

SC468392

## NEW ARTICLES

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

Edinburgh Alternative Finance Limited

(Adopted by special resolution passed on 26 March 2020)

### 1 DEFINITIONS AND INTERPRETATION

- 1.1 In these Articles unless the context otherwise requires each of the following words and expressions shall have the following meanings:

**"2018 Supplementary Investment Agreement"** the supplementary investment and subscription agreement among the Executive, William Dobbie, Equity Gap, Scottish Enterprise, the Existing Shareholders and the Third Tranche Investors (as both defined therein) and the Company delivered on 1 March 2018 as supplemented, amended, varied or replaced from time to time;

**"2019 Supplementary Investment Agreement"** the supplementary investment and subscription agreement among the Executive, William Dobbie, Equity Gap, Scottish Enterprise, the Existing Shareholders and the Fourth Tranche Investors (as both defined therein) and the Company delivered on 28 June 2019 as supplemented, amended, varied or replaced from time to time;

**"2020 Supplementary Investment Agreement"** the supplementary investment and subscription agreement among the Executive, William Dobbie, Equity Gap, Scottish Enterprise, the Existing Shareholders and the Fifth Tranche Investors (as both defined therein) and the Company dated on or around the date of adoption of these Articles as supplemented, amended, varied or replaced from time to time;

**"A Ordinary Shares"** the A ordinary shares of £0.10 each in the capital of the Company having the rights set out in these Articles;

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

**"acting in concert"** the meaning set out in the City Code on Takeovers and Mergers for the time being;

<b>"Additional Shares"</b>	has the meaning given in Article 4.1;
<b>"Allocation Notice"</b>	has the meaning given in Article 7.6;
<b>"Amendment Agreement"</b>	the agreement among the Executive, William Dobbie, Equity Gap, Scottish Enterprise, the First Tranche Investors and the Second Tranche Investors (as both defined therein) and the Company delivered on 14 February 2017 as supplemented, amended, varied or replaced from time to time;
<b>"Appointees"</b>	has the meaning given in Article 8.8;
<b>"Approved Option"</b>	has the meaning given in the Investment Agreement;
<b>"Approved Trust"</b>	has the meaning given in Article 6.2;
<b>"Auditors"</b>	the auditors of the Company for the time being unless auditors are not required pursuant to the Act and have not been appointed, in which case such reference shall mean the accountants of the Company;
<b>"Business Day"</b>	any day (other than a Saturday or Sunday) on which banks are open in Edinburgh for normal banking business;
<b>"Buyer"</b>	has the meaning given in Article 8.7;
<b>"Called Shareholders"</b>	has the meaning given in Article 8.7;
<b>"Called Shareholder Majority"</b>	has the meaning given in Article 8.8;
<b>"Change of Control"</b>	means in relation to any company or body corporate, that a person who has Control of it ceases to do so, and another person (or other persons) acquire(s) Control of it;
<b>"Change of Control Transfer Event"</b>	has the meaning given in Article 9.1.5;
<b>"Controlling Interest"</b>	an interest (as defined in section 820 to 825 of the Act) in Shares in the Company conferring in aggregate more than 50% of the total voting rights normally exercisable at a general meeting of the Company;
<b>"connected person"</b>	the meaning given to that expression in section 993 of the Income Tax Act 2007 and "connected with" shall be construed accordingly;
<b>"Conflict"</b>	has the meaning given in Article 14.1;

<b>"Control"</b>	has the meaning given to that expression in section 1124 of the Corporation Taxes Act 2010;
<b>"Deemed Transfer Notice"</b>	has the meaning given in Article 9.2;
<b>"Directors"</b>	the directors of the Company from time to time, each a <b>"Director"</b> ;
<b>"Drag Along Notice"</b>	Has the meaning given in Article 8.7;
<b>"Drag Along Price"</b>	has the meaning given in Article 8.9.2;
<b>"Drag Along Right"</b>	has the meaning given to that expression at Article 8.7;
<b>"Dragging Shareholders"</b>	has the meaning given in Article 8.7;
<b>"Equity Gap"</b>	Equity Gap Limited, a company incorporated in Scotland (registered number SC378060) and having its registered office at 302 St Vincent Street, Glasgow, G2 5RZ;
<b>"Excess Sale Shares"</b>	has the meaning given in Article 7.5;
<b>"Excluded Shares"</b>	Any Shares which, pursuant to Article 7.10 and/or 9.5.3, do not for the time being carry pre-emption rights under Article 4.1 or the right to participate in any offer of Shares from any other member or the right to vote;
<b>"Executive"</b>	the <b>"Executive"</b> as defined in the Investment Agreement;
<b>"Family Member"</b>	in relation to a person, the wife, husband or civil partner (or widow, widower or surviving civil partner), children and grandchildren (including step, adopted children and grandchildren and their issue) of that person;
<b>"Family Trust"</b>	has the meaning given in Article 6.2;
<b>"Financial Year"</b>	an accounting period in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Statutes;
<b>"Group"</b>	the Company, its subsidiary undertakings and any holding company (as both are defined in the Act) from time to time and references to <b>"member of the Group"</b> and <b>"Group Company"</b> shall be construed accordingly. For the avoidance of any doubt Edinburgh Alternative Lending Limited and EAL Lending Limited are not part of the Company's Group;

<b>“Information Notice”</b>	has the meaning given in Article 8.8;
<b>“Investment Agreement”</b>	the investment agreement delivered on 29 June 2016 and made among the Company, the First Tranche Investors (as defined therein), Scottish Enterprise, Equity Gap, William Dobbie and the Executive as amended by the Amendment Agreement, the 2018 Supplementary Investment Agreement, the 2019 Supplementary Investment Agreement, the 2020 Supplementary Investment Agreement and as otherwise supplemented, amended, varied or replaced from time to time;
<b>“Investor Consent”</b>	the consent in writing of an Investor Majority in accordance with the terms of the Investment Agreement;
<b>“Investor Director”</b>	a Director appointed by Scottish Enterprise, Equity Gap or Murray Capital Limited (as the case may be) in accordance with Article 11.2;
<b>“Investor Group”</b>	an Investor, its subsidiary undertakings and any holding company (as both are defined in the Act) from time to time of such Investor;
<b>“Investor Majority”</b>	Investors holding between them more than 50% of the shares in the Company held by the Investors (whether through nominees or otherwise) including Scottish Enterprise;
<b>“Investors”</b>	the First Tranche Investors (as defined in the Investment Agreement), the Second Tranche Investors (as defined in the Amendment Agreement), the Third Tranche Investors and Further Investors (each as defined in the 2018 Supplementary Investment Agreement), the Executor Transferees, the Fourth Tranche Investors and the Further Fourth Tranche Investors (each as defined in the 2019 Supplementary Investment Agreement), the Fifth Tranche Investors (as defined in the 2020 Supplementary Investment Agreement) and any party acquiring Shares from such persons in accordance with the Articles and any additional or replacement investor who is named as an Investor in a deed of adherence to the Investment Agreement or otherwise;
<b>“Issue Price”</b>	in respect of a Share, the aggregate of the amount paid up (or credited as paid up) in respect of the nominal

