of a class of Project Specific Shares from time to time;

"Project Specific Shares" means the Project Specific C1 Shares and the Project Specific C2 Shares created for the purposes of specific DBFM Projects;

"Shareholder" means a person who is the holder of a Share;

"Shares" means all of the shares in the issued share capital of the Company;

"Skye & Aviemore C1 Shares" means the Skye & Aviemore C1 Shares of £1 each in the issued share capital of the Company;

"Skye & Aviemore C2 Shares" means the Skye & Aviemore C2 Shares of £1 each in the issued share capital of the Company;

"SoTC C1 Shares" means the SoTC C1 Shares of £1 each in the issued share capital of the Company;

"SoTC C2 Shares" means the SoTC C2 Shares of £1 each in the issued share capital of the Company;

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

"Territory Partnering Agreement" has the meaning given to it in the Territory Shareholders Agreement;

"Territory Shareholders Agreement" means the shareholders agreement dated 27 January 2011 et sequitur, among the Company, Scottish Futures Trust Investments Limited, hubco, the Participants (as defined therein), Galliford Try Corporate Holdings Limited and Sweett Group plc as amended from time to time;

"Wick C1 Shares" means the Wick C1 Shares of £1 each in the issued share capital of the Company;

"Wick C2 Shares" means the Wick C2 Shares of £1 each in the issued share capital of the Company;

"Winding Up" means the passing of any resolution for the winding up of the Company;

"Working Capital Liabilities" means the obligations, responsibility and liability of the Company to provide Working Capital (as defined in the Working Capital Loan Agreement) pursuant to the Working Capital Loan Agreement; and

"Working Capital Loan Agreement" means the agreement for the provision of working capital to hubco, set out in Part 10 of the Schedule to the Territory Shareholders Agreement.

- 1.2 References to the Act are to the provisions of the Act which are for the time being in force.
- 1.3 Unless the context otherwise requires, words or expressions contained in these Articles *bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these Articles become binding on the Company.*
- 1.4 Unless the context otherwise requires, the singular shall include the plural and vice versa and reference to any gender shall include all genders.
- 1.5 In these Articles, reference to a "person" includes a reference to an individual, partnership, unincorporated association or body corporate wherever incorporated or situated and includes a reference to that person's legal representatives, successors or permitted transferees or assignees.
- 1.6 The voting rights of any Member whose voting rights shall have been suspended, shall whilst such suspension is continuing be excluded for all purposes from and deemed not to exist for any calculation based on the voting rights of all Members.
- 1.7 Headings in these Articles are for convenience only and shall not affect the interpretation hereof.
- 1.8 Where an Ordinary Resolution of the Company is expressed to be required for any purpose, a Special Resolution is also effective for that purpose.
- 1.9 A reference in these Articles to an "Article" is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.10 Unless expressly provided otherwise, 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:
 - 1.10.1 any subordinate legislation from time to time made under it; and
 - 1.10.2 any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.11 Any phrase introduced by the terms "including", "include, in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.12 Any reference to a "relevant class of Project Specific Shares" or "the relevant Project Specific Shares" means the Project Specific Shares that are relevant to a specific DBFM Project and does not, for the avoidance of doubt, capture all of the Project Specific Shares issued by the Company and/or held by a Shareholder and any reference to a "relevant Project Specific Shareholder" or relevant "Project Specific Director" shall be construed accordingly.

2 Model Articles

- 2.1 The Model Articles shall apply to the Company except in so far as they are modified or excluded by these Articles.

- 2.2 Articles 6(2), 7(1), 8, 9(1), 11, 12, 13, 14, 17(1), 18, 19, 26, 38, 39, 41, 44(2), 45, 46, 49, 50, 51, 52 and 53 of the Model Articles shall not apply to the Company.
- 2.3 Article 7 of the Model Articles shall be amended by:
- 2.3.1 the insertion of the words "for the time being" at the end of Article 7(2)(a); and
- 2.3.2 the insertion in Article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
- 2.4 Article 20 of the Model Articles shall be amended by inserting "(including alternate directors)" before the words "properly incur".
- 2.5 In Article 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".
- 2.6 Article 29 of the Model Articles shall be amended by the insertion of the words, "or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under Article 28(2)," after the words "the Transferee's name".
- 2.7 Articles 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".
- 2.8 In Article 33(3) (a) of the Model Articles the words "twelve years" shall be deleted and replaced with the words "five years".

3 Private Company

- 3.1 The Company is a private company limited by shares and accordingly any invitation to the public to subscribe for any Shares or debentures of the Company is prohibited.

4 Share Capital

- 4.1 Except as otherwise provided in these Articles, the Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.
- 4.2 On the transfer of any Share as permitted by these Articles a Share transferred shall remain of the same class as before the transfer.
- 4.3 Subject to law, on (and subject to the occurrence of) a Winding Up, the assets of the Company or net proceeds of such Winding Up available for distribution amongst the Shareholders shall be applied as follows (**Proceeds**):
- 4.3.1 first, if the Company has received any dividends as a result of its shareholding in a DBFM HoldCo it shall distribute an amount equal to such dividend received equally between the relevant Project Specific Shareholders;
- 4.3.2 second, in attributing to the Managing Ordinary Shareholders pro rata to their holding of Ordinary Shares an amount equal to the nominal amount of such Ordinary Shares held by them; and
- 4.3.3 third, the remaining Proceeds to the Project Specific Shareholders pro rata to their respective shareholdings.

5 Dividends

- 5.1 Subject to Article 5.3, the Company shall distribute such amounts lawfully available for distribution by the Company by way of dividend on the Ordinary Shares.

5.2 No dividends shall be payable on any Project Specific Share unless in accordance with Article 5.3 below.

5.3 If the Company receives any dividends as a result of its shareholding in a DBFM HoldCo then it shall in turn distribute an amount equal to such dividend on an equal basis between the relevant Project Specific Shareholders that hold the relevant Project Specific Shares.

6 Further Issue of Shares

6.1 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of Shares in the Company.

Ordinary Shares

6.2 The Company may only allot Ordinary Shares with the requisite agreement of the Managing Ordinary Shareholders.

6.3 The Company shall not allot any Ordinary Shares to any person (other than a Managing Ordinary Shareholder) unless that person has first executed a Deed of Adherence.

