

**Particle Analytics Limited (the "Company")**

**Registered in Scotland No. SC496532**

**Companies Acts**

**Written Record of Members' Written Resolution**

**Circulation Date:** 8 February 2016

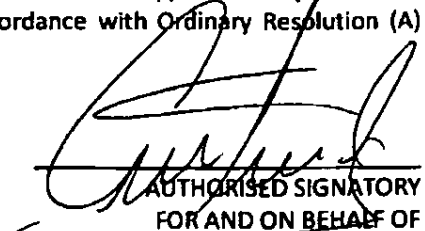
On the 8<sup>th</sup> day of February 2016, the following RESOLUTIONS IN WRITING (such Resolutions to have effect as Ordinary and Special Resolutions, as indicated) were duly passed by the members of the Company entitled to attend and vote at a general meeting of the Company: -

**ORDINARY RESOLUTION**

- (A) THAT the directors are generally and unconditionally authorised in accordance with section 551 of the Companies Act 2006 and in substitution for any existing authority conferred on them to exercise all the powers of the Company to allot shares and/or grant rights to subscribe for, or to convert any security into, any shares ("Rights") up to an aggregate nominal amount of £2.42 for a period of 5 years from the date of this resolution, save that in accordance with section 551(7) of the Companies Act 2006 the Company may before the expiry of such period make an offer or agreement which would or might require shares to be allotted or Rights to be granted after such expiry and the directors may allot shares or grant Rights pursuant to such offer or agreement as if this authority had not expired.


**SPECIAL RESOLUTIONS**

- (B) THAT with effect from the passing of this resolution the new articles of association in the form annexed to this written resolution be approved and adopted as the articles of association of the Company in substitution for and to the exclusion of the existing articles of association.
- (C) THAT the pre-emption rights contained in Article 3.2 of the articles of association to be adopted pursuant to Special Resolution (B) above be hereby waived and dis-applied in respect of the allotment of shares or the grant of Rights made in accordance with Ordinary Resolution (A) above.

  
AUTHORISED SIGNATORY  
FOR AND ON BEHALF OF  
Particle Analytics Limited

8 February 2016  
Dated





Company number: SC496532

The Companies Act 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

PARTICLE ANALYTICS LIMITED

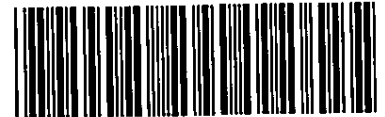
(Adopted by Written Special Resolution dated 8th February 2016)

**1 Interpretation**

1.1 In these Articles the following expressions have the following meanings unless inconsistent with the context:-

"A Shares"	A ordinary shares of £0.001 each in the capital of the Company having the rights set out in these Articles
"the Acts"	The Companies Acts (as defined in section 2 CA 2006) in so far as they apply to the Company
"Arrears"	All arrears, accruals and deficiencies of any dividend or other sums payable in respect of the relevant Share whether or not earned or declared and irrespective of whether or not the Company has had, at any time, sufficient distributable profits to pay such dividend or sums, together with all interest and other amounts payable thereon
"these Articles"	These Articles of Association, whether as originally adopted or as from time to time altered by special resolution
"Asset Sale"	The completion of a sale of all or substantially all (as a going concern) of the business and assets of the Company and/or its subsidiaries
"Auditors"	The auditors of the Company for the time being or, if the Company has lawfully not appointed auditors, its accountants for the time being, or, if in either case such firm is unable or unwilling to act in any particular case, such firm of chartered accountants as may be agreed between the directors of the Company and the

TUESDAY



\*S53T1DT4\*  
SCT 29/03/2016 #166  
COMPANIES HOUSE

	proposing transferor (as defined in Article 8.1) or, in default of agreement, as may be appointed by the President for the time being of the Institute of Chartered Accountants in Scotland or any successor body
<b>"Bad Leaver"</b>	An Employee Member or Dr Labra who ceases to be a director or employee of or consultant to the Company and is not a Good Leaver
<b>"Board"</b>	The board of directors of the Company from time to time acting by the resolution of a duly convened and quorate meeting or by unanimous decision in accordance with Article 8 of the Model Articles
<b>"Business Days"</b>	Any day (other than a Saturday, Sunday or public holiday) on which banks in the City of London and the City of Edinburgh are ordinarily open for the transaction of normal banking business
<b>"CA 2006"</b>	The Companies Act 2006 including any statutory modification or re-enactment thereof for the time being in force
<b>"clear days"</b>	In relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect
<b>"communication"</b>	Has the same meaning as in the Electronic Communications Act 2000
<b>"Company"</b>	<b>PARTICLE ANALYTICS LIMITED</b> a company registered in Scotland (company number SC496532) whose registered office is at 5th Floor 125 Princes Street, Edinburgh, United Kingdom, EH2 4AD
<b>"Compulsory Event"</b>	Has the meaning set out in Article 10.1
<b>"Controlling Interest"</b>	An interest in Shares conferring in the aggregate 50% or more of the total voting rights conferred by all the issued Shares in the Company
<b>"Deferred Shares"</b>	Deferred shares of £0.001 each in the capital of the Company having the rights set out in these Articles
<b>"Dr Labra"</b>	Dr Carlos Andres Labra Gonzalez
<b>"the directors"</b>	The directors for the time being of the Company or (as the context shall require) any of them acting as the board of directors of the Company
<b>"EIS Provisions"</b>	The provisions of Part 5 ITA and sections 150 and 150 A, B and C and Schedule 5B of the Taxation and

	Chargeable Gains Act 1992 (in each case as inserted and/or amended from time to time)
<b>"EIS Reliefs"</b>	The reliefs in respect of income tax and capital gains tax available to certain subscribers of shares pursuant to the EIS Provisions
<b>"eligible director"</b>	Any director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter)
<b>"Employee Benefit Trust"</b>	Any trust set up by the Company from time to time to acquire, hold and apply Shares for the benefit of employees and/or officers and/or consultants of the Company and/or its subsidiaries and, if applicable, specified dependants of such employees, directors and/or consultants
<b>"Employee Member"</b>	A person who is or is to become a holder of Shares (or beneficial holder of Shares the legal title to which are or are to be held by a bare nominee on his behalf) and who is or has been a director and/or an employee of or a consultant to the Company or any of its subsidiaries but excluding the Founder Members
<b>"Equity Shares"</b>	Ordinary Shares and A Shares
<b>"Equity Shareholder"</b>	A holder of Equity Shares
<b>"ETF"</b>	Edinburgh Technology Fund Limited, a company incorporated in Scotland under the Companies Acts (registered number SC092426) and having its registered office at Old College, South Bridge, Edinburgh, EH8 9YL
<b>"executed"</b>	Any mode of execution
<b>"Exit"</b>	A Sale, Asset Sale, or IPO or any of them
<b>"Exit Valuation"</b>	<p>The price per share on a Sale or IPO, as follows:</p> <ul style="list-style-type: none"> <li>(a) in the case of a Sale, being the aggregate amount of consideration received and to be received by the shareholders in respect of Shares the subject of the Sale together with any non cash consideration which might reasonably be considered to form part of the aggregate consideration payable in respect of the Sale divided by the total number of Equity Shares the subject of the Sale;</li> <li>(b) the anticipated listing price per share of the shares on an IPO</li> </ul>

**"Family Trust"**

A trust which permits the settled property or the income therefrom to be applied only for the benefit of:

- (a) the settlor and/or a Privileged Relation of that settlor; or
- (b) any charity or charities as default beneficiaries (meaning that such charity or charities have no immediate beneficial interest in any of the settled property or the income therefrom when the trust is created but may become so interested if there are no other beneficiaries from time to time except another such charity or charities),

and under which no power of control is capable of being exercised over the votes of any Shares which are the subject of the trust by any person other than the trustees or the settlor or the Privileged Relations of the settlor. For the purposes of this definition "**settlor**" includes a testator or an intestate in relation to a Family Trust arising respectively under a settlement, testamentary disposition or an intestacy of a deceased member

**"Founder Members"**

Dr Labra and Professor Ooi, each of whom shall be a "Founder Member"

**"Founder Member Compulsory Event"** means in relation to (a) Dr Labra, he is a Bad Leaver and/or is subject to a Compulsory Event; and (b) Professor Ooi, he is subject to a Compulsory Event pursuant to article 10.1 (ii) or article 10.1(iii),

**"Fund Director"**

Has the meaning set out in the Investment Agreement

**"Good Leaver"**

An Employee Member or Dr Labra who ceases to be a director or employee of or consultant to the Company or any of its subsidiaries in circumstances of:

- (i) death or incapacity;
- (ii) retirement at the Company's normal retirement age at 65 years or older;
- (iii) Serious Ill Health of Dr Labra or an Employee Member;
- (iv) Ill Health of a family member of an Employee Member or Dr Labra (as the case may be) which requires the relevant Employee Member or Dr Labra to cease carrying out his role as an employee or Director in order to become that family member's full time carer;

- (v) redundancy; or
- (vi) resignation with just cause (as determined by the Board acting reasonably) after a period of 24 months commencing on the date of adoption of the Articles or the date on which the employment or provision of services by such member started, whichever is later
- (vii) resignation by the Employee Member or Dr Labra (as the case may be) on or after the date five years from the date of adoption of the date of these Articles or the date of commencement of employment or holding of office (whichever is the later) except where such resignation occurs in circumstances justifying summary dismissal (in the case of an employee) or termination of contract (in the case of a Director or consultant)
- (viii) in respect of Dr Labra, termination of office, employment or consultancy pursuant to notice given by the Company, except where such termination occurs in circumstances justifying summary dismissal (in the case of employment) or immediate termination of contract (in the case of role as a Director or consultant) in circumstances where the conduct of Dr Labra is shown to be equivalent to that of gross misconduct and would justify summary dismissal had he been an employee of the Company
- (ix) termination of office, employment or consultancy pursuant to notice given by the Company, or removal from office or dismissal or termination of employment or consultancy where such removal, dismissal or termination is determined by a Tribunal or a Court to be unfair, wrongful or in breach of contract
- (x) in respect of Dr Labra, termination of his employment as a result of his immigration visa in the United Kingdom being cancelled or not renewed as a result of change of United Kingdom immigration law and policy

and does not continue as either a director, employee or consultant in relation to any of them