	value and any share premium;
<b>"Member Applicant"</b>	has the meaning given in Article 7.6;
<b>"Member of Equity Gap"</b>	any member of the Equity Gap syndicate whether as an individual or body corporate who is recognised by Equity Gap as such in accordance with their rules and procedures;
<b>"Misconduct Event"</b>	has the meaning given in Article 9.4;
<b>"Model Articles"</b>	the model articles for 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;
<b>"Ordinary Shares"</b>	the ordinary shares of £0.10 each in the capital of the Company having the rights set out in these Articles;
<b>"Permitted Transferee"</b>	in relation to a particular shareholder, a permitted transferee of that shareholder under the provisions of Article 6;
<b>"Proportionate Entitlement"</b>	has the meaning given in Article 4.1;
<b>"Related Company"</b>	has the meaning given in Article 6.1;
<b>"Rollover Alternative"</b>	has the meaning given in Article 8.14.3;
<b>"Sale Shares"</b>	has the meaning given in Article 7.1.1;
<b>"Scottish Enterprise"</b>	Scottish Enterprise, established by the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ;
<b>"Scottish Enterprise Group"</b>	Scottish Enterprise, any subsidiary for the time being of Scottish Enterprise and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of Scottish Enterprise or any subsidiary of such company, corporation or body and any other body to which the statutory functions of Scottish Enterprise have been delegated or a Scottish Enterprise Successor;
<b>"Scottish Enterprise Successor"</b>	any party succeeding in whole or in part to the interests of Scottish Enterprise, including the proposed Scottish National Investment Bank;
<b>"Seller"</b>	a shareholder who wishes, or is required, to transfer

- Shares to a person to whom Article 6 (Permitted Transfers) does not apply;
- “Shareholder Majority”** those shareholders who together hold not less than 60% of the entire issued share capital of the Company;
- “Shares”** any share forming part of the share capital of the Company;
- “the Statutes”** the Companies Act as defined in section 2 of the Act and every other statute, order, regulation, instrument or other subordinate legislation for the time being in force relating to companies and affecting the Company;
- “Tag Along Offer”** has the meaning given to that expression in Article 8.1;
- “Tag Along Price”** has the meaning given in Article 8.3.2;
- “Transfer Event”** has the meaning given to that term in Article 9.1;
- “Transfer Notice”** has the meaning given in Article 7.1; and
- “Transfer Price”** in relation to a Transfer Notice given in respect of a voluntary transfer pursuant to Article 7, the price stated in the Transfer Notice or, in the case of a Deemed Transfer Notice, as determined in accordance with Article 9.3.
- 1.2 references to any statute or statutory provision include, unless inconsistent with the context, a reference to that statute or statutory provision as modified, re-enacted or consolidated and in force from time to time, whether before or after the date of these Articles;
- 1.3 where the word “address” appears in these Articles it is deemed to include postal address and, where applicable, electronic address (being any address or number used for the purposes of sending or receiving documents or information by electronic means);
- 1.4 references to a person include any individual, firm, body corporate, unincorporated association or partnership;
- 1.5 references to the plural will include the singular and vice-versa;
- 1.6 headings are for convenience only and do not affect the construction or interpretation of these Articles;
- 1.7 the Model Articles shall apply to the Company, except insofar as they are modified or excluded by these Articles;

- 1.8 save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Investment Agreement, Amendment Agreement, 2018 Supplementary Investment Agreement, 2019 Supplementary Investment Agreement, 2020 Supplementary Investment Agreement or the Model Articles shall have the same meaning in these Articles subject to which and unless the context otherwise requires, words and expressions which have a particular meaning in the Act shall have the same meaning in the Articles; and
- 1.9 all references herein to consents, approval or permission by the Investors will mean the Investors acting by Investor Majority, unless otherwise stated.

## **2 SHARE CAPITAL AND SHARE RIGHTS**

- 2.1 The issued share capital of the Company at the date of adoption of these Articles is £1,651,492.40 divided into 14,469,477 Ordinary Shares of £0.10 each and 2,045,447 A Ordinary Shares of £0.10 each.
- 2.2 Subject to Article 9.5, the Ordinary Shares shall rank *pari passu* in all respects.
- 2.3 Subject to Article **Error! Reference source not found.** the Ordinary Shares and A Ordinary Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.
- 2.4 The directors may decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve and appropriate any sum which they so decide to capitalise to the holders of the A Ordinary Shares. Model Article 36 shall be modified accordingly.

## **3 DIVIDENDS AND RETURN OF CAPITAL**

### **3.1 Dividends**

Subject to the terms of the Investment Agreement, any profits which the Company determines to distribute in respect of any Financial Year shall, subject to the approval of a general meeting be applied in distributing such profits amongst the holders of the Shares then in issue *pari passu* according to the number of such Shares held by them. Model Articles 30 and 34 shall be construed accordingly.

### **3.2 Return of Capital**

On a return of capital (on liquidation or capital reduction or otherwise) the surplus assets of the Company remaining after the payment of its liabilities shall be applied:

- 3.2.1 first, in paying to each holder of **Shares**, firstly, any dividends thereon which have been declared but are unpaid; and

- 3.2.2 thereafter, in distributing the balance of such assets amongst the holders of the Shares (*pari passu*) in proportion to the number of Shares held by them respectively.