6.4 If the Board determines to allot Further Ordinary Shares and has obtained the consent of the Managing Ordinary Shareholders, such Ordinary Shares shall (except to the extent that the Managing Ordinary Shareholders otherwise agree in writing) be allotted in accordance with the provisions of Articles 6.5 to 6.7.

6.5 On any allotment of Further Ordinary Shares the number of Ordinary Shares offered for allotment by the Company shall be pro- rata to the number of Existing Ordinary Shares then in issue.

6.6 If the directors determine to allot Further Ordinary Shares in the Company, the Directors shall, of the Further Ordinary Shares to be offered, offer the Further Ordinary Shares to the Managing Ordinary Shareholders, pro-rata to their current shareholding of Existing Ordinary Shares.

6.7 If a Managing Ordinary Shareholder fails to fully subscribe for the Further Ordinary Shares in offer then the remaining Further Ordinary Shares may be taken up by the other Managing Ordinary Shareholder, failing which the offer shall lapse.

Project Specific Shares

6.8 The Company may only allot Classes of Project Specific Shares to the Managing Ordinary Shareholders, such that one Ordinary Managing Shareholder shall be allotted the relevant Project Specific C1 Shares and the other Managing Ordinary Shareholder shall be allotted the relevant Project Specific C2 Shares. Such allotment shall only occur immediately before the financial close of the DBFM Project to which the Project Specific Shares relate or on any other date as agreed by the Managing Ordinary Shareholders and the Company.

7 Dealing in Shares

7.1 The Board shall not register a transfer of Ordinary Shares other than:

7.1.1 by a transfer of such Ordinary Shares required pursuant to Article 8 or otherwise in accordance with the Articles;

7.1.2 (if required) with the prior written consent of the majority of the A Shareholders and the majority of the B Shareholders as both defined in the Territory Shareholders Agreement; and

7.1.3 in accordance with any project and funding documents relative to a DBFM Project.

- 7.2 Subject to Article 7.3, the Board shall not register a transfer of Project Specific Shares other than:
- 7.2.1 by a transfer of such Project Specific Shares required pursuant to Article 9 or otherwise in accordance with the Articles; and
 - 7.2.2 in accordance with the project and funding documents relative to the DBFM Project to which the Project Specific Shares relate.
- 7.3 Any Shareholder which is a body corporate may at any time transfer any Project Specific Shares held by it:
- 7.3.1 to a Group Member; or
 - 7.3.2 where such holder of Project Specific Shares is an Investment Fund:
 - 7.3.2.1 to the Investment Fund for whom the Project Specific Shares are held;
 - 7.3.2.2 to another Investment Fund which is managed or advised by the same manager or adviser as the transferor or by a manager or adviser which is a Group Member as the transferor's manager or adviser;
 - 7.3.2.3 to any unitholder, shareholder, partner or participant in, or manager or adviser (or an officer or employee, past or present, of such partner, manager or adviser) of that Investment Fund; or
 - 7.3.2.4 to any custodian or nominee or other person so authorised, to be held solely on behalf of any person referred to in Articles 7.3.2.1, 7.3.2.2 and 7.3.2.4 above.
- 7.4 The Board shall procure that no such transfer in accordance with the provisions of these Articles or otherwise shall be registered unless, on or before submission of the transfer for registration, the transferee shall have entered into a Deed of Adherence.
- 7.5 An obligation to transfer a Share under these Articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free from any lien, charge or other encumbrance.
- 7.6 No arrangement shall be entered into by any Member whereby the terms upon which that Member holds any Shares are to be varied if as a result of any interest in those Shares is varied, disposed of or created or extinguished.
- 7.7 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the Directors which is executed by or on behalf of the transferring Shareholder.
- 7.8 No fee may be charged for registering any Instrument of transfer or other document relating to or affecting the title to any Share.
- 7.9 The Company may retain any Instrument of transfer which is registered.
- 7.10 The transferring Shareholder remains the holder of a Share until the transferee's name is entered in the register of members as a holder of it.
- 8 Compulsory Share Transfer – Managing Ordinary Shareholders**
- 8.1 If a Managing Ordinary Shareholder (or any of its Group Members who are also Managing Ordinary Shareholders) commits or suffers an event of default (as defined in Article 8.4) ("the Defaulting Party"), then the other Managing Ordinary Shareholders (acting by

agreement among them or, in the absence of such agreement, by a decision of the holder(s) of the majority in nominal value of the Ordinary Share capital of the Company held by such other Managing Ordinary Shareholders) shall be entitled (without prejudice to their other rights) in their entire discretion to require the Defaulting Party and its Group Members to sell to them all (but not part only) of the Ordinary Shares (at a price equal to 90% of the Fair Value thereof) held or beneficially owned by the Defaulting Party and its Group Members by delivering written notice ("**the Default Notice**") to the Defaulting Party and its Group Members who hold Ordinary Shares at any time within 21 Business Days of the date that the other Managing Ordinary Shareholders become aware of such event of default stating that the option hereby conferred is exercised. The Default Notice may be constituted by separate notices from each Managing Ordinary Shareholder electing to exercise the option or a joint notice among some or all of the Managing Ordinary Shareholders so electing.