**"Group"**

Any subsidiary of the Company and any holding company of the Company or any other subsidiary of any holding company of the Company and references

	to a <b>"member of the Group"</b> shall be construed accordingly
<b>"the holder"</b>	In relation to Shares means the member whose name is entered in the register of members as the holder of the Shares
<b>"holding company"</b>	Has the meaning set out in section 1159 CA 2006
<b>"Ill Health"</b>	an illness or disability certified by a general medical practitioner (nominated or approved by the Board and The Mercia Fund and OCC)
<b>"Individual Premium"</b>	In respect of an Equity Share, the premium paid on issue in respect of that Equity Share and if no premium was paid, 1 pence per Equity Share
<b>"Investment Agreement"</b>	The investment agreement relating to the Company dated on or around the Investment Date (as amended, adhered to, supplemented and/or superseded from time to time)
<b>"Investment Date"</b>	The date of adoption of these Articles
<b>"Investment Fund"</b>	A fund, partnership, company, syndicate or other entity whose principal business is to make investments and whose business is managed by an Investment Manager
<b>"Investment Manager"</b>	A person whose principal business is to make, manage or advise upon investments
<b>"IPO"</b>	The listing of the entire share capital or Ordinary Share capital of the Company to trading on a public market or stock exchange
<b>"Issue Price"</b>	In relation to any Share, the amount paid up or credited as paid up on it (including the full amount of any premium at which such Share was issued whether or not such premium is applied for any purpose after that)
<b>"ITA"</b>	The Income Tax Act 2007
<b>"Leaver Shares"</b>	Has the meaning set out at Article 10.1.1 or 10.2, as the case may be
<b>"Liquidation Surplus"</b>	On a return of assets on a liquidation or capital reduction or otherwise, the assets of the Company remaining after the payment of its liabilities
<b>"Maximum Return"</b>	The maximum value of the cumulative amount paid per Equity Share that any one of the Equity Shareholders would have received following payment under Articles 5.2.1 and 5.2.2

<b>"Model Articles"</b>	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
<b>"OCC"</b>	Old College Capital LP, a limited partnership in the United Kingdom with registered number SL009405 and having its registered office at Old College, South Bridge, Edinburgh, EH8 9YL
<b>"office"</b>	The registered office of the Company
<b>"Ordinary Shares"</b>	Ordinary shares of £0.001 each in the capital of the Company having the rights set out in these Articles
<b>"Permitted Transfer"</b>	A transfer of Shares authorised by Article 9 and <b>"Permitted Transferee"</b> shall be construed accordingly
<b>"Privileged Relation"</b>	In relation to a member means the spouse or civil partner or widow or widower of the member and the member's children and grandchildren (including step and adopted children and their issue) and step and adopted children of the member's children
<b>"Professor Ooi"</b>	Professor Jin Yeam Ooi
<b>"relevant officer"</b>	Any director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) CA 2006), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor)
<b>"Relevant Proportion"</b>	<ul style="list-style-type: none"> <li>(i) where a Founder Member is a Bad Leaver or a Founder Member Compulsory Event occurs in respect of that Founder Member prior to the second anniversary of the Investment Date, the Relevant Proportion is 100%;</li> <li>(ii) where a Founder Member Compulsory Event occurs in respect of a Founder Member on or after the second anniversary but prior to the third anniversary of the Investment Date, the Relevant Proportion is 75%;</li> <li>(iii) where a Founder Member Compulsory Event occurs in respect of a Founder Member on or after the third anniversary but prior to the fourth anniversary of the Investment Date, the Relevant Proportion is 50%;</li> </ul>



- (xi) where a Founder Member Compulsory Event occurs in respect of a Founder Member on or after the fourth anniversary but prior to the fifth anniversary of the Investment Date, the Relevant Proportion is 25%; and
- (xii) where a Founder Member Compulsory Event occurs in respect of a Founder Member on or after the fifth anniversary of the Investment Date, the Relevant Proportion is 15%

<b>"Rights"</b>	Rights to subscribe for, or to convert any security into, any Shares
<b>"Sale"</b>	The transfer (whether through a single transaction or a series of transactions) of Shares as a result of which any person (or persons connected with each other, or persons acting in concert with each other (within the meaning given in the City Code on Takeovers and Mergers as in force at the date of the transfer)) would hold or acquire beneficial ownership of or over that number of shares in the Company which in aggregate confers more than 50 per cent of the voting rights normally exercisable at general meetings of the Company, except where immediately following completion of the transfer or sale the shareholders and the proportion of shares held by each of them in the acquirer are the same as the shareholders and their shareholding proportions in the Company immediately prior to the transfer or sale
<b>"seal"</b>	The common seal of the Company (if any)
<b>"secretary"</b>	The secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary
<b>"Serious Ill Health"</b>	an illness or disability certified by a general medical practitioner (nominated or approved by the Board and The Mercia Fund and OCC) as rendering the person concerned permanently incapable of carrying out his role as an employee or Director save where such incapacity has arisen as a result of the abuse of drugs (including alcohol)
<b>"Share Plan"</b>	Any scheme for the grant of HM Revenue & Customs approved or unapproved share options or Enterprise Management Incentive share options pursuant to Schedule 5 of the Income Tax (Earnings and Pensions) Act 2003 to employee, and officers and/or consultants of the Company or any subsidiary of the Company

established and as amended or superseded from time to time

<b>"Shares"</b>	Ordinary Shares, A Shares and Deferred Shares
<b>"subsidiary"</b>	Has the meaning set out in section 1159 CA 2006
<b>"The Mercia Fund"</b>	<b>MERCIA INVESTMENTS LIMITED</b> (company number 09108131), whose registered office is at Forward House, 17 High Street, Henley in Arden, Warwickshire, B95 5AA, <b>MERCIA INVESTMENT PLAN LP</b> (registered number LP016783) whose registered office is at Forward House, 17 High Street, Henley in Arden, B95 5AA and each of <b>MERCIA GROWTH NOMINEES LIMITED</b> (company number 07711161), and <b>MERCIA GROWTH NOMINEES 2 LIMITED</b> (company number 08452385), <b>MERCIA GROWTH NOMINEES 3 LIMITED</b> (company number 08886535), <b>MERCIA GROWTH NOMINEES 4 LIMITED</b> (company number 09461920), <b>MERCIA DIGITAL NOMINEES LIMITED</b> (company number 09197595) and <b>UGF NOMINEES LIMITED</b> (company number 09775446), in each case whose registered office is at Forward House, 17 High Street, Henley-In-Arden, Warwickshire B95 5AA acting by their manager Mercia Fund Management Limited (company number 06973399) whose registered office is at Forward House, 17 High Street, Henley-In-Arden, Warwickshire B95 5AA, and any other Investment Fund which is managed by the Investment Manager of any or all of Mercia Growth Nominees Limited and/or Mercia Growth Nominees 2 Limited and/or Mercia Growth Nominees 3 Limited and/or Mercia Growth Nominees 4 Limited, Mercia Digital Nominees Limited and/or UGF Nominees Limited and any holding company of Mercia Investments Limited, Mercia (General Partner) Limited and/or Mercia Fund Management Limited or any such other Investment Manager and any direct or indirect wholly owned subsidiary or subsidiary undertaking of any such holding company in each case from time to time and which is a holder of Shares
<b>"the United Kingdom"</b>	Great Britain and Northern Ireland
<b>"University"</b>	Means the University Court of the University of Edinburgh, a charitable body registered in Scotland (registered Scottish Charity number SC005336) and having its principal office at Charles Stewart House, 9 16 Chambers Street, Edinburgh, EH1 1HT
<b>"University/OCC Director"</b>	Has the meaning set out in the Investment Agreement
<b>"University Group"</b>	Means the University and any University Successor and each entity controlled by the University or a University

Successor from time to time including, but not limited to, OCC and Edinburgh Technology Fund Limited

**"University Successor"** means any entity to which all or part of the University's activities or statutory functions have been transferred or devolved or succeeding in whole or in part to the interest of the University or to which all or a material part of the holding of the University Group in spin-out companies or the University Group's unlisted investment portfolio is transferred.

1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in CA 2006 have the same meanings in these Articles.

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

1.4 Articles 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 21, 44(2), 52 and 53 of the Model Articles do not apply to the Company.

## **2 Liability of the members**

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

## **3 Share Capital**

3.1 Save to the extent authorised from time to time by an ordinary resolution of the shareholders or by a written resolution in accordance with section 282(2) of CA 2006, the directors shall not exercise any power to allot Shares or to grant Rights in the Company.