#### 4 ALLOTMENT OF SHARES

- 4.1 Subject to Article 4.5, and except for any allotment pursuant to the Investment Agreement or upon the exercise of an Approved Option in accordance with its terms, the Directors shall not allot any Shares unless notice in writing is given to each shareholder specifying the number and classes of Shares which are proposed to be issued, the consideration payable on the Shares, and any other material terms or conditions of the proposed issue. Subject to Articles 7.10 and 9.5.3, each shareholder shall be entitled to subscribe for such proportion (or as near thereto as possible) of the total number of Shares of each class proposed to be issued, as their existing holding of Shares (excluding any Excluded Shares) bears to the total number of Shares in issue (excluding any Excluded Shares) (“**Proportionate Entitlement**”). It shall be open to each such shareholder to specify if he/it is willing to subscribe for Shares in excess of his/its Proportionate Entitlement (“**Additional Shares**”) and, if the shareholder does so specify, he/it shall state the number of Additional Shares.
- 4.2 The notice specified in Article 4.1 shall invite each shareholder to state, in writing within 10 Business Days from the date of such notice whether he/it will subscribe for any Shares, and if so, how many Shares.
- 4.3 Within 3 Business Days of the expiry of the invitation made pursuant to the notice given under Article 4.1 the Board shall allocate the Shares in the following manner:
- 4.3.1 if the total number of Shares applied for is equal to or less than the available number of Shares to be issued the Company shall allocate the number applied for in accordance with the applications and may dispose of any Shares not accepted by the shareholders in such manner as they think most beneficial to the Company provided that such Shares shall not be disposed of on terms that are more favourable to the allottee than the terms on which they were offered under this Article; or
- 4.3.2 if the total number of Shares applied for is more than the available number of Shares to be issued, each shareholder shall be allocated his/its Proportionate Entitlement (or such lesser number of Shares to be issued for which he/it may have applied) and applications for Additional Shares shall be allocated in accordance with such applications or, in the event of competition, to each shareholder willing to subscribe for Additional Shares in proportion (as nearly as may be) to the proportion which the Shares held by that shareholder (excluding any Excluded Shares) bear to the total number of Shares (excluding any Excluded Shares) held by all shareholders applying for Additional Shares provided that any shareholder shall not be allocated more Additional Shares than they shall have stated themselves willing to take.



- 4.4 Pursuant to the Act, all statutory rights of pre-emption shall be excluded from applying to the Company.
- 4.5 The provisions of Article 4.1 may be disapplied by a special resolution of the Company with Investor Consent.
- 4.6 The Company is authorised in accordance with Article 581 of the Act to make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares.

## **5 TRANSFER OF SHARES: GENERAL**

- 5.1 Subject to the provisions of Article 6, no transfer of any Share shall be made or registered unless such transfer:
  - 5.1.1 complies with the provisions of these Articles;
  - 5.1.2 complies with the Investment Agreement;
  - 5.1.3 has been approved by the Directors; and
  - 5.1.4 the transferee (including the successor of a shareholder) has first entered into a Deed of Adherence pursuant to the Investment Agreement.
- 5.2 Any shares offered to any member of the Scottish Enterprise Group or member of Equity Gap (whether as a result of a proposed transfer of Shares or allotment of Shares) shall, at the request of Scottish Enterprise Group or Equity Gap (as appropriate) be registered in the name or names of any one or more members of the Scottish Enterprise Group (in the case of the Scottish Enterprise Group) or any one or more of the Equity Gap members (in the case of Equity Gap).

## **6 PERMITTED TRANSFERS**

Notwithstanding the provisions of any other Article, the transfers set out in this **Article 6** shall be permitted without restriction and the provisions of **Articles 7** (Voluntary Transfers) and **8** (Drag Along and Tag Along) shall have no application to such transfers.

### **6.1 Permitted transfers by bodies corporate**

Any Investor who is a body corporate may transfer any of its Shares (without restriction as to price or otherwise) to any other body corporate which is for the time being in its Investor Group (each such body corporate being a “**Related Company**”) but if a Related Company shall cease to be a Related Company it shall, within 15 Business Days of so ceasing, transfer the Shares held by it to such body first holding the relevant Shares or any Related Company of such body and failing such transfer the shareholder shall be deemed to have given a Transfer Notice pursuant to **Article 9**.

### **6.2 Permitted Transfers by individuals**

Any shareholder who is an individual (other than the Executive) may transfer any Shares (without restriction as to price or otherwise) to a Family Member or trustees of: (a) a trust for the benefit of a Family Member of that shareholder ("Family Trust"); or (b) any other trust of which the shareholder in question is a settlor, and which has been approved in writing by the Board ("Approved Trust") provided (in the case of a transfer to a Family Member or a Family Trust) that if the Family Member in question ceases to be a Family Member they shall, within 15 Business Days of so ceasing, transfer the shares held by them to the original shareholder and failing such transfer the Family Member or trustees (as the case may be) shall be deemed to have given a Transfer Notice pursuant to Article 9. Any person who has acquired Shares pursuant to this Article 6.2 may transfer any of such Shares (without restriction as to price or otherwise) back to the shareholder (or former shareholder) from whom they originally acquired the Shares. The trustee(s) from time to time of a Family Trust or an Approved Trust may transfer the entire right, title and interest held by them in all Shares held by them to their successor(s) as trustee(s) of such trust. The Board's written approval in respect of an Approved Trust shall be deemed to constitute the prior written consent of the Shareholder Majority and an Investor Majority in respect of the transfer to the Approved Trust in question and all shareholders in the Company shall thereby be deemed to have consented to and approved the transfer to such Approved Trust.

#### **6.3 Permitted Transfers by Scottish Enterprise**

Notwithstanding any other provision contained in these Articles or the Investment Agreement, the Board shall register the transfer of any Shares made from any member of the Scottish Enterprise Group to any other member of the Scottish Enterprise Group (without restriction as to price or otherwise).

#### **6.4 Permitted Transfers by Member of Equity Gap**

Any Member of Equity Gap may transfer any Shares (without restriction as to price or otherwise) to any other Member of Equity Gap.

