

Company Number: SC548356

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**GOOD.LOOP LTD**

(adopted by special resolution passed on 24 December 2021)

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Company Number: SC548356

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION OF**  
**GOOD.LOOP LTD**

**1 DISAPPLICATION OF MODEL ARTICLES**

- 1.1 None of the model articles contained in the schedules to the Companies (Model Articles) Regulations 2008 (*SI 2008/3229*), or any amended subsequent legislation or statutory instrument containing model articles, shall apply to the Company.
- 1.2 The Regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (*SI 1985/805*) shall not apply to the Company.

**2 INTERPRETATION**

- 2.1 In these Articles, unless the context otherwise requires, the following words have the following meanings:

**A Ordinary Shares**

means the A Ordinary Shares of £0.00005 each in the capital of the Company from time to time having the rights set out in these Articles;

**Acceptance Notice**

has the meaning given to it in Article 18.2;

**Accepting Shareholder**

has the meaning given to it in Article 20.5;

**Acting in Concert**

has the meaning given to it in the City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers for the time being in force;

**Address**

includes a number or address used for the purposes of sending or receiving Documents or information, including by Electronic Means;

**Appointor**

has the meaning given to it in Article 24.1(a);

**Anti-Dilution Shares**

has the meaning given in Article 11.1;

**Arrears**

means in relation to any Share, all arrears of any dividend or other sums payable in respect of that Share, whether or not earned or declared and irrespective of whether or not the Company has had at any time sufficient Available Profits to pay such dividend or sums, together with all interest and other amounts payable on that Share;

**Articles**

means these articles of association and a reference to an Article is to a numbered regulation of them;

**Asset Sale**

means the disposal by the Group of all or substantially all of its undertaking and assets taken as a whole (where disposal may include, without limitation, the grant by any Group Company of an exclusive licence of intellectual property not entered into in the ordinary course of business);

**Associate**

in relation to a Shareholder:

- (a) who is an individual, any of their Relations, personal pension funds, Family Trusts, the trustees of those Family Trusts or any other individual or entity holding Shares or the beneficial interest therein for that individual; or
- (b) that is a company, any Member of the Same Group or any other individual or entity holding Shares or the beneficial interest therein for that company and any individual being a shareholder of that company or of any holding company of that company;

**Auditors**

means the auditors of the Company from time to time;

**Authenticated**

means (subject to section 1146 of the Companies Act) authenticated in such manner as the Board may in its absolute discretion determine;

**Available Profits**

means profits available for distribution within the meaning of part 23 of the Companies Act;

**Bad Leaver**

means a Founder whose employment, directorship, consultancy or service provision to the Company or any Group Company ceases, other than where (i) they are a Very Bad Leaver or (ii) they are a Leaver for a Good Leaver Reason, as a result of the resignation of, or voluntary termination of the relevant agreement by, the Founder;

**Board**

the board of Directors from time to time and any committee of such board constituted for the purpose of taking any action or decision contemplated by these Articles;

**Bonus Issue or Reorganisation**

means any return of capital, bonus issue of shares or other securities of the Company by way of capitalisation of profits or reserves (other than a capitalisation issue in substitution for or as an alternative to a cash dividend which is made available to the Series A Preferred Shareholders) or any consolidation or sub-division or redenomination or any repurchase or redemption of shares (other than Series A Preferred Shares) or any variation in the subscription price or conversion rate applicable to any other outstanding shares of the Company in each case other than the Excluded Securities;

**Business Day**

a day (other than a Saturday, Sunday or public holiday) when clearing banks in the City of London and Edinburgh are open for the transaction of non-automated banking business;

**Buyer**

has the meaning given to it in Article 20.1;

**Capitalised Sum**

has the meaning given to it in Article 28.1(a)(ii);

**Chairperson**

has the meaning given to it in Article 25.6;

**Chairperson of the Meeting**

has the meaning given to it in Article 29.3(c);

**Co-Sale Buyer**

has the meaning given to it in Article 18.7(a);