- 8.2 If an event of default occurs, the Defaulting Party shall notify the other Managing Ordinary Shareholders of the event of default as soon as is reasonably practicable.
- 8.3 If a Default Notice is delivered pursuant to Article 8.1, the Defaulting Party and its Group Members (who are also Managing Ordinary Shareholders) shall deliver to the Managing Ordinary Shareholder or Managing Ordinary Shareholders exercising the option within 14 Business Days of the date of the Default Notice a duly executed transfer of all of its (or their) Ordinary Shares in favour of the Managing Ordinary Shareholder or Managing Ordinary Shareholders exercising the option (in a case where more than one Managing Ordinary Shareholder has exercised the option, unless otherwise agreed by the Managing Ordinary Shareholders exercising the option, in the proportions which the number of Ordinary Shares held by each Managing Ordinary Shareholder exercising the option bears to the aggregate number of Ordinary Shares held by all of them). Such Ordinary Shares (as the case may be) shall be transferred by the Defaulting Party and each of its Group Members free from all encumbrances and in accordance with the provisions on transfer applying pursuant to these Articles.
- 8.4 For the purpose of this Article an "event of default" means the occurrence of any of the following, namely, when:
- 8.4.1 any distress, diligence, execution, sequestration or other process is levied or enforced upon a material part of the property of any Managing Ordinary Shareholder (or any of its Group Members who are also Managing Ordinary Shareholders) and is not discharged within 28 days; or
 - 8.4.2 any Managing Ordinary Shareholder (or any of its Group Members who are also Managing Ordinary Shareholders) becomes unable to pay its debts in the normal course of business; or
 - 8.4.3 any Managing Ordinary Shareholder (or any of its Group Members who are also Managing Ordinary Shareholders) ceases or threatens to cease wholly or substantially to carry on its business, otherwise than for the purpose of a reconstruction or amalgamation previously approved by the other Managing Ordinary Shareholders (such approval not to be unreasonably withheld or delayed); or
 - 8.4.4 any encumbrancer takes possession of or a receiver, administrative receiver or administrator is appointed over any Managing Ordinary Shareholder or the whole or any part of the undertaking, property or assets of any Managing Ordinary Shareholder (or any of its Group Members who are also Managing Ordinary Shareholders); or
 - 8.4.5 if an order is made or resolution passed for the winding up of any Managing Ordinary Shareholder (or any of its Group Members who are also Managing Ordinary Shareholders) otherwise than for the purpose of a reconstruction or amalgamation previously approved by the other Managing Ordinary Shareholders (such approval not to be unreasonably withheld).

- 8.5 Upon a Default Notice being issued under Article 8.1, all Directors of the Company who are appointed by the Defaulting Party and its Group Members pursuant to Article 11.1 shall be removed from office and during the period between the giving of such Default Notice and the transfer of the Ordinary Shares being registered by the directors in the Company's register of members the rights attaching to those Original Shares (including voting rights and the right to appoint directors) shall be suspended.
- 8.6 If the Defaulting Party (or any of its Group Members) does not comply with its obligations under this clause, each Managing Ordinary Shareholder agrees that the Company may authorise a person to execute and deliver the necessary transfers on behalf of such Defaulting Party (or any of its Group Members). The Company may receive the purchase money in trust for the Defaulting Party (or any of its Group Members) and cause the purchaser(s) to be registered as the holder(s) of the Ordinary Shares. The receipt by the Company of the purchase money shall be a good discharge to the purchaser(s) (who shall not be bound to see to the application of those monies). After the purchaser(s) have been registered as holder of the Ordinary Shares in purported exercise of these powers the validity of the proceedings shall not be questioned by any person. The Managing Ordinary Shareholders shall keep the Company informed at all times of the issue and contents of any notice served pursuant to this Article 8 and any election or acceptance relating to those notices.
- 8.7 On completion of the steps referred to in Articles 8.5 and 8.6 above, the Company shall release the purchase money to the Defaulting Party.
- 8.8 The Managing Ordinary Shareholders shall do all things reasonably within their power and influence and to the extent they are lawfully able to do (without incurring additional expenditure) to ensure that the Company and the Business continues to be run as a going concern during the period between the service of the Default Notice and the completion of the transfer of the Ordinary Shares.
- 8.9 Any actions under this Article 8 shall be subject to any approvals required under the Territory Shareholders Agreement and/or any approvals under any funding and project documents relative to a DBFM Project.

9 Compulsory Transfer – Project Specific Shareholders

- 9.1 If a Project Specific Shareholder (or any of its Group Members who are Project Specific Shareholders) commits or suffers an event of default (as defined in Article 9.4) ("the Defaulting Party"), then the other relevant Project Specific Shareholders (acting by agreement among them or, in the absence of such agreement, by a decision of the holder(s) of the majority in nominal value of the relevant Project Specific Share capital of the Company held by such other relevant Project Specific Shareholder(s)) shall be entitled (without prejudice to their other rights) in their entire discretion to require the Defaulting Party and its Group Members to sell to them all (but not part only) of the relevant Project Specific Ordinary Shares (at a price equal to 90% of the Fair Value thereof) held or beneficially owned by the Defaulting Party and its Group Members by delivering written notice ("the Default Notice") to the Defaulting Party and its Group Members who hold the relevant Project Specific Shares at any time within 21 Business Days of the date that the other relevant Project Specific Shareholders become aware of such event of default stating that the option hereby conferred is exercised. The Default Notice may be constituted by separate notices from each relevant Project Specific Shareholder electing to exercise the option or a joint notice among some or all of the relevant Project Specific Shareholders so electing.
- 9.2 If an event of default occurs, the Defaulting Party shall notify the other relevant Project Specific Shareholders and the Managing Ordinary Shareholders of the event of default as soon as is reasonably practicable.
- 9.3 If a Default Notice is delivered pursuant to Article 9.1, the Defaulting Party and its Group Members (who are also Project Specific Shareholders) shall deliver to the relevant Project

Specific Shareholder or Project Specific Shareholders exercising the option within 14 Business Days of the date of the Default Notice a duly executed transfer of all of its (or their) Project Specific Shares in favour of the relevant Project Specific Shareholder or relevant Project Specific Shareholders exercising the option (in a case where more than one relevant Project Specific Shareholder has exercised the option, unless otherwise agreed by the relevant Project Specific Shareholders exercising the option, in the proportions which the number of relevant Project Specific Shares held by each relevant Project Specific Shareholder exercising the option bears to the aggregate number of relevant Project Specific Shares held by all of them). Such relevant Project Specific Shares (as the case may be) shall be transferred by the Defaulting Party and each of its Group Members free from all encumbrances and in accordance with the provisions on transfer applying pursuant to the Articles.