#### **6.5 Permitted Transfers by all Shareholders**

6.5.1 Any shareholder may at any time transfer all or any of their Shares to any other person with the prior written consent of the Shareholder Majority and an Investor Majority; and

6.5.2 Any Shares may be transferred pursuant to Article 8 (Drag Along and Tag Along).

### **7 VOLUNTARY TRANSFERS**

7.1 Except as permitted under Article 6 any Seller who wishes to transfer Shares shall give notice in writing (the "Transfer Notice") to the Company of their wish specifying:

7.1.1 the number of Shares (the "Sale Shares") which they wish to transfer;

- 7.1.2 the name of the party to which they wish to transfer the Shares;
  - 7.1.3 the price at which they wish to transfer the Sale Shares; and
  - 7.1.4 whether the Transfer Notice is conditional on all, or a specific number, of the Sale Shares being sold in which case no Sale Shares can be sold unless offers are received for all or the minimum number (as applicable) of the Sale Shares.
- 7.2 Where any Transfer Notice is deemed to have been given in accordance with Article 9 all the Shares registered in the name of the Seller shall be included for transfer, and the provisions of Article 7.1.4 shall not apply.
- 7.3 Once given, a Transfer Notice or Deemed Transfer Notice may not be withdrawn unless the Seller is obliged to procure the making of a Tag Along Offer under Article 8.1 and is unable to procure the making of such an offer, or the Shareholder Majority and an Investor Majority approves such withdrawal. In the event of a Transfer Notice being withdrawn the Seller shall bear all costs relating to such Transfer Notice or Deemed Transfer Notice.
- 7.4 The Transfer Notice shall constitute the Directors the agents of the Seller for the sale of the Sale Shares at the Transfer Price. As soon as reasonably practicable following receipt by the Company of a Transfer Notice the Directors shall give notice to all shareholders of the Company (other than the Sellers and those shareholders excluded pursuant to Article 7.10 and/or 9.5.3) inviting them to notify the Company in writing within 15 Business Days from the date of such notice (the "Offer Period" in this Article 7) confirming the maximum number of Sale Shares they wish to purchase at the Transfer Price.
- 7.5 It shall be open to each shareholder to specify if they are willing to purchase Sale Shares in excess of their Proportionate Entitlement ("Excess Sale Shares") and, if the shareholder does so specify, they shall state the number of Excess Sale Shares.
- 7.6 Within 3 Business Days of the expiry of the Offer Period the Board shall allocate the Sale Shares in the following manner:
  - 7.6.1 if the total number of Sale Shares applied for is equal to or less than the available number of Sale Shares the Company shall, subject to Article 7.1.4, allocate the number applied for in accordance with the applications; or
  - 7.6.2 if the total number of Sale Shares applied for is more than the available number of Sale Shares, each shareholder shall be allocated their Proportionate Entitlement (or such lesser number of Sale Shares for which they may have applied) and applications for Excess Sale Shares shall be allocated in accordance with such applications or, in the event of competition, as nearly as may be to the proportion which Shares held by a shareholder (excluding any Excluded Shares) bear to the total number of Shares held by all shareholders applying for Excess Sale Shares (excluding any Excluded Shares) provided that any shareholder shall not be allocated

more Excess Sale Shares than they shall have stated themselves willing to take;

and in either case the Company shall forthwith give notice of each such allocation (an "Allocation Notice") to the Seller and each of the persons to whom Sale Shares have been allocated (a "Member Applicant") and shall specify in the Allocation Notice the place and time (being not later than 10 Business Days after the date of the Allocation Notice) at which the sale of the Sale Shares shall be completed.

- 7.7 The Seller shall be bound, on payment of the Transfer Price, to transfer the Sale Shares comprised in the Allocation Notice to the Member Applicants free from any lien, charge or encumbrance. If the Seller makes default in so doing any Director shall forthwith be deemed to be the duly appointed attorney of the Seller with full power to execute, complete and deliver a transfer of the relevant Sale Shares and any Director may receive and give a good discharge for the purchase money on behalf of the Seller and (subject to the transfer being duly stamped) enter the name of the Member Applicant in the register of members. The Board shall forthwith pay the Transfer Price into a separate bank account in the Company's name and shall hold such money on trust (but without interest) for the Seller until they shall deliver up their certificate(s) for the relevant Shares (or an indemnity in respect of any lost certificate) to the Company when they shall thereupon be paid the Transfer Price.
- 7.8 If the provisions of Article 7.1.4 apply or where any Transfer Notice is deemed to have been given in accordance with these Articles and if the total number of Shares applied for by Member Applicants is less than the number of Sale Shares the Directors may within 7 days of the date of the Allocation Notice determine that the Company shall (if it is permitted to do so under the Act) purchase some or all of the Sale Shares at the Transfer Price. The Directors shall have a period of 30 days from the date of any such determination by the Directors to obtain any necessary consents and authorities for any such purchase by the Company and to complete the purchase by the Company of the Sale Shares at the Transfer Price.
- 7.9 In the event of all of the Sale Shares not being sold under the preceding paragraphs of this Article 7 the Seller may, at any time within 3 months after receiving confirmation from the Company that the provisions herein contained have been exhausted, transfer all the Sale Shares (if Article 7.1.4 does apply) or any Sale Shares which have not been sold (if Article 7.1.4 does not apply) to any person or persons at any price not less than the Transfer Price.
- 7.10 Any Shares which are the subject of a Deemed Transfer Notice shall continue to entitle the holder to receive notice of and attend general meetings of the Company but shall cease to confer the right:
- 7.10.1 to vote;
- 7.10.2 to participate in any offer of Shares from any other member in accordance with these Articles; and
- 7.10.3 to pre-emption rights under Article 4,

until such time as the transfer of those Shares (i) in accordance with the foregoing provisions of this Article 7 has been registered; or (ii) pursuant to the exercise of the Tag Along or Drag Along provisions in Article 8.

Model Article 37 shall be modified accordingly.

## **8 DRAG ALONG AND TAG ALONG**

### **Tag along**

8.1 Subject to Article 8.2, if in one or a series of related transactions, one or more Sellers propose to transfer any Shares to an arm's length purchaser (other than William Dobbie, the Executive or an Investor) for value which would, if completed, result in the transferee together with persons acting in concert or connected with that transferee obtaining a Controlling Interest, the Seller or Sellers shall (unless such transfer is a transfer to a Permitted Transferee) before making such transfer procure that the proposed transferee of the Seller's Shares makes an offer to all of the other shareholders in respect of the same proportion of the Shares held by them as are being sold by the Seller or Sellers (**Tag Along Offer**).