3.2 Save (i) in respect of any Shares to be allotted to any Employee Benefit Trust or to any person pursuant to any Share Plan, or (ii) with the written consent of (a) the Board and (b) the holders of at least 75% in nominal value of the Equity Shares in issue (including The Mercia Fund and OCC) to dis-apply this Article 3.2, all Shares which the directors propose to issue shall be dealt with in accordance with the following provisions of this Article 3.2:

3.2.1 any Shares proposed to be issued shall first be offered to all the Equity Shareholders in proportion to the number of existing Equity Shares held by them respectively;

3.2.2 each such offer shall be made by notice specifying the total number of Shares being offered to the Equity Shareholders as a whole, the proportionate entitlement of the member to whom the offer is made and the price per Share (which shall be the same for each Share) and shall require each such member to state in writing within a period (not being less than fourteen days) specified in the notice whether he is willing to take any and, if so, what maximum number of the said Shares he is willing to take up. For the avoidance of doubt, in the event that (1) The Mercia Fund does not

take its proportionate entitlement in full, the balance of such entitlement may be taken by one or more persons to whom The Mercia Fund would be permitted to transfer its Shares pursuant to Article 9; and (2) OCC does not take its proportionate entitlement in full, the balance of such entitlement may be taken by one or more persons to whom OCC would be entitled to transfer its Shares pursuant to Article 9;

3.2.3 an offer if not accepted within the period specified in the notice as regards any Shares, will be deemed to be declined as regards those Shares. After the expiration of such period, any Shares so deemed to be declined (or actually declined) by the holders of Equity Shares shall be used to satisfy applications from Equity Shareholders who have applied for Shares in excess of their proportionate entitlement (notified in response to the offer referred to in Article 3.2.2) and in the event of competition for Shares, as nearly as may be in proportion to the number of Equity Shares already held by such Equity Shareholders provided that no member shall be obliged to take more Shares than he shall have applied for;

3.2.4 pursuant to such offer made in accordance with this Article 3.2 no fractions of Shares shall be issued and where any Equity Shareholder would be entitled to a fraction of a share, the directors shall in their absolute discretion determine how such fractions of Shares shall be allocated amongst the Equity Shareholders so as to ensure that only whole Shares are issued;

3.2.5 any Shares not taken up following such offer made in accordance with this Article 3.2 and any Shares released from the provisions of this Article 3.2 by Equity Shareholder consent in accordance with this Article 3.2 shall be under the control of the directors, who may allot Shares or grant Rights to such persons, on such terms, and in such manner as they think fit.

3.3 Pursuant to section 567 CA 2006, the provisions of section 561 CA 2006 (existing shareholders' right of pre-emption) and section 562 CA 2006 (communication of pre-emption offers to shareholders) shall not apply to an allotment of equity securities (as defined in section 560 CA 2006) made by the Company.

#### **4 Deferred Shares**

4.1 The holders of any Deferred Shares shall not have any right, in respect of any such Share:

4.1.1 to vote, receive any notice of or attend or speak at any general meetings of the Company or receive or sign any written resolutions circulated to any of the members;

4.1.2 to receive any dividends or distributions on an Exit;

4.1.3 to participate in a return of assets on a liquidation, capital reduction or otherwise; or

4.1.4 to transfer any Deferred Shares without the prior written consent of The Mercia Fund and OCC.

4.2 The Deferred Shares may be redeemed by the Company at any time at its option for £1 for all the Deferred Shares registered in the name of any holder without obtaining the sanction of the holder or holders by giving notice in writing to the holder of such Deferred Shares and pending the transfer and/or purchase the Company may retain the certificates (if any) in respect of them.

4.3 The creation or issue of Deferred Shares shall be deemed to confer irrevocable authority on the Company at any time after that creation or issue to appoint any person as agent of the holder of those shares to execute or give on his behalf a transfer of such shares to such person or persons as the Company may determine.

## **5 Return of Capital**

5.1 The A Shares and the Ordinary Shares shall have the voting rights set out at Article 16.1 and shall rank *pari passu* in all respects save as set out in this Article 5.

5.2 In the event of a return of assets on a liquidation or capital reduction or otherwise, the Liquidation Surplus shall be distributed as follows:

5.2.1 first, each Equity Shareholder shall be entitled in respect of their Equity Shares to payment of an amount per Equity Share equal to the nominal value of that Equity Share or, if the Liquidation Surplus is insufficient to enable payment to each Equity Shareholder for all the Equity Shares held by them then such Liquidation Surplus shall be paid to the Equity Shareholders in proportion to the number of Equity Shares held by each of them;

5.2.2 thereafter if there is any remaining Liquidation Surplus each Equity Shareholder shall be entitled in respect of their Equity Shares to payment of an amount per Equity Share equal to the Individual Premium or, if the remaining Liquidation Surplus is insufficient to enable payment of the Individual Premium to be made then such remaining Liquidation Surplus shall be paid to the Equity Shareholders in proportion to the aggregate premium paid in respect of the Equity Shares held by them;

5.2.3 thereafter if there is any remaining Liquidation Surplus each Equity Shareholder shall be entitled in respect of their Equity Shares to payment of such amount per Equity Share (if any) as will ensure that, after payment pursuant to Article 5.2.2 has been made, all Equity Shareholders will have received (whether pursuant to this Article 5.2 or by way of dividend or other distribution) the Maximum Return or, if the remaining Liquidation Surplus is insufficient to enable all Equity Shareholders to have received the Maximum Return then such remaining Liquidation Surplus shall be paid to Equity Shareholders in such proportions as to ensure that as far as possible all Equity Shareholders will have received the Maximum Return after payment has been made pursuant to Article 5.2.2; and

5.2.4 thereafter any balance shall be paid to the Equity Shareholders in proportion to the number of Equity Shares held by each of them.

5.3 In the event of an Asset Sale, the Company shall thereupon be wound up and the assets available distributed in accordance with Article 5.2.

5.4 In the event of a Sale at any time prior to the occurrence of an IPO where the Exit Valuation is lower than or equal to the highest Issue Price paid by any holder of A Shares, the total of all and any consideration received (whether in cash or otherwise) in respect of the Shares that are the subject of the Sale shall be re-allocated between the sellers of such Shares so as to ensure that the Sale proceeds are distributed as follows:

5.4.1 first in paying to the holders of the A Shares any Arrears;

5.4.2 first in paying to the holders of the Ordinary Shares any Arrears;

5.4.3 second in paying to the holders of the A Shares the Issue Price paid for the A Shares; and

5.4.4 the balance (if any) of such assets shall be distributed amongst the holders of the Ordinary Shares and the A Shares *pari passu* as if the same constituted one class of share, save that the balancing sum to be paid to each holder of A Shares shall have the Issue Price deducted from it as part of such calculation.

For the avoidance of doubt:

5.4.5 in the event of a Sale at any time prior to the occurrence of an IPO where the Exit Valuation is greater than the highest Issue Price paid by any holder of A Shares, the total of all and any consideration received (whether in cash or otherwise) in respect of the Shares that are the subject of the Sale shall be re-allocated between the sellers of such Shares in proportion to the number of such Shares held by each of them; and

5.4.6 this Article 5.4 shall not apply at any time following the occurrence of an IPO.

## **6 Class Rights**

6.1 If at any time the share capital of the Company is divided into different classes of Share, the rights attaching to any class of Share may be varied only with the consent in writing of OCC and The Mercia Fund, together with the holders of at least 75% in nominal value of the Shares of that class or with the sanction of a special resolution passed at a separate general meeting of the holders of the Shares of that class. To every such general meeting, the provisions of these Articles relating to general meetings shall apply *mutatis mutandis* but so that the necessary quorum will be one person present in person or by proxy holding at least one third of the issued Shares of the relevant class, together with OCC and The Mercia Fund, who may, if so required, demand a poll.

6.2 Notwithstanding any other provision of these Articles, the rights attaching to the A Shares shall be deemed to be varied by the Company if it shall carry out any of the following:

6.2.1 alter in any way the issued share capital of the Company or alter any of the rights attaching to any of the Shares;

6.2.2 grant any Rights;

- 6.2.3 alter these Articles in any way; or
- 6.2.4 wind up the Company or take any steps towards the winding up of the Company.

**7 Lien, Calls on Shares and Forfeiture**

- 7.1 The Company has a lien (the "**Company's lien**") over every Share to the extent that it is not fully paid, which is registered in the name of any person indebted or under any liability to the Company, whether he is the sole registered holder of the Share or one of several joint holders, for all monies payable by him (either alone or jointly with any other person) to the Company to pay up such Share in full, whether payable immediately or at some time in the future.

- 7.2 The Company's lien over a Share:

- 7.2.1 takes priority over any third party's interest in that Share; and
- 7.2.2 extends to any dividend or other money payable by the Company in respect of that Share and (if the lien is enforced and the Share is sold by the Company) the proceeds of sale of that Share.

- 7.3 The directors may at any time decide that a Share which is or would otherwise be subject to the Company's lien shall not be subject to it, either wholly or in part.

**7.4 Enforcement of the Company's lien**

- 7.4.1 Subject to the provisions of this Article, if:

- (i) a lien enforcement notice has been given in respect of a Share; and
- (ii) the person to whom the notice was given has failed to comply with it

the Company may sell that Share in such manner as the directors decide.

- 7.4.2 A lien enforcement notice:

- (i) may only be given in respect of a Share which is subject to the Company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;
- (ii) must specify the Share concerned;
- (iii) must require payment of the sum within 14 clear days of the notice;
- (iv) must be addressed to the holder of the Share (or all the joint holders of that Share); and
- (v) must state the Company's intention to sell the Share if the notice is not complied with.

7.4.3 Where Shares are sold under this Article 7.4:

- (i) the directors may authorise any person to execute an instrument of transfer of the Shares to the purchaser or to a person nominated by the purchaser; and
- (ii) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.

7.4.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied:

- (i) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice; and
- (ii) second, to the person entitled to the Shares at the date of the sale, but only after the certificate for the Shares sold has been surrendered to the Company for cancellation, or an indemnity in a form reasonably satisfactory to the directors has been given for any lost certificates, and subject to a lien equivalent to the Company's lien for any money payable (whether payable immediately or at some time in the future) as existed upon the Shares before the sale in respect of all Shares registered in the name of such person (whether as the sole registered holder or as one of several joint holders) after the date of the lien enforcement notice.

7.4.5 A statutory declaration by a director or the company secretary (if any) that the declarant is a director or the company secretary and that a Share has been sold to satisfy the Company's lien on a specified date:

- (i) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share; and
- (ii) subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the Share.