**Co-Sale Notice**

has the meaning given to it in Article 18.7;

**Co-Sale Holder**

has the meaning given to it in Article 18.7;

**Companies Act**

the Companies Act 2006 (as amended, consolidated and restated from time to time);

**Company**

Good.Loop LTD a limited company registered in Scotland under No. SC548356;

**Compulsory Transfer Notice**

a notice given by a Shareholder to the Company appointing the Company the agent of the Shareholder with full power to transfer specified Shares to such person and on such terms, or to determine that such Shares should not be transferred, as the Company deems reasonable and appropriate;

**Consultant**

means a person providing consultancy services and shall include (a) persons who are directly party to consultancy arrangements, and (b) persons who are supplied to provide consultancy services by a company that has a consultancy arrangement;

**Controlling Interest**

means an interest in Shares giving to the holder or holders control of the Company within the meaning of section 995 of ITA 2007;

**Conditions**

has the meaning set given in Article 10.1

**Conversion Date**

has the meanings given in Articles 10.1 as applicable;

**Conversion Ratio**

means has the meaning given in Article 10.5;

**Departed Founder**

means any Founder who has ceased to be an Employee;

**Director**

a director of the Company from time to time or any alternate director duly appointed in accordance with these Articles;

**Distribution Recipient**

has the meaning given to it in Article 27.2(b);

**Document**

includes summons, notice, order or other legal process and registers;

**Drag Along Buyer**

has the meaning given in Article 19.1;

**Drag Along Notice**

has the meaning given in Article 19.1;

**Drag Along Sale**

has the meaning given in Article 19.1;

**Dragged Seller**

has the meaning given in Article 19.1;

**Electronic Form and Electronic Means**

have the meanings given to them in section 1168 of the Companies Act;

**Employee**

means an employee, director or officer of, or Consultant to, the Company or any Group Company who is not a Founder;

**Encumbrance**

includes any mortgage, charge (fixed or floating), pledge, lien, hypothecation, guarantee, trust, right of set-off or other third party right or interest (legal or equitable) including any assignment by way of security, reservation of title or other security interest of any kind, howsoever created or arising, or any other agreement or arrangement (including a sale and repurchase agreement) having similar effect;

**Entitled Beneficiary and Entitled Beneficiaries**

have the meaning given in paragraph (g) of the definition of Permitted Transfer;

**Equity Shares**

means the A Ordinary Shares, the Ordinary Shares and the Series A Preferred Shares;

**Excess Securities**

has the meaning given to it in Article 7.3(c);

**Excluded Securities**

means the following securities issuable by the Company:

- (a) Options, warrants or other rights to subscribe for Ordinary Shares under the Option Plan;
- (b) new securities issued or granted in order for the Company to comply with its obligations under these Articles including, but not limited to the Anti-Dilution Shares, and issued in accordance with Article 11.
- (c) new securities which the Shareholders have agreed in writing, by way of Investor Majority Consent and special resolution, should be issued without complying with the procedure set out in Article 7;
- (d) new securities issued as a result of a bonus issue of shares which has been approved in writing by an Investor Majority and issued to existing Holders of Shares pro rata to their existing holdings of Shares or otherwise in accordance with the provisions of these Articles;
- (e) Shares or options for Shares issued or granted to the Investors in accordance with the terms of the Subscription Agreement;
- (f) new securities issuable upon conversion of any Series A Preferred Shares in accordance with Article 10;
- (g) new securities issued by reason of a dividend, stock split, split-up or other distribution on the Equity Shares;

- (h) new securities issuable upon conversion of any debenture, warrant option or other convertible security;
- (i) new securities issued in connection with a Qualifying IPO; and
- (j) new securities issued as acquisition consideration pursuant to the acquisition of another company by the Company by merger, purchase of substantially all of the assets or other reorganisation or to a joint venture agreement, provided that such issuances are approved by the Board with Investor Majority Consent;