- 9.4 For the purpose of this Article an "event of default" means the occurrence of any of the following, namely, when:
- 9.4.1 any distress, diligence, execution, sequestration or other process is levied or enforced upon a material part of the property of any Project Specific Shareholder (or any of its Group Members who are also Project Specific Shareholders) and is not discharged within 28 days; or
 - 9.4.2 any Project Specific Shareholder (or any of its Group Members who are also Project Specific Shareholders) becomes unable to pay its debts in the normal course of business; or
 - 9.4.3 any Project Specific Shareholder (or any of its Group Members who are also Project Specific Shareholders) ceases or threatens to cease wholly or substantially to carry on its business, otherwise than for the purpose of a reconstruction or amalgamation previously approved by the other relevant Project Specific Shareholder(s) and the Managing Ordinary Shareholders (such approval not to be unreasonably withheld or delayed); or
 - 9.4.4 any encumbrancer takes possession of or a receiver, administrative receiver or administrator is appointed over any Project Specific Shareholder or the whole or any part of the undertaking, property or assets of any Project Specific Shareholder (or any of its Group Members who are also Project Specific Shareholders); or
 - 9.4.5 if an order is made or resolution passed for the winding up of any Project Specific Shareholder (or any of its Group Members who are also Project Specific Shareholders) otherwise than for the purpose of a reconstruction or amalgamation previously approved by the other relevant Project Specific Shareholder(s) and the Managing Ordinary Shareholders (such approval not to be unreasonably withheld).
- 9.5 Upon a Default Notice being issued under Article 9.1, all directors of the Company who are appointed by the Defaulting Party and its Group Members pursuant to Article 11.2 shall be removed from office and during the period between the giving of such Default Notice and the transfer of the relevant Project Specific Shares being registered by the Directors in the Company's register of members the rights attaching to those relevant Project Specific Shares (including voting rights and the right to appoint directors) shall be suspended.
- 9.6 If the Defaulting Party (or any of its Group Members) does not comply with its obligations under this clause, each relevant Project Specific Shareholder agrees that the Company may authorise a person to execute and deliver the necessary transfers on behalf of such Defaulting Party (or any of its Group Members). The Company may receive the purchase money in trust for the Defaulting Party (or any of its Group Members) and cause the purchaser(s) to be registered as the holder(s) of the relevant Project Specific Shares. The receipt by the Company of the purchase money shall be a good discharge to the purchaser(s) (who shall not be bound to see to the application of those monies). After the purchaser(s) have been registered as holder of the Shares in purported exercise of these powers the validity of the proceedings shall not be questioned by any person. The relevant

Project Specific Shareholders shall keep the Company informed at all times of the issue and contents of any notice served pursuant to this Article 9 and any election or acceptance relating to those notices.

- 9.7 On completion of the steps referred to in Articles 9.5 and 9.6 above, the Company shall release the purchase money to the Defaulting Party.
- 9.8 The relevant Project Specific Shareholders shall do all things reasonably within their power and influence and to the extent they are lawfully able to do (without incurring additional expenditure) to ensure that the Company and the Business continues to be run as a going concern during the period between the service of the Default Notice and the completion of the transfer of the relevant Project Specific Shares.
- 9.9 If pursuant to Article 9.1, the relevant Project Specific Shareholders do not wish to acquire the relevant Project Specific Shares of the Defaulting Party and its Group Members then the relevant Project Specific Shares of the Defaulting Party and its Group Members shall be offered to the Managing Ordinary Shareholders pro rata to their shareholdings of Ordinary Shares and the provisions of Articles 9.1 to 9.8 shall apply accordingly.
- 9.10 Any actions under this Article 9 shall be subject to any approvals required under the Territory Shareholders Agreement and/or any approvals under any funding and project documents relative to a DBFM Project.

10 **Number of Directors**

The number of Directors shall not be less than four and there is no maximum number. No Director shall be required to retire or vacate his office, and no person shall be ineligible for appointment as a Director by reason of his having attained any particular age.

11 **Appointment and Removal of Directors**

- 11.1 Notwithstanding any provision to the contrary in the Articles or otherwise, but subject to Article 11.3, each Managing Ordinary Shareholder will appoint and maintain in office 2 Directors of the Company (each being an **"Managing Ordinary Shareholder Director"**). That appointment shall be effected by the Managing Ordinary Shareholder who is making the appointment giving written notice to the Company setting out the name, address, date of birth, nationality and other directorships of the proposed appointee.
- 11.2 A Shareholder who holds a class of Project Specific Shares shall be entitled to appoint 1 Project Specific Director to the Board. That appointment shall be effected by the relevant Shareholder who is making the appointment giving written notice to the Company setting out the name, address, date of birth, nationality and other directorships of the proposed appointee.
- 11.3 Notwithstanding any other provision of these Articles if any Managing Ordinary Shareholder ceases to hold any Ordinary Shares that Managing Ordinary Shareholder shall forthwith remove all Managing Ordinary Shareholder Directors of the Company appointed by it pursuant to this Article 11 and shall not be entitled to appoint any Managing Ordinary Shareholder Directors until such time as it becomes an Ordinary Shareholder again.
- 11.4 Notwithstanding any other provision of these Articles if any Project Specific Shareholder ceases to hold any relevant Project Specific Shares that Project Specific Shareholder shall forthwith remove all relevant Project Specific Directors of the Company appointed by it pursuant to this Article 11 and shall not be entitled to appoint any relevant Project Specific Directors until such time as it holds the relevant Project Specific Shares again.
- 11.5 If any Director shall die or be removed from or vacate office for any cause, then his appointer shall appoint in his place another person to be a Managing Ordinary Shareholder Director or Project Specific Director (as the case may be).

- 11.6 Notice of any appointment or removal required under Articles 11.1 to 11.4 shall be given to the Company at its registered office.
- 11.7 The Company shall not remove or purport to remove any or all of the Directors appointed pursuant to the terms of Articles 11.1-11.2 without the prior written consent of the Shareholder(s) which appointed such Director.
- 11.8 The right to appoint and to remove Managing Ordinary Shareholder Directors and Project Specific Directors under this Article shall be a class right attaching to the Ordinary Shares and the relevant Project Specific Shares respectively.
- 11.9 No Managing Ordinary Director or Project Specific Director shall be appointed or removed otherwise than pursuant to this Article 11, save as provided by law.