8.2 If, as a result of one or a series of transactions:

8.2.1 the Executive is to transfer the majority of his Shares to William Dobbie and/or any Family Member of William Dobbie then, before making such a transfer, the Executive shall procure that William Dobbie makes a Tag Along Offer to all of the shareholders such that their holdings would be reduced in the same proportion as the Executive's holding taking into account the transaction or series of transactions in question; or

8.2.2 William Dobbie is to transfer the majority of his Shares to the Executive and/or any Family Member of the Executive then, before making such a transfer, William Dobbie shall procure that the Executive makes a Tag Along Offer to all of the shareholders such that their holdings would be reduced in the same proportion as William Dobbie's holding taking into account the transaction or series of transactions in question.

8.3 The Tag Along Offer shall set out:

8.3.1 the identity of the purchaser of the Shares referred to in Article 8.1;

8.3.2 the purchase price ("**Tag Along Price**") including the calculation of any element not payable in cash and other terms and conditions of payment, which shall be a price per Share equal to the highest price per Share (exclusive of stamp duty) paid or to be paid to any of the Sellers referred to

in Article 8.1 (including any amounts paid or to be paid to persons acting in concert or connected with the Sellers) for Shares;

8.3.3 the proposed date of sale; and

8.3.4 the number of Shares proposed to be purchased.

8.4 The Tag Along Offer shall be given by written notice at least 30 Business Days before the proposed sale date.

8.5 Every shareholder, on receipt of a Tag Along Offer, shall be bound within 15 Business Days of the date of such offer (which date shall be specified therein) (the "Offer Period" in this Article 8) either to accept or reject such offer in writing (and in default of so doing shall be deemed to have rejected the offer). If a Tag Along Offer is not made the Seller or Sellers shall not be entitled to complete the proposed sale and the Board shall not register any transfer to effect the sale.

8.6 If the Tag Along Offer is accepted by any shareholder within the Offer Period, the completion of the proposed transfer shall be conditional upon the purchase of the same proportion of the Shares held by such accepting shareholders as are being sold by the Seller or Sellers.

#### **Drag along**

8.7 If the holders of at least 60% of the Shares (in this Article 8 the "Dragging Shareholders") wish to transfer all of their Shares in the Company to a bona fide arm's length purchaser that is not connected with the Dragging Shareholders (the "Buyer"), then the Dragging Shareholders can require all of the other shareholders (and any persons who would become shareholders upon exercise of any options or other rights to subscribe for shares which exist at the date of the offer) (the "Called Shareholders") to sell and transfer all of their Shares in the Company to the Buyer (or as the Buyer directs) by giving notice to that effect (the "Drag Along Notice") to such Called Shareholders (the "Drag Along Right"), such Drag Along Notice to be served not less than 30 Business Days prior to the proposed completion of the transfer of Shares to the Buyer, provided that the Drag Along Right may not be exercised to a Buyer whose identity, in the reasonable opinion of Scottish Enterprise, is likely to harm the reputation or goodwill of Scottish Enterprise.

8.8 The following provisions shall apply with reference to Article 8.7:

- a) the Dragging Shareholders shall within five Business Days of the issue of a Drag Along Notice provide (by way of letter correspondence or e-mail) to the Called Shareholders such information relating to the proposed transfer of Shares pursuant to the Drag Along Notice which the Dragging Shareholders consider in their discretion, exercised reasonably and in good faith, will be material and relevant to the Called Shareholders (the "Information Notice");

- b) persons holding more than 50% of all Shares held by Called Shareholders (a **"Called Shareholder Majority"**) may appoint one or two persons (the **"Appointees"**) to represent their interests in relation to the Drag Along Right, and where notice is provided to the Company (by way of letter correspondence or e-mail) within five Business Days of the issue of an Information Notice evidencing that an Appointee or Appointees has or have been appointed, the Dragging Shareholders shall in the period of five Business Days following (i) consult with the Appointees in good faith in relation to the operation of the Drag Along Right; and (ii) consider, acting reasonably and in good faith, any representations that the Appointee(s) may make in relation to the transfer of Shares pursuant to the operation of the Drag Along Right;
- c) should the Dragging Shareholders decide (such decision to be made at the Dragging Shareholders' discretion exercised reasonably and in good faith) to:
  - i. make an amendment or amendments to the terms on which Shares shall be transferred pursuant to the Drag Along Notice, and where such amendment or amendments are agreed by the Appointee(s) (as evidenced in writing, which may be by email), such amendment(s) shall be notified to all Called Shareholders (which may be by email), and shall be deemed to vary the Drag Along Notice accordingly (which shall continue to apply and be valid as so varied); or
  - ii. cease to effect the Drag Along Right, the Dragging Shareholders shall notify the Called Shareholders accordingly (which may be by email);
- d) this Article 8.8 shall not, unless otherwise decided by the Dragging Shareholders in accordance with the terms of this Article 8.8, limit, impact on or prejudice the operation of the Drag Along Right.

**8.9 The Drag Along Notice shall specify:**

- 8.9.1** that the Called Shareholders are required to transfer all their Shares free from all liens, charges and encumbrances;
- 8.9.2** the price (the **"Drag Along Price"**) including the calculation of any element not payable in cash at which such shares of the Company are proposed to be transferred which shall be a price per Share equal to that offered by the Buyer to the Dragging Shareholders;
- 8.9.3** the identity of the Buyer; and
- 8.9.4** the proposed date of the transfer.