**Exercising Investor**

means any Investor who exercises its rights to acquire Anti-Dilution Shares in accordance with Article 11.1;

**Expert**

means an independent chartered accountant agreed between the relevant Founder and the Board or, in default of such agreement within fifteen Business Days, by the President of the Institute of Chartered Accountants in Scotland on the application of either such party;

**Fair Value**

in respect of a Share means:

- (a) the value agreed between the relevant Founder and the Board (with Investor Director Consent); or
- (b) if no such agreement can be reached, the value determined by an Expert on the basis that:
  - (i) the fair value is the sum which a willing buyer would agree with a willing seller on an arm's length sale to be the purchase price for the Shares concerned on a Share Sale;
  - (ii) no account shall be taken of the size of the holding which the relevant Shares comprise or whether those Shares represent a majority or minority interest;
  - (iii) no account shall be taken of the fact that the transferability of the relevant Shares is restricted under the Articles;
  - (iv) if the Company is then carrying on business as a going concern, it will continue to do so; and
  - (v) any difficulty in applying any of the bases set out above shall be resolved by the Expert as they, in their absolute discretion, think fit;

**Family Trusts**

in relation to an individual Shareholder, a trust or settlement set up wholly for the benefit of that individual Shareholder and/or their Relations;

**Founder Director**

means a Director appointed in accordance with Article 23.3(c);

**Founders**

means Amy Williams and Daniel Winterstein, and each of them is a Founder;

**Founder Vested Proportion**

means:

- (c) in the period from the date of adoption of these Articles to the first anniversary of such date, 50%;
- (d) in the period from the first anniversary of adoption of these Articles to the day prior to the second anniversary of such date, 75%; and
- (e) from the second anniversary of the date of adoption of these Articles, 100%.

**Fractional Holders**

has the meaning given in Article 10.9;

**Fully Paid**

means, in relation to a Share, that the nominal value and any premium to be paid to the Company in respect of that Share have been paid to the Company;

**Good Leaver Reason**

means:

- (a) injury, ill-health or disability other than as the result of the abuse of drugs or alcohol;
- (b) death;
- (c) redundancy (within the meaning of section 139(1) of the Employment Rights Act 1996);
- (d) wrongful or unfair dismissal; or
- (e) the relevant agreement expiring in accordance with its terms;

**Group**

the Company and each and any of its subsidiaries from time to time, and Group Company shall be construed accordingly;

**Group Company Interest**

has the meaning given in Article 26.8;

**Hard Copy Form**

has the meaning given in section 1168 of the Companies Act;

**Holder**

in relation to Shares means the person whose name is entered in the register of members as the holder of the Shares;

**Holding Company**

has the meaning given to it in the Companies Act;

**Impact KPIs**

means a set of KPIs to measure the Company's performance against its Impact Plan;

**Impact Plan**

means the Company's impact plan, setting out its impact objectives and measures it will take to achieve these, as updated from time to time in accordance with the terms of this agreement;

**Instrument**

means a Document in Hard Copy Form;

**Interested Directors**

has the meaning given to it in Article 26.3(b);



**Investor Director**

means a Director appointed in accordance with Article 23.3(a) or 23.3(b);

**Investor Director Consent**

means the Written consent of a majority of the Investor Directors then in office, provided that:

- (a) if no Investor Director is in office then an Investor Majority Consent shall constitute Investor Director Consent, and
- (b) if there is an even number of Investor Directors in office then the Written consent of half of the Investor Directors and the Chair shall constitute Investor Director Consent;

**Investor Majority**

means Investors holding at least in aggregate 51% of the Series A Preferred Shares and the A Ordinary Shares from time to time;

**Investor Majority Consent**

means the Written consent of an Investor Majority;

**Investor Shares**

means Series A Preferred Shares and A Ordinary Shares;

**Investors**

means the Holders of A Ordinary Shares and Series A Preferred Shares;

**ITA 2007**

the Income Tax Act 2007;