12 Appointment and Removal of Alternate Directors

- 12.1 Any Director (other than an alternate Director) (the **Appointor**) may appoint any person (whether or not a Director) other than an existing Director representing any other class of Shares, to be an alternate Director to exercise the Appointor's powers, and carry out the Appointor's responsibilities, in relation to the taking of decisions by the Directors, in the absence of the Appointor. In these Articles, where the context so permits, the term "Managing Ordinary Shareholder Director" or "Project Specific Director" shall include an alternate director appointed by a Managing Ordinary Shareholder Director or Project Specific Director (as the case may be). A person may be appointed an alternate Director by more than one Director provided that each of his Appointors represents the same class of Shares but not otherwise.
- 12.2 Any appointment or removal of an alternate Director must be effected by notice in writing to the Company (and to the alternate, on removal) signed by the Appointor, or in any other manner approved by the Directors. The notice must:
- 12.2.1 identify the proposed alternate; and
 - 12.2.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate that he is willing to act as the alternate of the Director giving the notice.
- 12.3 An alternate Director shall, whether or not he is absent from the United Kingdom, be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his Appointer is a member, to attend and vote at any such meeting at which the Director appointing him is not personally present, and generally to perform all the functions of his Appointer as a Director in his absence.
- 12.4 An alternate Director shall cease to be an alternate Director if his Appointer ceases to be a Director; but, if a Director retires but is reappointed at the meeting at which he retires, any appointment of an alternate Director made by him which was in force immediately prior to his retirement shall continue in force after his reappointment.
- 12.5 Save as otherwise provided in these Articles, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him.
- 12.6 An alternate Director's appointment as an alternate (in respect of a particular Appointor) terminates:
- 12.6.1 when the alternate's Appointor revokes the appointment by notice to the Company and the alternate in writing specifying when it is to terminate; or
 - 12.6.2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a Director; or

12.6.3 when the alternate Director's Appointor ceases to be a Director for whatever reason.

13 Notice of Board Meeting

13.1 Any Director may call a meeting of Directors.

13.2 Notice of a meeting of the Directors shall be deemed to be properly given to a Director if it is given to him personally or by word of mouth or sent in writing to him at his last known address or any other address given by him to the Company for this purpose, or by any other means authorised in writing by the Director concerned.

13.3 A Director absent or intending to be absent from the United Kingdom may request the Directors that notices of meetings of the Directors shall during his absence be sent in writing to him at an address or to an email address or to a fax number given by him to the Company for this purpose, but if no request is made to the Directors it shall not be necessary to give notice of a meeting of the Directors to any Director who is for the time being absent from the United Kingdom.

13.4 A Director may waive notice of any meeting either prospectively or retrospectively.

14 Proceedings of Directors

14.1 Subject as provided in these Articles, the Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

14.2 The Board shall meet at least once every two months or such other period as the Managing Ordinary Shareholders may agree. Further, any Director may convene a meeting of the Board on not less than two Business Days' notice to consider any matter which requires urgent deliberation. All such meetings, subject to Article 14.3 below, will be held at the registered office of the Company or at such other place as the Directors of the Board, failing whom the Managing Ordinary Shareholders may from time to time agree or as otherwise permitted by the Articles.

14.3 A meeting of the Board may also consist of a conference between or among Directors who are not all in one place, but who are able (directly or by telephone or other communication equipment) to speak to each other, and to be heard by each other simultaneously. A Director taking part in such a conference shall be deemed to be present at the meeting and shall be entitled to vote or be counted in a quorum accordingly.

14.4 The quorum for the transaction of all business of the Board shall be:

14.4.1 for all matters other than that described in Article 14.5.2, one Managing Ordinary Shareholder Director appointed by each Managing Ordinary Shareholder; or

14.4.2 where a specific DBFM Project is to be discussed and/or a decision is to be taken in relation to such a DBFM Project and/or any proposed action approved in relation to such a DBFM Project, one Managing Ordinary Shareholder Director appointed by each Managing Ordinary Shareholder, the relevant Project Specific Director appointed by the Shareholder holding the relevant Project Specific C1 Shares and the relevant Project Specific Director appointed by the Shareholder holding the relevant Project Specific C2 Shares.

14.5 If at any Board meeting a quorum is not present within 30 minutes (or such longer time as all directors present choose to wait), the meeting shall be reconvened at such time and place as decided by those directors present (but not less than four Business Days later unless such reconvened meeting is to consider a matter requiring urgent deliberation in which case such meeting shall be reconvened not less than one Business Day later) and notice of the time and place of the reconvened meeting shall be sent to each of the directors as soon as reasonably possible thereafter. At the reconvened meeting, the Directors

present will form a quorum provided that (i) one Managing Ordinary Shareholder Director appointed by each Managing Ordinary Shareholder is present; or (ii) where a specific DBFM Project is to be discussed and/or a decision is to be taken in relation to such a DBFM Project and/or any proposed action approved in relation to such a DBFM Project the relevant Project Specific Director appointed by the Shareholder holding the relevant Project Specific C1 Shares and the relevant Project Specific Director appointed by the Shareholder holding the relevant Project Specific C2 Shares are present. Each Shareholder shall procure that the Directors appointed by it will not use the provisions of this Article 14.5 to frustrate the holding by the Directors of a meeting of the Board.

14.6 Any Director may appoint any person to act as either an alternate Director or a proxy to attend and vote at Board meetings in his place.

14.7 Save in the case of a meeting convened by a director pursuant to Article 14.3 in respect of a matter requiring urgent deliberation and subject to Article 14.5 in respect of reconvened meetings, there shall be prepared by the Company Secretary and circulated at least ten Business Days ahead of the scheduled date of each meeting of the Board, an agenda specifying the place and time of the meeting and in reasonable detail the business proposed to be discussed thereat. Any director may require the Company Secretary to include an item on the agenda. No business which is not on the agenda circulated to directors shall be voted upon or made the subject of a resolution without the consent of at least one Managing Ordinary Shareholder Director appointed by each Managing Ordinary Shareholder entitled to vote on the matter proposed to be included or where a DBFM Project is to be discussed the consent of one of the relevant Project Specific Directors entitled to vote on the matter proposed to be included. Minutes of all meetings of the Board shall be circulated to the Directors thereof within seven Business Days of the meeting.

14.8 All decisions of the Board shall require approval of a majority of the Directors votes of Directors present at the relevant meeting and such majority must include:

14.8.1 for all matters other than that described in Article 14.8.2, one Managing Ordinary Shareholder Director (or their alternate) appointed by each Managing Ordinary Shareholder; or

14.8.2 where a specific DBFM Project is to be discussed and/or a decision is to be taken in relation to such a DBFM Project and/or any proposed action approved in relation to such a DBFM Project, the relevant Project Specific director appointed by the Shareholder holding the relevant Project Specific C1 Shares and the relevant Project Specific Director appointed by the Shareholder holding the relevant Project Specific C2 Shares,

provided that in the event that more than one Managing Ordinary Shareholder Director appointed by a Managing Ordinary Shareholder is present at the meeting only one of the Managing Ordinary Shareholder Director appointed by that Managing Ordinary Shareholder shall be entitled to cast a vote.