7.5 Call notices

7.5.1 Subject to the Articles and the terms on which Shares are allotted, the directors may send a notice (a "call notice") to a shareholder requiring the shareholder to pay the Company a specified sum of money (a "call") which is payable to the Company to pay up that Share in full at the date when the directors decide to send the call notice.

7.5.2 A call notice:

- (i) may not require a shareholder to pay a call which exceeds the total amount required to pay up his Shares in full;
- (ii) must state when and how any call to which it relates is to be paid; and



(iii) may permit or require the call to be made in instalments.

7.5.3 A shareholder must comply with the requirements of a call notice, but no shareholder is obliged to pay any call before 14 clear days have passed since the notice was sent.

7.5.4 Before the Company has received any call due under a call notice the directors may:

(i) revoke it wholly or in part; or

(ii) specify a later time for payment than is specified in the notice,

by a further notice in writing to the shareholder in respect of whose Shares the call is made.

7.6 Liability to pay calls

7.6.1 Liability to pay a call is not extinguished or transferred by transferring the Shares in respect of which it is required to be paid.

7.6.2 Joint holders of a Share are jointly and severally liable to pay all calls in respect of that Share.

7.6.3 Subject to the terms on which Shares are allotted, the directors may, when issuing Shares, provide that call notices sent to the holders of those Shares may require them:

(i) to pay calls which are not the same; or

(ii) to pay calls at different times.

7.7 When a call notice need not be issued

7.7.1 A call notice need not be issued in respect of sums which are specified, in the terms on which a Share is issued, as being payable to the Company in respect of that Share:

(i) on allotment;

(ii) on the occurrence of a particular event; or

(iii) on a date fixed by or in accordance with the terms of issue.

7.7.2 But if the due date for payment of such a sum has passed and it has not been paid, the holder of the Share concerned is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

7.8 Failure to comply with a call notice: automatic consequences

7.8.1 If a person is liable to pay a call and fails to do so by the call payment date:

- (i) the directors may issue a notice of intended forfeiture to that person; and
- (ii) until the call is paid, that person must pay the Company interest on the call from the call payment date at the relevant rate.

7.8.2 For the purposes of this Article:

- (i) the "**call payment date**" is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "**call payment date**" is that later date; and
- (ii) the "**relevant rate**" is
  - (A) the rate fixed by the terms on which the Share in respect of which the call is due was allotted;
  - (B) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors; or
  - (C) if no rate is fixed in either of these ways, 5 per cent per annum.

7.8.3 The relevant rate must not exceed by more than 5 percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998.

7.8.4 The directors may waive any obligation to pay interest on a call wholly or in part.

7.9 Notice of intended forfeiture

7.9.1 A notice of intended forfeiture:

- (i) may be sent in respect of any Share in respect of which a call has not been paid as required by a call notice;
- (ii) must be sent to the holder of that Share (or all the joint holders of that Share);
- (iii) must require payment of the call and any accrued interest and all expenses that may have been incurred by the Company by reason of such non-payment by a date which is not less than 14 clear days after the date of the notice;
- (iv) must state how the payment is to be made; and
- (v) must state that if the notice is not complied with, the Shares in respect of which the call is payable will be liable to be forfeited.

7.10 Directors' power to forfeit Shares

- 7.10.1 If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, the directors may decide that any Share in respect of which it was given is forfeited, and the forfeiture is to include all dividends or other monies payable in respect of the forfeited Shares and not paid before the forfeiture.

7.11 Effect of forfeiture

- 7.11.1 Subject to the Articles, the forfeiture of a Share extinguishes:

- (i) all interests in that Share, and all claims and demands against the Company in respect of it; and
- (ii) all other rights and liabilities incidental to the Share as between the person whose Share it was prior to the forfeiture and the Company.

- 7.11.2 Any Share which is forfeited in accordance with the Articles:

- (i) is deemed to have been forfeited when the directors decide that it is forfeited;
- (ii) is deemed to be the property of the Company; and
- (iii) may be sold, re-allotted or otherwise disposed of as the directors think fit.

- 7.11.3 If a person's Shares have been forfeited:

- (i) the Company must send that person notice that forfeiture has occurred and record it in the register of members;
- (ii) that person ceases to be a shareholder in respect of those Shares;
- (iii) that person must surrender the certificate for the Shares forfeited to the Company for cancellation;
- (iv) that person remains liable to the Company for all sums payable by that person under the Articles at the date of forfeiture in respect of those Shares, including any interest (whether accrued before or after the date of forfeiture); and
- (v) the directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal.

- 7.11.4 At any time before the Company disposes of a forfeited Share, the directors may decide to cancel the forfeiture on payment of all calls, interest and expenses due in respect of it and on such other terms as they think fit.

## 7.12 Procedure following forfeiture

- 7.12.1 If a forfeited Share is to be disposed of by being transferred, the Company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer.
- 7.12.2 A statutory declaration by a director or the company secretary (if any) that the declarant is a director or the company secretary and that a Share has been forfeited on a specified date:
- (i) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share; and
  - (ii) subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the Share.
- 7.12.3 A person to whom a forfeited Share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the Share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the Share.
- 7.12.4 If the Company sells a forfeited Share, the person who held it prior to its forfeiture is entitled to receive from the Company the proceeds of such sale, net of any commission, and excluding any amount which:
- (i) was, or would have become, payable; and
  - (ii) had not, when that share was forfeited, been paid by that person in respect of that Share,
- but no interest is payable to such a person in respect of such proceeds and the Company is not required to account for any money earned on them.

## 8 Transfer of Shares - Transfer Procedure

- 8.1 Subject to Articles 4.1.4, 8.10, 9 (Permitted Transfers), 10 (Compulsory Transfers), 11 (Drag Along) or 12 (Tag Along) any person (hereinafter called "**the proposing transferor**") proposing to transfer any Shares shall give notice in writing (hereinafter called a "**transfer notice**") to the Company that he desires to transfer the same and specifying the price per Share at which he is willing to sell them. The transfer notice shall constitute the Company as the agent of the proposing transferor for the sale of the Shares comprised in the transfer notice together with all rights then attached thereto to the Company, Employee Benefit Trust, Employee Member or members of the Company (in the order and priority set out at Article 8.2) willing to purchase the same (hereinafter called "**purchasing members**") at the price specified therein or at the fair value certified in accordance with Article 8.3 (whichever shall be the lower). A transfer notice shall not be revocable except with the sanction of the directors given any time prior to completion of the transfer of the Shares in question, or unless notified in writing to the Company by the proposing transferor not more than three days following receipt by him of notice of the certified fair value of each Share (if relevant) provided such transfer notice has not been deemed to have been served pursuant to these Articles.

8.2 The Shares comprised in any transfer notice shall be offered:

- 8.2.1 first (in the case of a deemed transfer notice following a Compulsory Event in circumstances where only the Employee Member is required to transfer any of his shares) to the Company to be acquired under the purchase of own shares rules in accordance with the Acts and these Articles, provided always that any such purchase by the Company would not result in any EIS Reliefs previously claimed by The Mercia Fund being withdrawn;
- 8.2.2 second (in the case of a deemed transfer notice following a Compulsory Event in circumstances where only the Employee Member is required to transfer any of his shares), if the Company declines or fails to make a decision to buy back the relevant Leaver Shares within 10 Business Days of the date of the deemed transfer notice or is not lawfully able to buy back such Leaver Shares, to the Employee Benefit Trust or if the Board (including the Fund Director) shall determine, to any incoming shareholder who is or is to become an Employee Member within 1 month of acquiring such Leaver Shares; and
- 8.2.3 third (in the case of a deemed transfer notice following a Compulsory Event in circumstances where only the Employee Member is required to transfer any of his shares) if neither the Employee Benefit Trust nor any Employee Member is to acquire the relevant Leaver Shares, such decision to be made and communicated to the Board and the proposing transferor within 15 Business Days of the date of the deemed transfer notice, or first (in all other cases), to the members holding Shares of the same class as those comprised in the transfer notice (other than the proposing transferor and any other person holding Shares who has given or is deemed to have given a transfer notice) as nearly as may be in proportion to the number of Shares of such class held by them respectively. Such offer shall be made by notice in writing (hereinafter called "**the offer notice**") immediately following the earlier of:
- (i) the expiry of 15 Business Days from the date of the transfer notice or deemed transfer notice; and
  - (ii) if appropriate, the date on which it becomes clear to the Board that neither the Company, the Employee Benefit Trust nor any Employee Member or prospective Employee Member is to acquire such Shares.
- 8.2.4 The offer notice shall:
- (i) state the identity of the proposing transferor, the number and class of Shares comprised in the transfer notice and the price per Share specified in the transfer notice and inform the members that the Shares are offered to them in accordance with the provisions of this Article 8.2;
  - (ii) contain a statement to the effect that the Shares are offered in the first instance in the proportion referred to in this Article 8.2 but go on to invite each such member to state in his reply whether he

wishes to purchase more or less Shares than his proportionate entitlement and if so what number; and

- (iii) state the period in which the offer may be accepted (not being less than twenty-two days or more than forty-two days after the date of the offer notice).

For the purpose of this Article an offer shall be deemed to be accepted (subject to revocation as provided in Article 8.1) on the day on which the acceptance is received by the Company and may, if so specified in the acceptance, be accepted by a member in respect of a lesser number of Shares than his full proportionate entitlement. If all the members holding Shares of the same class as those comprised in the transfer notice do not accept the offer in respect of their respective proportions in full the Shares not so accepted shall be used to satisfy any claims for additional Shares (notified in response to the invitation referred to in Article 8.2.4(ii)) as nearly as may be in proportion to the number of Shares of such class already held by the members claiming additional Shares, provided that no member shall be obliged to take more Shares than he shall have applied for. If any Shares shall not be capable of being offered to the members in proportion to their existing holdings of such class of share, except by way of fractions, the same shall be offered to the relevant members, or some of them, in such proportions as the directors may think fit. Any Shares not accepted by members holding Shares of the same class as those comprised in the transfer notice shall then be offered to members holding Equity Shares of classes other than those comprised in the transfer notice (other than the proposing transferor and any other person holding Equity Shares who has given or is deemed to have given a transfer notice) and the provisions of this Article 8.2 shall apply mutatis mutandis. For the avoidance of doubt, in the event that (1) The Mercia Fund does not take its proportionate entitlement in full, the balance of such entitlement may be taken by one or more persons to whom The Mercia Fund would be permitted to transfer its Shares pursuant to Article 9; and (2) OCC does not take its proportionate entitlement in full, the balance of such entitlement may be taken by one or more persons to whom OCC would be permitted to transfer its Shares pursuant to Article 9.