**Leaver**

means a Founder or Employee who ceases to hold office or employment by the Company or of any other member of the Group;

**Leaver Notice**

has the meaning given in Article 16.1;

**Leaver Shares**

has the meaning given in Article 16.1;

**Member of the Same Group**

as regards any company, a Subsidiary of that company, a company which is from time to time its Holding Company, and any other Subsidiary of any such Holding Company;

**Mission Statement**

has the meaning given to it in Article 3;

**Offer**

has the meaning given to it in Article 20.2;

**Offer By Way of Rights**

has the meaning set out in Article 10.11

**Offer Notice**

has the meaning given to it in Article 20.3;

**Offer Period**

has the meaning given to it in Article 20.3;

**Offer Shares**

has the meaning given to it in Article 20.3;

**Option Plan**

means the current option plan of the Company over 36,000 Ordinary Shares, as amended from time to time with Investor Majority Consent;

**Ordinary Resolution**

has the meaning given in section 282 of the Companies Act;

**Ordinary Shareholders**

means the holders from time to time of the Ordinary Shares (but excludes the Company if holding Ordinary Shares as Treasury Shares);

**Ordinary Shares**

the ordinary shares of £0.00005 each in the capital of the Company, having the rights set out in these Articles;

**Paid**

means paid or credited as paid;

**Permitted Transfer**

means:

- (a) in respect of a Founder, any transfer of Shares to an Associate of that Founder with Investor Director Consent;
- (b) in respect of a Shareholder who is not a Founder, any transfer of Shares to an Associate of the Shareholder;
- (c) any transfer from a member of the SISV Group to another member of the SISV Group;
- (d) any transfer from an SISV Individual who is a Shareholder to a body corporate of which the SISV Individual shareholder has a Controlling Interest;
- (e) any transfer from a member of the Scottish Enterprise Group to another member of the Scottish Enterprise Group;
- (f) any transfer from QCM to an Associate and/or any other person or entity who, directly or indirectly, controls, is controlled by, or is under common control with such person or entity, including, without limitation, any general partner, managing member, officer, director or trustee of such person or entity;

(and in relation to any such Permitted Transfer as set out in paragraphs (a), (b), (c), (e) or (f) above the transferor shall be the **Original Shareholder** and the recipient the **Permitted Transfer Recipient**),

- (g) any transfer from Winterwell in respect of Shares held by it as nominee, to an individual on whose behalf such Shares are held (the **Entitled Beneficiary**) or to any person or entity who would constitute an Associate of that Entitled Beneficiary were the Entitled Beneficiary a Shareholder at the date of such transfer provided always that each Entitled Beneficiary (together the **Entitled Beneficiaries**) and the Shares held by Winterwell on behalf of each Entitled Beneficiary have been identified to the Company in or pursuant to a Shareholders Agreement;
- (h) a transfer described in Article 3.3(b);
- (i) a transfer described in Article 14.12;

- (j) a transfer described in Article 19.4; or
- (k) in respect of any Shares held by Seedrs Nominees Limited:
  - (i) any transfer of the shares to any person who is the beneficial owner of such shares;
  - (ii) any transfer of the shares to any person who is to hold the shares as nominee for the beneficial owner in substitution for the then registered legal shareholder; or
  - (iii) any transfer of the beneficial ownership of such shares where the identity of the registered legal shareholder remains the same before and immediately after such transfer.

**Persons Entitled**

has the meaning given to it in Article 28.1(a)(ii);

**Pre-Emption Period**

has the meaning given to it in Article 18.2;

**Preference Amount**

means a price per share equal to the amount paid up or credited as paid up (including premium) for such share together with a sum equal to any Arrears;

**Proceeds of Sale**

means the consideration payable (including any deferred and/or contingent consideration and any other consideration which having regard to the substance of the transaction as a whole, can be reasonably regarded as an addition to the price paid or payable for the Shares being sold) whether in cash or otherwise to those Shareholders selling Shares under a Share Sale less any fees, costs and expenses payable in respect of such Share Sale as approved by the Board;