- 8.10 Once issued, a Drag Along Notice may not be revoked except with the consent of the Dragging Shareholders. A Drag Along Notice shall lapse if, for any reason, the Dragging Shareholders have not sold their Shares to the Buyer within 90 Business Days of serving the Drag Along Notice or, where the completion of the sale process is dependent upon obtaining any form of regulatory clearance, within 30 days of receipt of such regulatory clearance, whichever is longer. The Dragging Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 8.11 On or before completion, each Called Shareholder shall deliver:
- 8.11.1 a form of acceptance in respect of the relevant offer including, as necessary, a warranty as to title and capacity to enter into the transaction; and
- 8.11.2 duly executed stock transfer form(s) in respect of the Called Shares they hold, together with the relevant share certificate(s) or a lost share certificate indemnity in respect thereof in a form satisfactory to the Directors to the Company (the Directors acting reasonably in this regard).
- 8.12 The Called Shareholders shall be bound, on payment of the Drag Along Price to transfer the Called Shares in accordance with the Drag Along Notice at the time and place therein specified free from any lien, charge or encumbrance.
- 8.13 If the Called Shareholders (or any of them) shall make default on the terms of **Articles 8.7 to 8.12 inclusive or Article 8.14** or does not, on or before completion, execute a form of acceptance (including a warranty as to title and capacity) of the relevant offer and transfer(s) in respect of all the Called Shares held by them, then such defaulting Called Shareholder shall be deemed to have irrevocably appointed any Director nominated for the purpose by the Dragging Shareholders to be their agent to execute and deliver all such documentation on their behalf and against receipt by the Company (on trust for such Called Shareholder) of the purchase monies or any other consideration payable (without there being any duty to deposit the same in an interest bearing account) for the Called Shares, deliver such documentation to the Buyer (or as they may direct) and, subject to stamping, the Directors shall forthwith register the Buyer (or as they may direct) as the holder thereof and, after the Buyer (or as they may direct) has been registered as the holder, the validity of such proceedings shall not be questioned by any such person. It shall be no impediment to registration of shares under this Article that no share certificate (or lost share certificate indemnity) has been produced.
- 8.14 The following variations in the terms of an offer shall be permitted:
- 8.14.1 deferred, contingent or variable consideration may be offered to certain shareholders but not to others, provided that the terms offered to the Called Shareholders may not be less favourable than those offered to the Dragging Shareholders; and
- 8.14.2 certain shareholders (excluding the Investors) may be required to:



- 8.14.2.1 provide different warranties and indemnities (or no warranties and indemnities) in respect of the sale of their shares; and/or
  - 8.14.2.2 retain part of the consideration for the sale of such shares in an escrow account (or a similar retention mechanism);
- 8.14.3 provided that the terms offered to the Called Shareholders may not be less favourable than those offered to the Dragging Shareholders, the offer may provide that the consideration be paid otherwise than in cash (the "Rollover Alternative") and any shareholders who would not be capable of accepting the Rollover Alternative by virtue of applicable laws may be excluded from accepting it. In any such case, the Buyer will provide an opinion from legal counsel, which is addressed to the Company and which confirms that applicable laws require the exclusion of the relevant shareholders from the Rollover Alternative; and
- 8.14.4 provided that the terms offered to the Called Shareholders may not be less favourable than those offered to the Dragging Shareholders, where the offer provides for more than one alternative payment structure either of which is capable of acceptance by the Called Shareholders, the Called Shareholders shall be given 10 Business Days to notify the Dragging Shareholders of their preferred payment structure whereupon the Dragging Shareholders will accept that payment structure on behalf of the Called Shareholders. In providing such notification, the Dragging Shareholders must specify their own preferred payment structure including details of any deferred or contingent consideration which will or may be payable. If the Called Shareholders do not specify a preferred payment structure within that period of 10 Business Days, the Dragging Shareholders may accept either structure on behalf of the Called Shareholders.

## **9 COMPULSORY TRANSFERS AND MISCONDUCT**

- 9.1 A "Transfer Event" occurs when any of the following happens to a shareholder:
  - 9.1.1 where the shareholder is an individual in sequestration, entering into a trust deed for creditors or similar voluntary arrangement;
  - 9.1.2 where the shareholder is a body corporate a receiver, manager or administrative receiver being appointed over all or any part of its undertaking or assets or entering into liquidation (other than a voluntary liquidation for the purposes of a bona fide scheme of solvent amalgamation or reconstruction) or administration (including any provisional or interim appointment of an administrator or liquidator);
  - 9.1.3 a shareholder attempting to deal with or dispose of any Share or any interest in it or purporting to make a transfer otherwise than in accordance with these Articles;

9.1.4 a shareholder, other than an Investor, is convicted of a fraud in relation to the Company;

9.1.5 a shareholder undergoes a Change of Control (a “Change of Control Transfer Event”);

unless upon the occurrence of any of the Transfer Events listed above an Investor Majority notify the Company that such event is not to be treated as a Transfer Event.

9.2 Upon the happening of any Transfer Event, the shareholder in question or any Permitted Transferee of such shareholder who has derived title to Shares from them shall be deemed to have immediately given a Transfer Notice in respect of all of the Shares held by them (a “Deemed Transfer Notice”). A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice. If any Share is to be issued to a shareholder pursuant to an Approved Option and the shareholder in question has been subject to a Transfer Event, then such shareholder shall be deemed to have immediately served a Transfer Notice in respect of all such Shares to be issued pursuant to the Approved Option, such Transfer Notice also constituting a Deemed Transfer Notice for the purposes of these Articles.

9.3 The Shares which are the subject of any Deemed Transfer Notice shall be offered for sale in accordance with Article 7 (Voluntary Transfers) as if they were Sale Shares in respect of which a Transfer Notice had been given save that:

9.3.1 a Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event or, if later, the date upon which the Investor Majority becomes aware that the relevant event is a Transfer Event and has notified the Company that the relevant event is a Transfer Event;

9.3.2 in the case of a Change of Control Transfer Event, the Transfer Price for each of the Shares subject to the Deemed Transfer Notice shall be the higher of (i) the price paid for each such Share and (ii) the subscription price per Share paid on the most recent allotment of Shares by the Company for cash;

9.3.3 in the case of any other Transfer Event, the Transfer Price for all of the Shares subject to the Deemed Transfer Notice shall be £1 in aggregate;

9.3.4 the provisions of Article 7.1.4 shall not apply to a Deemed Transfer Notice; and

9.3.5 subject to Article 9.5, the Sale Shares shall be sold together with all rights attaching thereto as at the date of the Transfer Event.

9.4 A “Misconduct Event” occurs if the Executive performs an action which falls within each of the following criteria:

- 9.4.1 that he knew, or ought reasonably to have known, that such action would constitute a material breach of his Service Agreement or the terms of the Investment Agreement;
- 9.4.2 his actions in the circumstances demonstrate that he either intended to cause such material breach or was recklessly indifferent to the consequences of that action; and
- 9.4.3 that such material breach was to the material detriment of the business and financial position of the Company,

and written notice of such material breach having been given by the Company to the Executive providing all reasonably available details thereof, the Executive has failed to remedy it within 20 Business Days of being given such notice. A Misconduct Event shall not constitute a Transfer Event.