- 8.3 If no price is specified in the transfer notice, then the sale price shall be agreed between the directors and the proposing transferor within 21 days after receipt of the transfer notice. If no such agreement is possible forthwith upon the expiry of such 21 day period the Company shall instruct the Auditors to certify the fair value of the Shares comprised in the transfer notice at the date of that notice and the costs of producing such certificate shall be apportioned among the proposing transferor and the purchasing members (but borne solely by the proposing transferor in the case of any revocation of a transfer notice) and borne by any one or more of them as the Auditors in their absolute discretion shall decide. In certifying the fair value as aforesaid no account shall be taken of the fact (if relevant) that the Shares in question constitute a minority holding. In certifying the fair value the Auditors shall be considered to be acting as expert and not as arbitrator or arbiter and accordingly any provisions of law or statute relating to arbitration shall not apply. Forthwith upon receipt of the certificate of the Auditors, the Company shall by notice in writing inform all members of the sale price at which the Shares comprised in the transfer notice are offered for sale.
- 8.4 If purchasing members shall be found for some or all of the Shares comprised in the transfer notice within the appropriate period specified in Article 8.2, the Company

shall not later than seven days after the expiry of such appropriate period give notice in writing ("**the sale notice**") to the proposing transferor specifying the purchasing members and the number of Shares to be purchased by each purchasing member and the proposing transferor shall be bound upon payment of the price due in respect of the relevant Shares comprised in the transfer notice to transfer the Shares to the purchasing members.

- 8.5 If in any case the proposing transferor after having become bound as aforesaid makes default in transferring any Shares the Company may receive the purchase money on his behalf, and is irrevocably authorised to appoint any person as agent to execute a transfer of such Shares on behalf of the proposing transferor in favour of the purchasing members and to do anything else that the purchasing members may reasonably require to complete the sale. The receipt by the Company of the purchase money shall be a good discharge to the purchasing members. The Company shall pay the purchase money into a separate bank account and shall hold the same on trust for the proposing transferor.
- 8.6 If the Company shall not have found purchasing members for all of the Shares comprised in the transfer notice within the appropriate period specified in Article 8.2, then the proposing transferor shall, during the period of thirty days next following the expiry of the time so specified, be at liberty to transfer all (but not some only) of the unsold Shares comprised in the transfer notice to any person or persons provided that the price per Share obtained upon such transfer shall in no circumstances be less than the price per Share specified in the transfer notice served in accordance with Article 8.1 or as certified in accordance with Article 8.3 (whichever be the lower) and the proposing transferor shall upon request furnish such information to the directors as they shall require in relation to the price per Share obtained as aforesaid. The directors may require to be satisfied that such Shares are being transferred in pursuance of a bona fide sale for the consideration stated in the transfer without deduction, rebate or allowance whatsoever to the purchaser, and if not so satisfied, may refuse to register the instrument of transfer.
- 8.7 Any transfer or purported transfer of a Share made otherwise than in accordance with the foregoing provisions of Articles 8.1 to 8.6 (inclusive), Articles 8.10, 9 (Permitted Transfers), 10 (Compulsory Transfers), 11 Drag Along) or 12 (Tag Along) shall, unless The Mercia Fund and OCC notify the Board in writing otherwise within 2 days of the transfer or purported transfer, be null and void and of no effect.
- 8.8 If and when required by notice in writing by the holder or holders of (in aggregate) a majority in nominal value of the other Equity Shares in the Company so to do ("**the transfer call notice**") a member who transfers or purports to transfer any Share in the Company in breach of the provisions of these Articles shall be bound to give a transfer notice in respect of the Shares which he has transferred or purported to transfer in breach of these Articles.

In the event of such member failing to serve a transfer notice within five days of the date of the transfer call notice such member shall be deemed to have given a transfer notice at the expiration of such period of five days and to have specified therein as the price per Share the fair value of each Share to be certified in accordance with Article 8.3. The provisions of Articles 8.1 to 8.6 (inclusive) shall apply mutatis mutandis. A transfer notice given or deemed given under this Article 8.8 shall be irrevocable unless the directors give their consent to the contrary.

8.9 The directors may, in their absolute discretion, decline to register any transfer which would otherwise be permitted under the foregoing provisions of this Article 8 if it is a transfer of a Share on which the Company has a lien or of a Share (not being a fully paid Share) to a person of whom they shall not approve. The directors may also refuse to register a transfer if it is a transfer to an employee, director or prospective employee or director where that person has not entered into a joint election with the Company under section 431 of the Income Tax (Earnings and Pensions) Act 2003 or unless:

8.9.1 it is lodged at the office or at such other place as the directors may appoint and is accompanied by the certificate for the Shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer; and

8.9.2 it is in respect of only one class of Shares; and

8.9.3 it is in favour of not more than four transferees.

The directors shall not refuse to register a transfer of Shares made pursuant to Articles 8.1 to 8.6 (inclusive) and Articles 8.10, 9 (Permitted Transfers), 10 (Compulsory Transfers), 11 Drag Along) or 12 (Tag Along).

8.10 The provisions of Articles 8.1 to 8.9 (inclusive) may be waived in any particular case if (a) the Board gives its consent in writing and (b) the holders of at least 75% in nominal value of the issued Equity Shares (including The Mercia Fund and OCC) give their consent in writing.

## **9 Permitted Transfers**

9.1 Subject to Article 4.1.4 but notwithstanding any other provision of these Articles:

9.1.1 any member (being an individual) may at any time transfer all or any Shares held by him to a Privileged Relation;

9.1.2 any member (being an individual) may at any time transfer all or any Shares held by him to trustees to be held upon a Family Trust of which he is the settlor;

9.1.3 where any Shares are held by trustees upon a Family Trust:

(i) on any change of trustees such Shares may be transferred to the new trustees of that Family Trust;

(ii) such Shares may be transferred at any time to the settlor or to another Family Trust of which he is the settlor or to any Privileged Relation of the settlor;

9.1.4 any member being a corporation (other than The Mercia Fund, ETF and OCC) may at any time transfer all (but save with the prior consent in writing of a majority of the directors, not some only) of the Shares held by it to:

(i) any subsidiary of the member; or



- (ii) any company of which the member is a subsidiary or any subsidiary of any such company;
- 9.1.5 The Mercia Fund may transfer any or all Shares held by it to any subsidiary or any company within its group.
- 9.1.6 Each of OCC and ETF may transfer any or all shares held by it to any other member of the University Group.
- 9.1.7 any member may at any time transfer all or any Shares held by him to a bare nominee and such bare nominee may at any time transfer all or any Shares held by it to the original beneficial owner of such Shares or to any Privileged Relation or to any trustees of a Family Trust of such original owner of such Shares;
- 9.1.8 where any Shares are held by trustees of an Employee Benefit Trust:
  - (i) the trustees of the Employee Benefit Trust may transfer any such Shares to any beneficiary of such trust or grant any option or right to any such persons to acquire any such Shares;
  - (ii) any person may transfer any of the Shares held by him to the trustees of the Employee Benefit Trust;
  - (iii) on a change of trustees such Shares may be transferred to the new trustees of that Employee Benefit Trust;
- 9.1.9 Mercia Investment Plan LP may at any time transfer all or any Shares held by it to:
  - (i) any parent undertaking of Mercia Investment Plan LP or Mercia (General Partner) Limited; or
  - (ii) any parent undertaking of any such partner parent undertaking; or
  - (iii) any direct or indirect wholly owned subsidiary or subsidiary undertaking of any such parent undertaking;
- 9.1.10 any member who is:
  - (i) an Investment Manager;
  - (ii) an Investment Fund; or
  - (iii) a nominee of an Investment Manager or an Investment Fundmay transfer any Shares held by it to:
  - (A) where the member is an Investment Manager or nominee of an Investment Manager:
    - 1) a nominee of such Investment Manager or to any new nominee of such Investment Manager;

- 2) any participant or partner in or member of any Investment Fund in respect of which the Shares are held (but only in connection with the dissolution of such Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course);
  - 3) any Investment Fund whose business is managed by the Investment Manager who is or whose nominee is the transferor; or
  - 4) any other Investment Manager who manages the business of the Investment Fund in respect of which the Shares are held;
- (B) where the member is an Investment Fund or nominee of an Investment Fund:
- 1) a nominee of such Investment Fund or to any new nominee of such Investment Fund;
  - 2) any participant (directly or indirectly) or partner in or member of the Investment Fund which is or whose nominee is the transferor (but only in connection with the dissolution of such Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course);
  - 3) any other Investment Fund whose business is managed by the same Investment Manager as manages the Investment Fund which is or whose nominee is the transferor;
  - 4) the Investment Manager who manages the business of the Investment Fund which is or whose nominee is the transferor; or
  - 5) any holding company of the Investment Manager who manages the business of the Investment Fund which is or whose nominee is the transferor and any direct or indirect wholly owned subsidiary or subsidiary undertaking of any such holding company,

and vice versa any Shares may be transferred by any of the persons in paragraphs (A) or (B) to any person who falls in the categories set out in Article 9.1.10 above;

and the directors shall, save as may be required by law, register any transfer to which this Article 9 applies.