14.9 Where:

14.9.1 a specific DBFM Project is to be discussed and/or a decision is to be taken in relation to such a DBFM Project and/or any proposed action approved in relation to such a DBFM Project then the 2 relevant Project Specific Directors shall have 100 votes each and each of the other Directors shall have 1 vote each; and

14.9.2 any other matter other than one referred to above in Article 14.9.1 is to be dealt with the Managing Ordinary Shareholder Directors shall have 100 votes each and each other Director shall have 1 vote each.

14.10 Subject to Article 11.3 each of the Managing Ordinary Shareholders will be entitled to appoint one of the Managing Ordinary Shareholder Directors appointed by them pursuant to Article 11.1 as chairman of the Company for one year on an alternate basis (the "Chair").

The Chair shall not be entitled to a second or casting vote on any matter in decisions of Directors or Members.

- 14.11 In the event that any Director of the Company ceases to be a Director, the Shareholder who appointed that Director to the Board pursuant to Article 11 shall procure that any vacating Director vacates office without any claim against the Company for loss of office or otherwise and shall indemnify the Company against all losses and costs which the Company may incur arising out of, or in connection with, any claim by the vacating Director for wrongful or unfair dismissal or redundancy or other loss arising out of the vacating Director's removal or loss of office.
- 14.12 Subject to the agreement of each Director (acting reasonably) present at a meeting of the Board, any employee of a Shareholder, may attend, and speak at, that Board meeting (but shall not be entitled to vote at such meeting) notwithstanding that such person is neither a Director, alternate Director nor a proxy.
- 14.13 A resolution in writing signed (either on a single document or in counterparts) by each of the directors shall be treated in all respects as if such resolution had been passed at a meeting of the Board.

15 Matters Requiring Shareholder Consent

- 15.1 The parties agree that the following matters shall not occur without the consent of each of the Managing Ordinary Shareholders:

- 15.1.1 authorising the directors to allot Shares or to grant rights to subscribe for or convert any security into any Shares;
- 15.1.2 any change in the share capital (including any reduction or cancellation of share capital, which for this purpose includes the share premium account and capital redemption reserve) of the Company;
- 15.1.3 any declaration or payment of any dividend or distribution by the Company other than in accordance with these Articles;
- 15.1.4 issue of any debenture, loan stock or the creation of any mortgage, charge, lien, encumbrance or other third party right over any of the Company assets or the giving by the Company of any guarantee or indemnity to or becoming surety for a third party;
- 15.1.5 any alteration to these Articles;
- 15.1.6 approval of the Business Plan;
- 15.1.7 any material change in the nature or scope of Business of the Company;
- 15.1.8 the formation of any subsidiary of the Company, including any DBFM HoldCos;
- 15.1.9 entry into or termination by the Company of any material partnership, joint venture, profit-sharing agreement, technology licence or collaboration;
- 15.1.10 material decisions relating to the conduct or settlement of material legal proceedings to which the Company is a party;
- 15.1.11 any proposal that the Company be wound up;
- 15.1.12 any borrowing or raising of money by the Company;
- 15.1.13 appointment or removal of the auditors of the Company;

- 15.1.14 approval of the statutory accounts of the Company and any change in the principal accounting policies of the Company;
 - 15.1.15 any decisions of any nature in relation to the Management Services Agreement *and in relation to management services that are provided direct to a DBFM Co;* and/or
 - 15.1.16 any decisions of any nature in relation to the Working Capital Liabilities and/or Working Capital Loan Agreement.
- 15.2 If a unanimous decision has been made by the Managing Ordinary Shareholders in relation to a matter set out in Article 15.1 above, the parties agree that the Other Shareholders will cast their votes, if any, at a general meeting or on a written resolution in the same manner in which the Managing Ordinary Shareholders unanimously cast their vote.
- 16 Conflicts of Interest**
- 16.1 A Director who is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the Company must declare, in accordance with the Act, the nature and extent of his interest to the other Directors.
- 16.2 A Director who is in any way, directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company must declare, in accordance with the Act, the nature and extent of his interest to the other Directors unless the interest has been declared under Article 16.1 above.
- 16.3 For the purposes of Articles 16.1 and 16.2:
- 16.3.1 the declaration of interest must be made at a meeting of the Directors or by notice In Writing to the Directors in accordance with section 184 of the Act or by general notice in accordance with section 185 of the Act;
 - 16.3.2 if the declaration proves to be or becomes inaccurate or incomplete, a further declaration must be made;
 - 16.3.3 a declaration in respect of a proposed transaction or arrangement must be made before the Company enters into the transaction or arrangement;
 - 16.3.4 a declaration in respect of an existing transaction or arrangement must be made as soon as is reasonably practicable;
 - 16.3.5 a declaration of an interest of which the Director is not aware or where the Director is not aware of the transaction or arrangement in question is not required; and
 - 16.3.6 an interest of a Connected Person with a Director shall be treated as an interest of the Director.
- 16.4 A Director need not declare an interest under Articles 16.1 and 16.2:
- 16.4.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
 - 16.4.2 if, or to the extent that, the other Directors are already aware of it (and for this purpose the other Directors are treated as aware of anything of which they ought *reasonably to be aware*); or
 - 16.4.3 if, or to the extent that, it concerns terms of his service contract that have been or are to be considered:
 - 16.4.3.1 by a meeting of the Directors; or

16.4.3.2 by a committee of the Directors appointed for the purpose under the Articles.