**Proposed Transfer**

has the meaning given to it in Article 20.1;

**Proxy Notice**

has the meaning given to it in Article 30.4(a);

**QCM**

means QCM Investment Fund, LP;

**Qualifying Issue**

has the meaning given to it in Article 11.1;

**Qualifying IPO**

means an IPO in which the gross aggregate subscription amount in respect of new Ordinary Shares issued at the time of the IPO is not less than \$40,000,000;

**Relation**

the spouse, civil partner, widow or widower of a Shareholder and the Shareholder's children and grandchildren (including step and adopted children), and step and adopted children of the Shareholder's children;

**Relevant Securities**

means any Shares or other securities convertible into, or carrying the right to subscribe for, those shares issued by the Company after the date of adoption of these Articles, other than Excluded Securities and excluding for the avoidance of doubt any Treasury Shares transferred by the Company after the date of adoption of these Articles;

**Restricted Share**

has the meaning given to it in Article 16.6;

**Sale Date**

has the meaning given to it in Article 20.3;

**Sale Notice**

has the meaning given to it in Article 18.1;

**Sale Shares**

has the meaning given to it in Article 18.1;

**Seller**

a transferor of Shares;

**Selling Founder**

has the meaning given to it in Article 18.6;

**Scottish Enterprise**

established by the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ;

**Scottish Enterprise Group**

means Scottish Enterprise, any subsidiary for the time being of Scottish Enterprise and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of Scottish Enterprise or any subsidiary of such company, corporation or body and any other body to which the statutory functions of Scottish Enterprise have been delegated or a Scottish Enterprise Successor and the expression member of the Scottish Enterprise Group shall be construed accordingly;

**Scottish Enterprise Successor**

means any party succeeding in whole or in part to the interest of Scottish Enterprise;

**Series A Preferred Majority**

means the holders of a majority of the Series A Preferred Shares from time to time;

**Series A Preferred Shares**

means the series A preferred shares of £0.00005 each in the capital of the Company from time to time;

**Series A Preferred Shareholders**

means the holders of the Series A Preferred Shares (but excludes the Company if holding Series A Preferred Shares as Treasury Shares);

**Shareholder**

a Holder of Shares (but excludes the Company any Shares as holding Treasury Shares);

**Shareholders' Agreement**

any agreement among the Shareholders and the Company from time to time in force which regulates the behaviour of the Shareholders in relation to the Company;

**Shares**

shares in the capital of the Company from time to time;

**Share Sale**

means the sale of (or the grant of a right to acquire or to dispose of) any of the Shares in the capital of the Company (in one transaction or as a series of transactions) which will result in the purchaser

of those Shares (or grantee of that right) and persons Acting in Concert with them together acquiring a Controlling Interest in the Company, except where following completion of the sale the Shareholders in the Company and the proportion of Shares held by each of them are the same as the Shareholders and their Shareholdings in the Company immediately prior to the sale;

**SISV**

means SIS Ventures Limited, a company incorporated under the Companies Acts in Scotland with registered number SC576272 and having its registered office at Playfair House, 6 Broughton Street Lane, Edinburgh, EH1 3LY;

**SISV Group**

means SISV and any SISV Shareholder;

**SISV Shareholder**

means together any of:

- (a) Impact First Nominees Limited, a company incorporated under the Companies Acts in Scotland with registered number SC572085 and having its registered office at Playfair House, 6 Broughton Street Lane, Edinburgh, EH1 3LY, on behalf of the investors in the Impact First Fund;
- (b) Impact Ventures Scotland Limited, a company incorporated under the Companies Acts in Scotland with registered number SC610399 and having its registered office at Playfair House, 6 Broughton Street Lane, Edinburgh, EH1 3LY;
- (c) any individual on whose behalf the SISV Shareholder is holding shares in the share capital of the Company ("**SISV Individual**");
- (d) any SISV Individual who makes a new subscription for shares in the Company in its / his / her own name and whose investment activity in the Company is arranged through SISV (an "SISV Individual Subscriber");
- (e) the SISV Group; or
- (f) any other person (individual or corporate) whose subscription for shares in the Company has been enabled or facilitated by SISV and is as such designated an SISV Shareholder by SISV from time to time;

and the term SISV Shareholders shall mean all SISV Shareholders from time to time;