## **10      Compulsory Transfers**

10.1    If an Employee Member (i) ceases to be a director or employee of or consultant to the Company or any member of the Group (and does not remain in any one of these capacities), (ii) is adjudicated as bankrupt or (iii) makes any voluntary arrangement or composition with its creditors (each a "**Compulsory Event**");

10.1.1    a deemed transfer notice shall be deemed to have been immediately given in respect of the following Shares ("**Leaver Shares**");

- (i)      all Shares registered in the name of the relevant Employee Member immediately before such cessation; and
- (ii)      all Shares then held immediately before such cessation by the Employee Member's Privileged Relations and/or trustees of any Family Trusts and/or personal representatives and/or trustees in bankruptcy and/or nominees (other than Shares which the directors are satisfied were not acquired by such holders either:
  - (A)      directly or indirectly from the Employee Member; or
  - (B)      by reason of their connection with the Employee Member, and the decision of the Board in this respect will be final); and
- (iii)      all Shares acquired by the Employee Member or his Privileged Relation and/or trustees of any Family Trusts and/or his personal representatives and/or trustees in bankruptcy and/or nominees after the relevant cessation date under any Share Plan; and

10.1.2    all such Leaver Shares shall automatically and without need for any further resolution have all voting rights suspended in respect of them (whether on a show of hands or a poll vote) and shall carry no entitlement for the holder thereof to:

- (i)      receive notices of any general meetings of the Company;
- (ii)      attend or speak at any general meetings of the Company; or
- (iii)      receive, sign or vote in favour of or against any resolution proposed to be passed by way of written resolution of the Company

save that:

- (A)      if the automatic suspension of such rights would result in any EIS Reliefs previously claimed by The Mercia Fund being withdrawn, the voting rights attaching to some or all of such Leaver Shares shall be suspended at the sole discretion of The Mercia Fund when The Mercia Fund gives written notice to the Board and the relevant affected shareholder(s) of such suspension; and

- (B) (unless such Leaver Shares have been converted into Deferred Shares pursuant to Article 10.6.2) such rights shall be automatically restored in respect of each such Leaver Share following the transfer (not being a Permitted Transfer) of such Leaver Share in accordance with these Articles.

10.2 Where (i) a Founder Member Compulsory Event occurs; or (ii) a Founder Member is a Bad Leaver (and in no other circumstances), the provisions of article 10.1 shall apply to such Founder Member, save that:

10.2.1 the Leaver Shares shall be the Relevant Proportion of Shares then held by that Founder Member and his Privileged Relations and trustees of any Family Trusts and/or his personal representatives and/or trustees in bankruptcy and/or nominees;

10.2.2 the sale price of such Leaver Shares of the Founder Member shall (i) where a Founder Member Compulsory Event occurs and the Founder Member is not a Bad Leaver, be the fair value as agreed by the Board and the relevant Founder Member within 30 days of the happening of the relevant Founder Member Compulsory Event, failing which the price certified by the Auditors in accordance with Article 8.3; and (ii) where a Founder Member is a Bad Leaver, be the Issue Price; and

10.2.3 to the extent that a Founder Member holds any shares which are not Leaver Shares (whether they (i) do not form part of the Relevant Proportion, or (ii) they would otherwise be treated as Leaver Shares but the Company is unable to find any purchasing member in respect of such shares), the provisions of Article 10.1.2 shall apply in relation to any such shares.

10.3 On the happening of a Compulsory Event in circumstances where the relevant Employee Member is a Good Leaver, including where such person is classified as a Good Leaver pursuant to Article 10.4 the Board may exercise its discretion to waive (wholly or partially) the provisions of Article 10.1 so that there shall be no deemed transfer notice in respect of some or all of such Employee Member's Leaver Shares. For the avoidance of doubt, the provisions of Article 10.1.2 shall, unless The Mercia Fund and OCC shall agree otherwise, apply in respect of any such Leaver Shares.

10.4 On the happening of a Compulsory Event in circumstances where the relevant Employee Member is a Bad Leaver, provided no Compulsory Event pursuant to Articles 10.1(ii) or 10.1(iii) has occurred, the Board may with the consent of The Mercia Fund and OCC exercise its discretion to permit such Employee Member to be classified as a Good Leaver.

10.5 Where there is a deemed transfer notice following a Compulsory Event in circumstances where the Employee Member is a Good Leaver, the sale price of the Leaver Shares the subject of a deemed transfer notice shall be the higher of:

10.5.1 fair value as agreed by the Board and the relevant Employee Member within 30 days of the happening of the relevant Compulsory Event; or

10.5.2 the price certified by the Auditors in accordance with Article 8.3.

- 10.6 Where there is a deemed transfer notice following a Compulsory Event in circumstances where the Employee Member is a Bad Leaver, and has not been classified as a Good Leaver pursuant to Article 10.4:
- 10.6.1 the sale price of the Leaver Shares the subject of a deemed transfer notice shall be the Issue Price; and
- 10.6.2 any Leaver Shares retained by such Employee Member or his Privileged Relation and/or trustees of any Family Trusts and/or his personal representatives and/or trustees in bankruptcy and/or nominees following the offer to the other shareholders set out at Article 8 shall automatically and without any need for further resolution or any further authority than is contained in these Articles convert into Deferred Shares on the basis of one Deferred Share for one Share held, save that if the automatic conversion of such Leaver Shares into Deferred Shares would result in any EIS Reliefs previously claimed by The Mercia Fund being withdrawn, some or all of such Leaver Shares shall automatically and without any need for further resolution or any further authority than is contained in these Articles convert into Deferred Shares at the sole discretion of The Mercia Fund and OCC when The Mercia Fund and OCC give written notice to the Board and the relevant affected shareholder(s) of such conversion.
- 10.7 Nothing in this Article 10 shall alter the existing terms of employment of an Employee Member or Founder Member in place at the date of adoption of these Articles.
- 10.8 If a corporate member ceases to be within the control (as such term is defined by section 1124 Corporation Tax Act 2010) of the person(s) who controlled such company on the date on which it became a member of the Company or on the Investment Date (whichever shall be the later) it shall (unless The Mercia Fund and OCC shall agree in writing otherwise) be deemed to have immediately given a transfer notice in respect of all the Shares as shall then be registered in its name; provided that this Article 10.8 shall have no application to The Mercia Fund or OCC or the University (including through its nominee, ETF) or any of the holders of A Shares or their respective Permitted Transferees.
- 10.9 If and whenever a Privileged Relation to whom Shares have been transferred ceases to be a Privileged Relation of the shareholder who made the transfer, a transfer notice shall be deemed to have been given in respect of the relevant Shares by the holders thereof and such Shares may not otherwise be transferred.
- 10.10 If and whenever any Shares held by trustees upon a Family Trust cease to be so held upon a Family Trust (otherwise than in consequence of a transfer to the settlor, to any Privileged Relation of the settlor or other Permitted Transfer) or there ceases to be any beneficiaries of the Family Trust other than a charity or charities a transfer notice (as hereinafter defined) shall be deemed to have been given in respect of the relevant Shares (as hereinafter defined) by the holders thereof and such Shares may not otherwise be transferred.
- 10.11 For the purposes of Articles 10.9 and 10.10 the expression "**relevant Shares**" means and includes the Shares originally transferred to the trustees or Privileged Relation and any additional Shares issued or transferred to the trustees or Privileged Relation by virtue of the holding of the relevant Shares or any of them.

## **11     Transfer of Shares – Drag Along**

- 11.1 If the holders of more than 75% of the Equity Shares (which must include OCC and The Mercia Fund) in issue for the time being ("**Selling Shareholders**") wish to transfer all of their interest in Shares ("**Sellers' Shares**") to a bona fide arm's length purchaser ("**Proposed Buyer**"), the Selling Shareholders have the option to require all the other holders of Shares ("**Called Shareholders**") to sell and transfer all their Shares to the Proposed Buyer (or as the Proposed Buyer directs) in accordance with the provisions of this Article ("**Drag Along Option**").
- 11.2 The Selling Shareholders may exercise the Drag Along Option by giving written notice to that effect ("**Drag Along Notice**") at any time before the transfer of the Sellers' Shares to the Proposed Buyer. The Drag Along Notice shall specify:
- 11.2.1 that the Called Shareholders are required to transfer all their Shares ("**Called Shares**") pursuant to this Article 11;
  - 11.2.2 the Proposed Buyer;
  - 11.2.3 the consideration payable for the Called Shares calculated in accordance with Article 11.4; and
  - 11.2.4 the proposed date of the transfer.
- 11.3 Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not sold the Sellers' Shares to the Proposed Buyer within 25 Business Days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 11.4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be that to which they would be entitled if the total consideration proposed to be paid by the Proposed Buyer were distributed to the holders of the Called Shares and the Sellers' Shares in accordance with the provisions of Article 5.4.
- 11.5 No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in this Article 11.
- 11.6 Completion of the sale of the Called Shares shall take place on the same date as the date proposed for completion of the sale of the Sellers' Shares unless all of the Called Shareholders and the Selling Shareholders agree otherwise.
- 11.7 Provided that the Proposed Buyer is ready, willing and able to complete the sale of the Called Shares on the completion date determined in accordance with Article 11.6, the rights of pre-emption set out in these Articles and the requirement for an offer under Article 12 shall not apply to any transfer of shares to a Proposed Buyer (or as they may direct) pursuant to a sale for which a Drag Along Notice has been duly served.
- 11.8 On the completion date determined in accordance with Article 11.6, the Called Shareholders shall deliver stock transfer forms for the Called Shares, together with the relevant share certificate (or a suitable indemnity for any lost share certificate) to the Company and, against delivery of such documents, the Company shall pay the

Called Shareholders, on behalf of the Proposed Buyer, the amounts they are due pursuant to Article 11.4 to the extent that the Proposed Buyer has put the Company in the requisite funds. The Company's receipt of the price shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders pursuant to Article 11.4 in trust for the Called Shareholders without any obligation to pay interest.