16.5 Subject to the provisions of the Act, and provided that he has disclosed to the Board the nature and extent of any interest of his in accordance with Articles 16.1 and 16.2, a Director notwithstanding his office:

16.5.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;

16.5.2 may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and

16.5.3 shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

16.6 Any Director 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.

16.7 In the case of interests arising under Articles 16.1 and 16.2, save as otherwise provided in these Articles, a Director shall not vote at a meeting of the Board or of a committee of the Board on any resolution concerning a matter in which he has, directly or indirectly, an interest which is material (otherwise than by virtue of his interest in shares, debentures or other securities of, or otherwise in or through, the Company) unless his interest or duty arises only because the case falls within one or more of the following paragraphs:

16.7.1 the resolution relates to the giving to him or a Connected Person with him of a guarantee, security or indemnity in respect of money lent to, or an obligation incurred by him or such a person at the request of or for the benefit of, the Company or any Subsidiary Undertaking;

16.7.2 the resolution relates to the giving to a third party of a guarantee, security or indemnity in respect of a debt or obligation of the Company or any Subsidiary Undertaking for which the Director or a Connected Person with him has assumed responsibility in whole or part and whether alone or jointly with others under a guarantee or indemnity or by the giving of security;

16.7.3 his interest arises by virtue of him or a Connected Person with him subscribing or agreeing to subscribe for any shares, debentures or other securities of the Company or any Subsidiary Undertaking or by virtue of him or a Connected Person with him being, or intending to become, a participant in the underwriting or sub-underwriting of an offer of any such shares, debentures, or other securities by the Company or any Subsidiary Undertaking for subscription, purchase or exchange;

16.7.4 the resolution relates in any way to a company (the counterparty) in which he is interested solely because he or any Connected Person to him is a shareholder in the counterparty or any company of which the counterparty is a Subsidiary or which is a Subsidiary of the counterparty, provided that he and any Connected Person with him do not to his knowledge hold an interest in shares (as that term is used in Part 22 of the Act) representing one per cent or more of any class of the equity share capital of the company in question or of the voting rights available to Members of such company (excluding any shares in the company held as treasury shares and any voting rights attached thereto);

- 16.7.5 the resolution relates in any way to an arrangement in whole or in part for the benefit of the employees of the Company or any Subsidiary Undertakings which does not award him as such any privilege or advantage not generally awarded to the employees to whom such arrangement relates;
- 16.7.6 the resolution relates in any way to the purchase or maintenance for the Directors of insurance against any liability which by virtue of any rule of law would otherwise attach to all or any of them in respect of any negligence, default, breach of duty or breach of trust in relation to the Company or any Subsidiary Undertaking;
- 16.7.7 the resolution relates to a decision to be taken in respect of the Company, a DBFM Holdco and/or a DBFM Co; and
- 16.7.8 the resolution relates to:
- (i) the Shareholder;
 - (ii) a member of the Shareholder; and/or
 - (iii) a Group Member of the member of the Shareholder,
- who ultimately appointed him as Director.
- 16.8 A Director shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.
- 16.9 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the Company or a body corporate in which the Company is interested the proposals may be divided and considered in relation to each Director separately and (provided he is not for another reason precluded from voting) each of the Directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.
- 16.10 If a question arises at a meeting of the Directors or of a committee of the Directors as to the right of a Director to vote or be counted in the quorum and such question is not resolved by his voluntarily agreeing to abstain from voting or not to be counted in the quorum, the question may, before the conclusion of the meeting, be referred to the Chair, or in his absence the chairman of the meeting and his ruling in relation to any Director shall be final and conclusive except in a case where the nature or extent of the interest of the Director concerned has not been fairly disclosed and provided that any such question shall, for the purposes of disclosure of the interest in the accounts of the Company, be finally and conclusively decided by a majority of the Directors (other than the Director concerned).
- 17 Directors Powers to Authorise Conflicts of Interest**
- 17.1 The Directors may authorise, to the fullest extent permitted by law, any matter proposed to them which would otherwise result in a Director infringing his duty under section 175 of the Act 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 and which may reasonably be regarded as likely to give rise to a conflict of interest.
- 17.2 Authorisation of a matter under Article 17.1 is effective only if:
- 17.2.1 the matter has been proposed to the Directors by being submitted In Writing for consideration at a meeting of the Directors or for the authorisation of the Directors by resolution In Writing and in accordance with the Board's normal procedures or in such other manner as the Board may approve;

- 17.2.2 any requirement as to quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question and any other interested Director; and
- 17.2.3 the matter has been agreed to without the Director in question and any other interested Director voting or would have been agreed to if their votes had not been counted.
- 17.3 Any authorisation of a matter under Article 17.1 shall extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised.
- 17.4 The Board may authorise a matter pursuant to Article 17.1 on such terms and for such duration, or impose such limits or conditions on it, as it may decide and vary the terms or duration of such an authorisation (including any limits or conditions imposed on it) or revoke it. A Director shall comply with any obligations imposed on him by the Directors pursuant to any such authorisation.
- 17.5 Any terms imposed by the Board under Article 17.4 may include (without limitation):
 - 17.5.1 whether the Director may vote (or be counted in the quorum) at a meeting of the Board or any committee or sub-committee of the Board in relation to any resolution relating to the relevant matter;
 - 17.5.2 whether the Director is to be given any Documents or other information in relation to the relevant matter; and
 - 17.5.3 whether the Director is to be excluded from discussions in relation to the relevant matter at a meeting of the Board or any committee or sub-committee of the Board or otherwise.
- 17.6 The Director shall not be required to disclose any confidential information obtained in relation to the relevant matter (other than through his position as a director of the Company) to the Company or to use or apply it in performing his duties as a Director if to do so would result in a breach of a duty or obligation of confidence owed by him in relation to or in connection with that matter.
- 17.7 A Director does not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the Act if he acts in accordance with such terms, limits and conditions (if any) as the Board may impose in respect of its authorisation of the directors conflict of interest or possible conflict of interest under Article 17.1.
- 17.8 A Director shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he (or a Connected Person with him) derives from any matter authorised by the Directors under Article 16.1 and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such benefit.
- 17.9 A reference in these Articles to a conflict of interest includes a conflict of interest and duty and a conflict of duties.
- 18 **Quorum and Proceedings at General Meetings**
- 18.1 The quorum at any general meeting of the Company, or adjourned general meeting, shall be:
 - 18.1.1 where a specific DBFM Project is to be discussed and/or a decision is to be taken in relation to such a DBFM Project and/or any proposed action approved in relation to such a DBFM Project, two persons present in person or by proxy, of whom one shall be the holder of the relevant Project Specific C1 Shares or a duly

authorised representative of such holder and one shall be holder of the relevant Project Specific C2 Shares or a duly authorised representative of such holder; and

- 18.1.2 where any other matter other than one referred to above in Article 18.1.1 is to be dealt with, two persons present in person or by proxy, each of whom shall be the Managing Ordinary Shareholders or a duly authorised representative of such relevant holders;

Shareholders will not fail to attend a general meeting in order to use the provisions of this Article 18 to frustrate the holding of a general meeting.