9.5 In the case of:

- 9.5.1 a Misconduct Event where the Shares held by the Executive comprise 5% or more of the issued share capital of the Company, then all such Shares (and Shares acquired subsequent thereto by the Executive) shall cease to carry the right to vote apart from Shares constituting 5% of the issued share capital of the Company held by the Executive (or such greater percentage of the Shares held by the Executive as the Board may determine with Investor Consent) provided that in any case where Shares constituting 5% of the issued share capital of the Company held by the Executive is not a whole number of Shares, such number of Shares shall be rounded up to the next whole number;
- 9.5.2 a Misconduct Event where the Shares held by the Executive comprise less than 5% of the issued share capital of the Company, then all such Shares (and Shares acquired subsequent thereto by the Executive) shall cease to carry the right to vote; or
- 9.5.3 a Transfer Event, all of the Shares that are subject to the Deemed Transfer Notice shall cease to carry the right to vote and to pre-emption rights under Article 4 and shall cease to carry the right to participate in any offer of Shares from any other member in accordance with these Articles,

provided that in each case the right to vote and (if applicable) the right to pre-emption rights under Article 4 and the right to participate in any offer of Shares from any other member in accordance with these Articles shall be restored upon any transfer (i) made in accordance with the provisions of Article 7 being registered; or (ii) pursuant to the exercise of the Tag Along provisions or the Drag Along Right under Article 8.

## **10 GENERAL MEETINGS**

- 10.1 No business shall be transacted at any general meeting unless a quorum of shareholders is present. A Shareholder Majority including an Investor Majority present in person, by proxy or by duly authorised representative (if a corporation), shall be the quorum at any general meeting. In the event that a general meeting is duly convened but is not quorate as a result of an Investor Majority not being present in person, by proxy or by duly authorised representative, a further general meeting may be convened to deal with the same business and the quorum at that further meeting shall be a Shareholder Majority.
- 10.2 Unless waived in writing (which may be by email) by an Investor Majority, the Company shall, from the date of adoption of these Articles, hold an annual general meeting in each calendar year.
- 10.3 A notice convening a general meeting (other than an adjourned general meeting) must be called by at least 14 days' notice but a general meeting can be called by shorter notice if it is so agreed by the shareholders in accordance with the Act. An adjourned general meeting may be called by at least 7 days' notice. The notice must state the time, date and place of the meeting and the general nature of the business to be dealt with at the meeting and shall be given in accordance with the Act.
- 10.4 The Company may send a notice of meeting by making it available on a website or by sending it in electronic form and if notice is sent in either way it will be valid provided it complies with the relevant provision of the Act.

## **11 APPOINTMENT AND REMOVAL OF DIRECTORS AND INVESTOR DIRECTORS**

- 11.1 Any Director shall only be appointed in accordance with the terms of the Investment Agreement and this Article 11. Model Article 17.1 shall be modified accordingly.
- 11.2 Scottish Enterprise, Equity Gap and Murray Capital Limited shall each be entitled at any time to appoint one person as Directors of the Company who shall be designated as the Investor Directors for the purposes of this Agreement. Scottish Enterprise and Equity Gap shall each be entitled in their absolute discretion at any time to appoint one person as directors of any other member(s) of the Group and/or as members of each and any committee of the Company or any other member of the Group. The removal of any director so appointed shall be made by notice in writing from Scottish Enterprise, Equity Gap or Murray Capital to the Company as appropriate.
- 11.3 William Dobbie shall be entitled to appoint by notice in writing to the Company one person (including himself) as a Director for as long as he and his Family Members together hold 10% or more of the issued share capital of the Company in aggregate. William Dobbie shall be deemed to be the initial appointee under this Article 11.3.

William Dobbie or his Family Members may remove any Director so appointed by giving notice in writing to the Company.

- 11.4 Stuart Lunn shall be entitled to appoint by notice in writing to the Company one person as a Director (including himself) for as long as he and his Family Members together hold 10% or more of the issued share capital of the Company in aggregate provided that Stuart Lunn shall cease to have this right if he performs an act constituting a Misconduct Event. Stuart Lunn shall be deemed to be the initial appointee under this Article 11.4. Stuart Lunn or his Family Members may remove any Director so appointed by giving notice in writing to the Company.
- 11.5 Without prejudice to Articles 11.3 and 11.4 the Shareholder Majority shall be entitled to appoint by notice in writing to the Company one person as a Director and to remove any Director so appointed by giving notice in writing to the Company.
- 11.6 A Director may only be removed in accordance with the terms of the Investment Agreement and this Article 11.
- 11.7 The office of any Director shall be vacated if:
  - 11.7.1 he shall, for whatever reason, cease to be employed by the Company or any Group Company provided that this Article 11.7.1 shall not apply to (i) any Investor Director, (ii) any Director appointed by William Dobbie under Article 11.3 (iii) any Director appointed by Stuart Lunn under Article 11.4 other than Stuart Lunn himself in circumstances where Stuart Lunn ceases to have the right to appoint a Director under Article 11.4; or (iv) Stuart Lunn where the circumstances of him ceasing employment do not involve a Misconduct Event;
  - 11.7.2 other than in the case of any Investor Director, any Director appointed by William Dobbie under Article 11.3 or any Director appointed by Stuart Lunn under Article 11.4, they shall for more than six consecutive months have been absent without permission of the Directors from meetings of the Directors held during that period and the remaining Directors resolve that their office be vacated;
  - 11.7.3 other than in the case of any Investor Director the other Directors acting by majority for this purpose, determine that such Director shall be removed from the Board; or
  - 11.7.4 in any of the circumstances listed in Model Article 18.

## 12 ALTERNATE DIRECTORS

- 12.1 The appointment by any Investor Director of an alternate Director may be made by notice in writing to the Company and shall not be subject to approval by a resolution of the Board but the appointment of an alternate by any Director other than an Investor Director shall require such approval.