- 11.9 To the extent that the Proposed Buyer has not, on the completion date determined in accordance with Article 11.6, put the Company in funds to pay the consideration due pursuant to Article 11.4, the Called Shareholders shall be entitled to the return of the stock transfer form and share certificate (or suitable indemnity) for the relevant Called Shares and the Called Shareholders shall have no further obligations under this Article 11 in respect of their Shares.
- 11.10 If any Called Shareholder does not, on completion of the sale of the Called Shares, execute transfer(s) in respect of all of the Called Shares held by him, the defaulting Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Selling Shareholders to be his agent to execute all necessary transfer(s) on his behalf and, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares, deliver such transfer(s) to the Proposed Buyer (or as they may direct) as the holder thereof. After the Proposed Buyer (or their nominee) has been registered as the holder of such Shares, the validity of such proceedings shall not be questioned by any such person. Failure to produce a share certificate shall not impede the registration of shares under this Article 11.
- 11.11 Following the issue of a Drag Along Notice, on any person becoming a shareholder of the Company pursuant to the exercise of a pre-existing option to acquire Shares or on the conversion of any convertible security of the Company (a "New Shareholder"), a Drag Along Notice shall be deemed to have been served on the New Shareholder on the same terms as the previous Drag Along Notice. The New Shareholder shall then be bound to sell and transfer all Shares acquired by him to the Proposed Buyer (or as the Proposed Buyer may direct) and the provisions of this Article 11 shall apply with the necessary changes to the New Shareholder, except that completion of the sale of the Shares shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder.

## **12 Tag Along**

- 12.1 Save for any Permitted Transfer under Article 9 and save where a Drag Along Notice has been served pursuant to Article 11 in relation to the relevant sale or transfer, no sale or transfer of the legal or beneficial interest in any Shares in the Company may be made or validly registered if as a result of such sale or transfer and registration thereof either:
- 12.1.1 a Controlling Interest would be obtained in the Company by any person or group of persons acting in concert; or
- 12.1.2 where any person or group of persons acting in concert already own a Controlling Interest, such Controlling Interest is increased by a further 1 per cent (or higher)

unless the proposed transferee or transferees or his or their nominees are independent third party bona fide purchasers acting in good faith and has or have offered to purchase the entire issued and to be issued Shares in the Company at the Specified Price (calculated as set out below). For the avoidance of doubt, notwithstanding that the Shares shall be purchased at the Specified Price, the proceeds of any Sale pursuant to this Article 12 shall be distributed in accordance with Article 5.4.

12.2 If any part of the Specified Price is to be paid except by cash then The Mercia Fund and OCC may, each at its option, elect to take a price per Share of such cash sum as may be agreed by it, the Board and the proposed transferee having regard to the transaction as a whole.

12.3 In this Article 12 the "**Specified Price**" means:

12.3.1 the consideration (in cash or otherwise) per Share equal to that offered or paid or payable by the proposed transferee or his or their nominees for the Shares of the relevant class being acquired, plus

12.3.2 the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of such other Shares of the relevant class which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable, plus all arrears and accruals of the dividends on such Share calculated down to the date of the sale or transfer.

In the event of disagreement the calculation of the Specified Price shall be referred to the Auditors for determination whose decision shall be final and binding. If The Mercia Fund and OCC reasonably consider that the proposed transfer is not bona fide arms length and representing a reasonable market value for the Shares the Specified Price shall be an amount determined by the Auditors as being a fair value for such Shares in accordance (mutatis mutandis) with the provisions of Article 8.3.

### **13 General Meetings**

13.1 The directors may call general meetings and, on the requisition of members pursuant to the provisions of CA 2006, shall forthwith proceed to convene a general meeting in accordance with the provisions of CA 2006. If there are not within the United Kingdom sufficient directors to call a general meeting any director or any member of the Company may call a general meeting.

### **14 Notice of General Meetings**

14.1 General meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed by a majority in number of the members having a right to attend and vote being a majority together holding not less than ninety-five per cent in nominal value of the Shares giving that right.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted at the meeting and shall include details of the right to appoint a proxy. Subject to the provisions of these Articles and to any restrictions imposed on any Shares, the notice shall be given to all the members, to all persons entitled to a Share in consequence of the death or bankruptcy of a member and to the directors and Auditors.



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

**15 Proceedings at General Meetings**

- 15.1 No business shall be transacted at any meeting unless a quorum is present. Three persons, which must include OCC and one representative of The Mercia Fund, entitled to vote upon the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation, shall be a quorum.
- 15.2 If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall be dissolved.
- 15.3 The chairman, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he shall be chairman.
- 15.4 If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.
- 15.5 A director shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of Shares in the Company.
- 15.6 The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least five clear Business Days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
- 15.7 A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of CA 2006, a poll may be demanded:
- 15.7.1 by the chairman; or
  - 15.7.2 by at least two members having the right to vote at the meeting; or
  - 15.7.3 by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or

15.7.4 by a member or members holding Shares conferring a right to vote at the meeting being Shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the Shares conferring that right,

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

- 15.8 Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 15.9 The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- 15.10 A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 15.11 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall not be entitled to a casting vote in addition to any other vote he may have.
- 15.12 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- 15.13 No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least five clear Business Days' notice shall be given specifying the time and place at which the poll is to be taken.

## **16 Votes of Members**

- 16.1 Subject to any rights or restrictions for the time being attached to any class or classes of Shares, on a show of hands every member entitled to vote who (being an individual) is present in person or by proxy (not being himself a member entitled to vote) or (being a corporate body) is present by a representative or proxy (not being himself a member entitled to vote) shall have one vote and, on a poll, every member shall have one vote for each Equity Share of which he is the holder PROVIDED ALWAYS THAT at any time the aggregate voting rights exercisable by The Mercia Fund and any other shareholder that is connected (as defined in section 1122 of the Corporation Tax Act 2010) to any or all of The Mercia Fund and The Mercia Fund General Partners shall not exceed 49.99% of the total voting rights in the Company.

- 16.2 A member shall not be entitled to appoint more than one proxy to attend on the same occasion. Any such proxy shall be entitled to cast the votes to which he is entitled in different ways.

16.3 Proxies

16.3.1 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate".

16.3.2 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that article.

17 Alternate Directors

17.1 Appointment and removal of alternate directors

17.1.1 Any director ("appointor") may, with the prior written consent of OCC and The Mercia Fund, appoint as an alternate any other director, or any other person approved by resolution of the directors, to:

- (i) exercise that director's powers; and
- (ii) carry out that director's responsibilities

in relation to the taking of decisions by the directors, in the absence of the alternate's appointor.

17.1.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the directors.

17.1.3 The notice must:

- (i) identify the proposed alternate; and
- (ii) 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.

17.2 Rights and responsibilities of alternate directors

17.2.1 An alternate director may act as alternate director to more than one director and has the same rights in relation to any decision of the directors as the alternate's appointor(s).

17.2.2 Except as the Articles specify otherwise, alternate directors:

- (i) are deemed for all purposes to be directors;
- (ii) are liable for their own acts and omissions;
- (iii) are subject to the same restrictions as their appointors; and
- (iv) are not deemed to be agents of or for their appointors

and, in particular, each alternate director shall be entitled to receive notice of all meetings of directors (but not meetings of committees of directors) of which his appointor is a member (subject to his giving to the Company an address within the United Kingdom at which notices may be served on him).

17.2.3 A person who is an alternate director but not, in the absence of such appointment, a director:

- (i) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating);
- (ii) may participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision, but does not participate); and
- (iii) shall not be counted as more than one director for the purposes of Articles 17.2.3(i) and 17.2.3(ii).

17.2.4 A director who is also an alternate director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the directors (provided that his appointor is an eligible director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present.

17.2.5 An alternate director shall not be entitled as such to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.

### 17.3 Termination of alternate directorship

17.3.1 An alternate director's appointment as an alternate terminates:

- (i) when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
- (ii) 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;
- (iii) on the death of the alternate's appointor; or

- (iv) when the alternate's appointor's appointment as a director terminates.

17.4 A director may not appoint any person to be an alternate director in respect of any committee of the directors.

## **18 Appointment of Directors**

18.1 The Company may by ordinary resolution appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director.

18.2 The directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director, provided that the appointment does not cause the number of directors to exceed any number determined in accordance with Article 18.5 as the maximum number of directors for the time being in force.

18.3 If, immediately following and as a result of the death of a member, the Company has no members and if at that time it has no directors, the personal representatives of the deceased member may appoint any person to be a director and the director who is appointed will have the same rights and be subject to the same duties and obligations as if appointed by ordinary resolution in accordance with Article 18.1. If two members die in circumstances rendering it uncertain which of them survived the other, such deaths shall, for the purposes of this Article, be deemed to have occurred in order of seniority and accordingly the younger shall be deemed to have survived the elder.

18.4 The remuneration and reasonable expenses to be paid to the Fund Director and the remuneration and reasonable expenses to be paid to the University/OCC Director shall be payable by the Company and shall be such sum as may be agreed between them or, failing such agreement, such amount as OCC (acting reasonably) in the case of the University/OCC Director and The Mercia Fund (acting reasonably) in respect of the Fund Director, may specify in writing. The Company and upon request by the Fund Director or University/OCC Director concerned the Company shall also procure (so far as it is able) that such Fund Director or University/OCC Director be appointed a director to any other member of the Group.

18.5 Unless otherwise agreed with The Mercia Fund and OCC, the maximum number of directors shall be 6 for the time being.