- 18.2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.
- 18.3 If a quorum is not present within half an hour after the time set for the meeting, the meeting is automatically adjourned to the same day in the next week, at the same time and place, or to another day, time and place decided by the Managing Ordinary Shareholder Directors.
- 18.4 The Chair will preside as chair of every general meeting of the Company or in his absence some other Director nominated by the Directors shall preside as chair of the meeting, but if neither the Chair nor such other Director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the Directors present shall elect one of their number to chair the meeting and if there is only one Director present and willing to act, he shall be chair.
- 18.5 If at any general meeting no Director is willing to act as chair, or if no Director is present within fifteen minutes after the time set for the meeting, the Members present must choose one of themselves to chair the meeting.
- 18.6 The chair may adjourn the meeting with the consent of any quorate meeting (and must if required by a simple majority of the Members present at the meeting), but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice is required of an adjourned meeting unless the meeting is adjourned for 30 days or more, in which case notice must be given as in the case of the original meeting.
- 18.7 At any general meeting, a resolution put to the vote of the meeting will be decided on a show of hands unless a poll is demanded (before or on the declaration of the result of the show of hands). Subject to the Act, a poll may be demanded:
- 18.7.1 by the Chair;
- 18.7.2 by at least two Members having the right to vote at the meeting present (where the Member is an individual) in person or by proxy or present (where the Member is a corporation) by a duly authorised representative or by proxy; or
- 18.7.3 by any Member or Members present (where the Member is an individual) in person or by proxy or (where the Member is a corporation) by a duly authorised representative or by proxy and, in either case, representing not less than 10% of the total voting rights of all the Members having the right to vote at the meeting.
- 18.8 Unless a poll is demanded, a declaration by the Chair that a resolution has been carried or lost on a show of hands, whether unanimously or by particular majority, and an entry to that effect in the minutes, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 18.9 The demand for a poll may be withdrawn before the poll is taken, but only with the consent of the Chair. The withdrawal of a demand for a poll does not invalidate the result of a show of hands declared before the demand for the poll is made.

18.10 Except as provided in Article 18.11, if a poll is demanded it may be taken in such manner as the Chair directs but the chair has no authority in exercising this power to extend the poll to Members who are not present at the meeting in question. The result of the poll is deemed to be the resolution of the meeting at which the poll was demanded.

18.11 A poll demanded on the election of a Chair, or on a question of adjournment of a meeting, must be taken immediately. A poll demanded on any other question may be taken at such time as the Chair directs. If there is an interval before the time for closing the poll, the meeting may deal with any business other than the business being determined by poll.

19 Votes

19.1 At a general meeting, on a show of hands every Member present in person (in the case of a body corporate, present via its authorised representative) shall have:

19.1.1 where a specific DBFM Project is to be discussed and/or a decision is to be taken in relation to such a DBFM Project and/or any proposed action approved in relation to such a DBFM Project then the 2 relevant Project Specific Shareholders shall have 100 votes each and each of the other Shareholders shall have 1 vote each; and

19.1.2 any other matter other than one referred to above in Article 19.1.1 is to be dealt with the Managing Ordinary Shareholders shall have 100 votes each and each other Shareholder shall have 1 vote each.

19.2 On a poll every Member present in person (in the case of a body corporate, present via its authorised representative) or by proxy shall have:

19.2.1 where a specific DBFM Project is to be discussed and/or a decision is to be taken in relation to such a DBFM Project and/or any proposed action approved in relation to such a DBFM Project then the 2 relevant Project Specific Shareholders shall have 100 votes each and each of the other Shareholders shall have 1 vote each; and

19.2.2 any other matter other than one referred to above in Article 19.2.1 is to be dealt with the Managing Ordinary Shareholders shall have 100 votes each and each other Shareholder shall have 1 vote each.

19.3 Proxies

19.4 An Instrument appointing a proxy shall be In Writing, executed by or on behalf of the appointer and in any common form or in such other form as the Directors may approve, and the Directors may at their discretion treat a faxed or other machine-made copy of an Instrument in any such form as an original copy of the Instrument. The Instrument of proxy shall, unless the contrary is stated in it, be valid for any adjournment of the meeting as well as for the meeting to which it relates, and shall be deemed to include authority to vote as the proxy thinks fit on any amendment of a resolution put to the meeting for which it is given.

19.5 The Instrument appointing a proxy and (if required by the Directors) any authority under which it is executed or a copy of the authority (certified notarially or in any other manner approved by the Directors) may be delivered to the registered office, or to some other place or to some person specified or agreed by the Directors, before the time for holding the meeting or adjourned meeting at which the person named in the Instrument proposes to act or, in case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the taking of the poll, and an Instrument of proxy which is not so delivered shall be invalid.

20 Means of Communication to be Used

20.1 Subject to Article 20.3 any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:

20.1.1 if delivered by hand, on signature of a delivery receipt; or

20.1.2 if sent by fax, at the time of transmission; or

20.1.3 if sent by pre-paid United Kingdom first class post, recorded delivery or special delivery to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or

20.1.4 if sent or supplied by e-mail, one hour after the notice, document or information was sent or supplied; or

20.1.5 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; and

20.1.6 if deemed receipt under the previous paragraphs of this Article 20.1 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 on the day when business next starts in the place of deemed receipt. For the purposes of this article, all references to time are to local time in the place of deemed receipt.

20.2 To prove service, it is sufficient to prove that:

20.2.1 if delivered by hand the notice was delivered to the correct address; or

20.2.2 if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or

20.2.3 if sent by post the envelope containing the notice was properly addressed, paid for and posted; or

20.2.4 if sent by e-mail, the notice was properly addressed and sent to the e-mail address of the recipient.

20.3 Proving that any notice, document or information was properly addressed, it will suffice to show that the notice, document or information was addressed to an address permitted for the purpose by the Act.

21 Indemnity

21.1 Subject to the provisions of the Act, but without prejudice to an indemnity to which he may otherwise be entitled, every officer of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses and liabilities incurred by him in the execution of his duties or the exercise of his powers, authorities and discretions including (without prejudice to the generality of the foregoing) a liability incurred:

21.1.1 defending proceedings (whether civil or criminal) in which judgment is given in his favour or in which he is acquitted, or which are otherwise disposed of without a finding or admission of material breach of duty on his part, or

21.1.2 in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.