**Special Resolution**

has the meaning given in section 283 of the Companies Act;

**Specified Price**

has the meaning given to it in Article 20.2;

**Staff Representative**

means a Director appointed in accordance with Article 23.3(d);

**Stakeholder Interest**

has the meaning given to it in Article 4.2;

**Starting Price**

means USD 46.70 (if applicable, adjusted as referred to in Article 11.3);

**Subscriber**

has the meaning given to it in Article 7.3(c);

**Subscription Agreement**

means the subscription agreement by and among the Company and the Investors (as defined therein), dated on or around the date of adoption of these Articles, relating to the issuance by the Company of Series A Preferred Shares and A Ordinary Shares;

**Subsidiary**

shall have the meaning given to it in the Companies Act and a company shall be treated, for the purposes only of the membership requirement contained in subsection 1159(1)(b) and (c) of the Companies Act, as a member of another company even if its shares in that other company are registered in the name of:

- (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or
- (b) its nominee;

**Surplus Assets**

has the meaning in Article 8.1;

**Transmittee**

means a person entitled to a Share by reason of the death or bankruptcy of a Shareholder or otherwise by operation of law;

**Treasury Shares**

means Shares held by the Company as treasury shares from time to time within the meaning set out in section 724(5) of the Companies Act;

**Very Bad Leaver**

means a Founder or Employee who:

- (a) becomes a Leaver as a result of the Founder or Employee's fraud or gross misconduct;
- (b) becomes a Leaver as a result of being convicted of any criminal offence (other than a road traffic offence with a non-custodial sentence) which in the reasonable opinion of the Board, following consultation with an Investor Majority, significantly risks bringing the Company into disrepute or does or may result in the individual concerned being unable to perform their duties at a material detriment to the business plan of the Company from time to time; or who
- (c) in the reasonable opinion of the Board, following consultation with an Investor Majority, has materially breached the terms of any Shareholders' Agreement in place from time to time and/or the terms of the restrictive covenants set out in such person's employment contract, service contract or appointment letter (as the case may be) and where such Founder or Employee does not make reasonable remedy for the breach within 30 days of being given notice of such breach by the Board, whether prior to or within 12 months of becoming a Leaver;

**Winterwell**

means Winterwell Associates Limited, a company incorporated under the Companies Acts in Scotland with registered number SC342991 and having its registered office at 27 McDonald Road, Edinburgh, EH7 4LX; and

**Writing or Written**

means printing, typewriting, lithography, photography and any other mode or modes of representing or reproducing words, symbols or other information in a legible and non-transitory form, including (subject to the provisions of the Companies Act) in Electronic Form.

- 2.2 References to the bankruptcy or insolvency of a person or the appointment of a liquidator, administrator or administrative receiver, or entry into compositions or arrangements with creditors shall include any analogous events or proceedings in any relevant jurisdiction.
- 2.3 References to a person shall include a natural person, body corporate or unincorporated body as the context requires.
- 2.4 Words importing the singular include the plural and vice versa, and words importing any gender include any other gender.

### **3 MISSION STATEMENT**

- 3.1 The Company's mission statement (**Mission Statement**) is:

*Good-Loop exists to make the internet a more positive place for everyone. Positive for brands because we provide a platform for them talk to their customers in a respectful, positive and interactive environment. Positive for people because we empower them to take control of their online experiences and to harness their own value as a force of good in the world. Positive for the world because when charities have a stable, sustainable source of income they have the security to plan long-term and the freedom to focus their attention on maximising their positive impact*

- 3.2 Subject to Article 3.3 the Company shall (and the Directors shall procure that the Company shall) act at all times in accordance with its Mission Statement and shall not, without the prior Written consent of SISV (provided any member of the SISV Group holds Shares):

- (a) amend or replace the Mission Statement; or
- (b) take any action, or omit to take any action, in breach or otherwise in a manner materially inconsistent with its Mission Statement.