## **19 Termination of Director's Appointment**

19.1 A person ceases to be a director as soon as:

19.1.1 he ceases to be a director by virtue of any provision of CA 2006 or these Articles or he becomes prohibited by law from being a director; or

19.1.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally; or

19.1.3 he is, or may be, suffering from mental disorder and a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months; or

- 19.1.4 he resigns his office by notice to the Company; or
- 19.1.5 he shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated.

## **20 Gratuities and Pensions**

- 20.1 The directors may exercise any powers of the Company to give and provide pensions, annuities, gratuities or any other benefits whatsoever to or for past or present directors or employees (or their dependants) of the Company or any subsidiary or associated undertaking (as defined in section 1151(3) CA 2006) of the Company and the directors shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.

## **21 Proceedings of the Directors**

- 21.1 Subject to the provisions of CA 2006, and provided that he has disclosed to the directors the nature and extent of any interest of his (unless the circumstances referred to in sections 177(5), 177(6), 182(5) or 182(6) CA 2006 apply, in which case no disclosure is required), a director notwithstanding his office:

- 21.1.1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested;
- 21.1.2 may be a director or other officer of or employed by or be 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 in any way interested;
- 21.1.3 may, or any firm or company of which he is a member or director may, act in a professional capacity for the Company or any body corporate in which the Company is in any way interested;
- 21.1.4 shall not, by reason of his office, be accountable to the Company for any remuneration or benefit which he derives from any office, service or employment or from any transaction or arrangement or from any interest in any body corporate which he is permitted to hold or enter into by virtue of Articles 21.1.1, 21.1.2 or 21.1.3 and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit nor shall the receipt of any such remuneration or benefit constitute a breach of section 176 CA 2006; and
- 21.1.5 shall, subject to Articles 21.3 and 21.6, be entitled to vote on any resolution and (whether or not he shall vote) be counted in the quorum on any matter referred to in any of Articles 21.1.1 to 21.1.4 (inclusive) or on any resolution which in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest whatsoever and if he shall vote on any resolution as aforesaid his vote shall be counted.

- 21.2 For the purposes of Article 21.1:

- 21.2.1 a general notice to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any

transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified;

- 21.2.2 an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and
  - 21.2.3 an interest of a person who is for any purpose of CA 2006 (excluding any statutory modification not in force when these Articles were adopted) connected with a director shall be treated as an interest of the director and in relation to an alternate director an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise.
- 21.3 The directors may, in accordance with the requirements set out in this Article, authorise any matter proposed to them by any director which would, if not authorised, involve a director breaching his duty under section 175 CA 2006 to avoid conflicts of interest ("**Conflict Situation**"). For the purposes of these Articles, a conflict of interest includes a conflict of interest and duty and a conflict of duties, and interest includes both direct and indirect interests.
- 21.3.1 Any authorisation under this Article will be effective only if:
- (i) 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; and
  - (ii) 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
  - (iii) the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.
- 21.4 Any authorisation of a Conflict Situation under Article 21.3 may (whether at the time of giving the authorisation or subsequently):
- 21.4.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the Conflict Situation so authorised; and/or
  - 21.4.2 be subject to such terms and for such duration, or impose such limits or conditions as the directors may determine; and/or
  - 21.4.3 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.
- 21.5 In authorising a Conflict Situation the directors may decide (whether at the time of giving the authorisation or subsequently) that if a director has obtained any information through his involvement in the Conflict Situation otherwise than as a

director of the Company and in respect of which he owes a duty of confidentiality to another person the director is under no obligation to:

21.5.1 disclose such information to the directors or to any director or other officer or employee of the Company; and/or

21.5.2 use or apply any such information in performing his duties as a director

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

21.6 Where the directors authorise a Conflict Situation they may provide, without limitation (whether at the time of giving the authorisation or subsequently) that the director:

21.6.1 is excluded from discussions (whether at meetings of directors or otherwise) related to the Conflict Situation; and/or

21.6.2 is not given any documents or other information relating to the Conflict Situation; and/or

21.6.3 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 Situation.

21.7 Where the directors authorise a Conflict Situation:

21.7.1 the director will be obliged to conduct himself in accordance with any terms imposed by the directors in relation to the Conflict Situation; and

21.7.2 the director will not infringe any duty he owes to the Company by virtue of sections 171 to 177 CA 2006 provided he acts in accordance with such terms, limits and conditions (if any) as the directors impose in respect of its authorisation.

21.8 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 he derives from or in connection with a relationship involving a Conflict Situation 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.

21.9 For the purposes of sections 175 and 180(4) CA 2006 and for all other purposes, it is acknowledged that a Fund Director or University/OCC Director may be or become subject to a Conflict Situation or Conflict Situations as a result of his also being or having been party to an agreement or arrangement or understanding or circumstance under which he may become an employee, director, trustee, member, partner, officer, nominee, attorney or representative of, or a consultant to, or a direct or indirect investor in and/or otherwise commercially involved with or economically interested in any of the following:

21.9.1 The Mercia Fund, any member of the University Group or the University, as appropriate; and/or



- 21.9.2 any "**Investor Affiliate**", which for these purposes means any person who or which, as regards The Mercia Fund, any member of the University Group or the University, as appropriate, or any other Investor Affiliate of The Mercia Fund, any member of the University Group or the University, as appropriate:
- (i) is a holding company of that company, or a wholly owned subsidiary of the company or of any such holding company;
  - (ii) is its Investment Manager or investment advisor;
  - (iii) is a person in which it may have or acquire a direct or indirect economic interest as part of any portfolio investment;
  - (iv) controls or is controlled, managed advised (in an investment advisor capacity) or promoted by it; and/or
  - (v) is a trustee, manager, beneficiary, shareholder, partner, unitholder or other financier or any participant in or of it; and/or
- 21.9.3 any carried interest or incentive arrangement associated with any person or arrangement referred to in paragraphs 21.9.2(i) to 21.9.2(v) inclusive above.
- 21.10 A Fund Director's and a University/OCC Director's duties to the Company arising from him holding office as director shall not be breached or infringed as a result of any Conflict Situation envisaged by Article 21.9 having arisen or existing in relation to him and he shall not be held accountable to the Company for any benefit he directly or indirectly derives from his involvement with any person or entity referred to in Articles 21.9.1 or 21.9.2 irrespective of whether the activities of such person or entity are or may become competitive with those of the Company and/or any of its subsidiaries.
- 21.11 Any director including an alternate director may participate in a meeting of the directors or a committee of the directors of which he is a member by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and CA 2006, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- 21.12 Notice of every meeting of the directors shall be given to each director and his alternate, including directors and alternate directors who may for the time being be absent from the United Kingdom and have given the Company an address within the United Kingdom for service.
- 21.13 Any remuneration committee constituted by the Company shall comprise only of non-executive directors and shall include a representative of The Mercia Fund and a representative of OCC.
- 21.14 The quorum for the transaction of the business of the directors may be fixed by the directors and unless so fixed at any other number shall be three eligible directors of

which must include the Fund Director (if so appointed) and the University/OCC Director (if so appointed). A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.

- 21.15 For the purposes of any meeting (or part of a meeting) held pursuant to Article 21.3 to authorise a director's conflict, if there are only two eligible directors in office other than the conflicted director(s), then the quorum for such meeting (or part of a meeting) shall be two eligible directors (which must include the Fund Director (if so appointed and if not conflicted) and the University/OCC Director (if so appointed and not conflicted)).
- 21.16 If the number of votes for and against a proposal at a meeting of the directors are equal, the chairman or other director chairing the meeting shall not have a casting vote.
- 21.17 Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.

## **22 Means of Communication**

- 22.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
- 22.1.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 24 hours after it was posted (or five Business Days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);
- 22.1.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address including being left in a letter box at the appropriate address;
- 22.1.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
- 22.1.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

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

- 22.2 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by CA 2006.

## **23     Indemnity**

23.1 Subject to the provisions of, and so far as may be consistent with, the Acts, but without prejudice to any indemnity to which a relevant officer may be otherwise entitled, the Company shall indemnify every relevant officer out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties and/or the actual or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office, including (without prejudice to the generality of the foregoing) any liability incurred by him in relation to any proceedings, whether civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as a relevant officer PROVIDED that in the case of any director, any such indemnity shall not apply to any liability of that director:

23.1.1 to the Company or to any of its associated companies;

23.1.2 to pay any fine imposed in criminal proceedings or any sum payable to a regulatory authority by way of penalty in respect of non-compliance with any requirement of a regulatory nature (however arising); or

23.1.3 incurred:

(i) in defending any criminal proceedings in which he is convicted or any civil proceedings brought by the Company or any of its associated companies in which judgment is given against him; or

(ii) in connection with any application under any statute for relief from liability in respect of any such act or omission in which the court refuses to grant him relief,

in each case where the conviction, judgment or refusal by the court is final within the meaning stated in section 234 CA 2006.

## **24     Insurance**

24.1 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.

24.2 The directors may authorise the directors of other members of the Group to purchase and maintain insurance at the expense of the Company for the benefit of any relevant officer of such company in respect of any relevant loss.

24.3 In this Article a "**relevant loss**" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company.

## **25     Data Protection**

25.1 Each of the shareholders of the Company (from time to time) consent to the processing of their personal data by the Company and its shareholders and directors ("**Recipient**"), for the purposes of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information

amongst themselves. A Recipient may process such personal data either electronically or manually. The personal data which may be processed for such purposes under this Article shall include any information (but excepting all "sensitive data" as defined in the Data Protection Act 1998 for which it is recognised separate consent would be obtained) which may have a bearing on the prudence or commercial merits of investing, or disposing of any Shares (or other investment or security) in the Company. Subject to any confidentiality undertakings given to them by a Recipient, each of the Company's shareholders and directors (from time to time) consent to the transfer of such personal data to persons acting on behalf of any Recipient and to the offices of any Recipient within the European Economic Area for the purposes stated above, where it is necessary or desirable to do so.