- 12.2 An alternate Director shall not be entitled to receive any remuneration from the Company, save that they may be paid by the Company such part (if any) of the remuneration otherwise payable to their appointor as such appointor may, by notice in writing to the Company from time to time, direct.
- 12.3 A Director, or alternate Director, may act as an alternate Director for and represent more than one Director, and an alternate Director shall be entitled at any meeting of the Board (or of any committee of the Board) to one vote for every Director whom they represent (in addition to their own vote (if any) as a Director), but they shall count as only one for the purpose of determining whether a quorum is present at any such meeting.

### 13 PROCEEDINGS OF DIRECTORS

- 13.1 For so long as any Investor Director is appointed, no Board meeting shall be quorate unless at least one Investor Director (or their alternate) is in attendance or each Investor Director (or their alternate) has confirmed in writing (which may be by email) that they are satisfied that the Board meeting in question is quorate without them being present. In the event that a Board meeting is duly convened, valid notice having been given to and received by each Investor Director appointed (and their alternate where one is appointed), and would be quorate but for the fact that no Investor Director (or alternate of an Investor Director) attends it, then a further Board meeting may be convened on not less than 5 Business Days' notice to deal with the same business and the attendance of an Investor Director (or their alternate) shall not be required at that further Board meeting for it to be quorate.
- 13.2 At any time when there is no Investor Director holding office, any provision in these Articles requiring the prior consent, approval or agreement of the Investor Director(s) shall be deemed instead to require the prior consent, approval or agreement (as applicable) of an Investor Majority.
- 13.3 The Investor Majority shall be entitled from time to time to appoint by notice in writing to the Company one of the Investor Directors as the Chairman of the Board (and any committee of the Board) and remove any Investor Director so appointed from the position of Chairman and to appoint another Investor Director in their place. Model Articles 12.1 to 12.3 shall be modified accordingly.
- 13.4 Model Articles 5.1 to 5.3 inclusive and 6.2 shall be modified by the insertion of the words "acting with Investor Consent" following each reference to "the Directors" in such Model Articles.
- 13.5 Not less than 7 days' notice of any Board meeting shall be given unless all of the Directors agree otherwise in writing (which may be by email). Notice of each board meeting shall be given in writing (which may be by email). Details of the business of the meeting and copies of relevant papers will, where practicable, be included in/provided with the notice (and which may also be provided by email), and in any case as far in advance of the meeting as reasonably practicable. Matters which are not included within the notice of the meeting or which are not provided in advance

of the meeting may be dealt with at the meeting where all Directors present at the meeting agree that it is suitable and appropriate to do so (but not otherwise).

**14 CONFLICTS OF INTEREST**

14.1 The Directors may, in accordance with the requirements set out in this Article, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director breaching their duty under section 175 of the Act to avoid conflicts of interest which shall include, without limitation, conflicts of interest and duty and conflicts of duty ("Conflict").

14.2 Any authorisation under this Article will be effective only if:

14.2.1 the matter in question shall have been proposed by any Director for consideration at a meeting of Directors in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine;

14.2.2 any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question; and

14.2.3 the matter was agreed to without their voting or would have been agreed to if their vote had not been counted.

14.3 Any authorisation of a Conflict under this Article may (whether at the time of giving the authorisation or subsequently):

14.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;

14.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the Directors may determine; and

14.3.3 be terminated or varied by the Directors at any time.

This will not affect anything done by the Director prior to such termination or variation in accordance with the terms of the authorisation.

14.4 In authorising a Conflict the Directors may decide (whether at the time of giving the authorisation or subsequently) that if a Director has obtained any information through their involvement in the Conflict otherwise than as a Director of the Company and in respect of which they owe a duty of confidentiality to another person, the Director is under no obligation to:

14.4.1 disclose such information to the Directors or to any Director or other officer or employee of the Company; or

14.4.2 use or apply any such information in performing their duties as a Director;

where to do so would amount to a breach of that confidence.

14.5 Where the Directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the Director:

14.5.1 is excluded from discussions (whether at meetings of Directors or otherwise) related to the Conflict;

14.5.2 is not given any documents or other information relating to the Conflict; and

14.5.3 may or may not vote (or may or may not be counted in the quorum) at any future meeting of Directors in relation to any resolution relating to the Conflict.

14.6 Where the Directors authorise a Conflict:



14.6.1 the Director will be obliged to conduct themselves in accordance with any terms imposed by the Directors in relation to the Conflict; and

14.6.2 the Director will not, by virtue of the Conflict, infringe any duty they owe to the Company pursuant to sections 171 to 177 of the Act provided they act in accordance with such terms, limits and conditions (if any) as the Directors impose in respect of its authorisation.

14.7 A Director is not required, by reason of being a Director (or because of the fiduciary relationship established by reason of being a Director), to account to the Company for any remuneration, profit or other benefit which they derive from or in connection with a relationship involving a Conflict which has been authorised by the Directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

## 15 NOTICES

15.1 Any notice or other communication in connection with these Articles shall be in writing and may be delivered by hand, pre-paid first class post (or airmail if overseas), (subject to the provisions below) but not by fax (and not by e-mail which shall be invalid other than as specifically permitted in these Articles), to the address of such party which the recipient has notified in writing to the sender (to be received by the sender not less than 7 Business Days before the notice is despatched) in accordance with this Article 15 marked for the attention of the recipient provided that in the case of a notice or other communication being sent or delivered to Scottish Enterprise it must be marked for the attention of "The Head of Transactions" (with a copy to "The Head of Portfolio Management" and must not be sent by fax and any such notice or other demand sent by fax shall be invalid).

15.2 The notice or communication will be deemed to have been duly served if delivered by hand, at the time of delivery and if delivered by first class post, 2 Business Days after being posted or, in the case of airmail, 6 Business Days after being posted; provided that, where in the case of delivery by hand, such delivery occurs either after 4.00 pm on a Business Day, or on a day other than a Business Day, service will be deemed to occur at 9.00 am on the next following Business Day.

15.3 The Investors other than Scottish Enterprise confirm that notices or other communications to be served upon them will be sent to them at the addresses (marked for the attention of the relevant Investors) in the Investment Agreement (as such addresses are updated from time to time in accordance with the terms of the Investment Agreement).

- 15.4 For the avoidance of doubt and notwithstanding any other provision of these Articles, where the approval of the Investor Majority or any of the Investors or any of the Investor Directors is required by the Company, then such approval may be validly sent and requested by email other than requests sent to Scottish Enterprise, which must be served in writing in accordance with the terms of this Article 15.