- 3.3 If, in complying with their obligations under Article 3.2, a Director would be in breach of any of their duties under this Article 3 or the Companies Act or otherwise, then:

- (a) where the breach is of a temporary nature, the Directors shall consult in good faith with SISV to agree an alternative course of action which would enable them to comply with their directors' duties but having as minimal as reasonably possible an impact on, or departure from, the Mission Statement; or
- (b) where the breach is, or would be of an ongoing nature, then the Directors shall consult in good faith with SISV to propose to Shareholders an appropriate amendment to Mission Statement, failing which SISV shall in its sole discretion have the right to sell all or any of the Shares held by every member of the SISV Group to any willing buyer and otherwise on such terms as they may determine, without restriction as to price or otherwise, and provided such sale is not made to a direct competitor of the Company, it shall be a Permitted Transfer.

### **4 OBJECTS**

- 4.1 The objects of the Company are to promote the success of the Company to all its stakeholders:

- (a) for the benefit of its Shareholders and Employees; and
- (b) through its business and operations, to have a material positive impact on
  - (i) society and
  - (ii) the environment, taken as a whole.

- 4.2 A Director must act in the way they consider, in good faith, most likely to promote the success of the Company in achieving the objects set out in Article 4.1, and in doing so shall have regard (amongst other matters) to:
- (a) the likely consequences of any decision of the Directors in the long term and the impact any such decision may have on any affected stakeholders,
  - (b) the interests of the Employees,
  - (c) the need to foster the Company's business relationships with suppliers, customers and others,
  - (d) the impact of the Company's operations on the community and the environment and on affected stakeholders,
  - (e) the desirability of the Company maintaining a reputation for high standards of business conduct and the impact this has on affected stakeholders, and
  - (f) the need to act fairly as between members of the Company,
- (together, the matters referred to above shall be defined for the purposes of this Article as the **Stakeholder Interests** and each a **Stakeholder Interest**).
- 4.3 For the purposes of a Director's duty to act in the way they consider, in good faith, most likely to promote the success of the Company, a Director shall not be required to regard the benefit of any particular Stakeholder Interest or group of Stakeholder Interests as more important than any other.
- 4.4 Nothing in this Article express or implied, is intended to or shall create or grant any right or any cause of action to, by or for any person (other than the Company).
- 4.5 The Directors of the Company shall, for each financial year of the Company, prepare and circulate to its members an impact report. The impact report shall contain a balanced and comprehensive analysis of the impact the Company's business has had, in a manner proportionate to the size and complexity of the business. The impact report shall contain such detail as is necessary to enable the members to have an understanding of the way in which the Company has promoted its success for the benefit of its members as a whole and, through its business and operations, sought to have a material positive impact on society and the environment, taken as a whole. If the Company is also required to prepare a strategic report under the Companies Act 2006, the Company may choose to publish the impact report as part of its strategic report and in accordance with the requirements applying to the strategic report.
- 5 SHARE CAPITAL AND LIMITATION OF LIABILITY**
- 5.1 The share capital of the Company at the date of adoption of these Articles consists of the Series A Preferred Shares, the A Ordinary Shares and the Ordinary Shares.
- 5.2 The liability of the Shareholders is limited to the amount, if any, unpaid on the Shares held by them.
- 5.3 Except as otherwise provided in these Articles, the Series A Preferred Shares, the A Ordinary Shares and the Ordinary Shares shall rank *pari passu* as regards votes, distributions, and return of capital, but shall constitute separate classes of shares.
- 5.4 For the avoidance of doubt, the Company shall not exercise any right in respect of any Treasury Shares, including without limitation any right to:
- (a) receive notice of or to attend or vote at any general meeting of the Company;
  - (b) receive or vote on any proposed written resolution; and



- (c) receive a dividend or other distribution

save as otherwise permitted by section 726(4) of the Companies Act.

## **6 SHARES**

### **6.1 All Shares to be fully paid up**

- (a) No Share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the Company in consideration for its issue.
- (b) This does not apply to Shares taken on the formation of the Company by the subscribers to the Company's memorandum.

### **6.2 Powers to issue different classes of Share**

- (a) Subject to the Articles, but without prejudice to the rights attached to any existing Share, the Company may issue Shares with such rights or restrictions as may be determined by Ordinary Resolution.
- (b) The Company may issue Shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the Holder, and the Directors may determine the terms, conditions and manner of redemption of any such Shares.

### **6.3 Company not bound by less than absolute interests**

Except as required by law, no person is to be recognised by the Company as holding any Share upon any trust, and except as otherwise required by law or the Articles, the Company is not in any way to be bound by or recognise any interest in a Share other than the Holder's absolute ownership of it and all the rights attaching to it.

### **6.4 Share certificates**

- (a) The Company must issue each Shareholder, free of charge, with one or more certificates in respect of the Shares which that Shareholder holds.
- (b) Every certificate must specify:
  - (i) in respect of how many Shares, of what class, it is issued;
  - (ii) the nominal value of those Shares;
  - (iii) that the Shares are fully Paid; and
  - (iv) any distinguishing numbers assigned to them.
- (c) No certificate may be issued in respect of Shares of more than one class.
- (d) If more than one person holds a Share, only one certificate may be issued in respect of it.
- (e) Certificates must:
  - (i) have affixed to them the Company's common seal, or
  - (ii) be otherwise executed in accordance with the Companies Act.

### **6.5 Replacement share certificates**

- (a) If a certificate issued in respect of a Shareholder's Shares is:

- (i) damaged or defaced, or
- (ii) said to be lost, stolen or destroyed,

that Shareholder is entitled to be issued with a replacement certificate in respect of the same Shares.

(b) A Shareholder exercising the right to be issued with such a replacement certificate:

- (i) may at the same time exercise the right to be issued with a single certificate or separate certificates;
- (ii) must return the certificate which is to be replaced to the Company if it is damaged or defaced; and
- (iii) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the Directors decide.

## 7 FURTHER ISSUES OF SHARES

- 7.1 In accordance with section 567(1) of the Companies Act, sections 561 and 562 of the Companies Act shall not apply to any allotment of equity securities (as defined in section 560(1) of the Companies Act) made by the Company.
- 7.2 Save with Investor Majority Consent and a special resolution, if the Company proposes to allot any Relevant Securities, those Relevant Securities shall not be allotted to any person unless the Company has first offered them to the Holders (on the date of the offer) of all of the Shares on a pari passu basis (as if they constituted Shares of the same class) and in the respective proportions that the number of Shares held by each such Holder bears to the total number of Shares (as nearly as possible without involving fractions) and on the same terms, and at the same price, as those Relevant Securities are being, or are to be, offered to any other person.
- 7.3 An offer made under Article 7.2 shall:
- (a) be in Writing and give details of the number, class and subscription price (including any share premium) of the Relevant Securities being offered;
  - (b) remain open for a period of at least ten (10) Business Days from the date of service of the offer; and
  - (c) stipulate that any Shareholder who wishes to subscribe for a number of Relevant Securities in excess of the number to which they are entitled under Article 7.2 (a **Subscriber**) shall, in their acceptance, state the number of excess Relevant Securities (the **Excess Securities**) for which they wish to subscribe.
- 7.4 If, on the expiry of an offer made in accordance with Article 7.2, the total number of Relevant Securities applied for is less than the total number of Relevant Securities so offered, the Directors shall allot the Relevant Securities to the Shareholders in accordance with their applications, subject to a maximum of each Shareholder's application.
- 7.5 Any Relevant Securities not accepted by Shareholders pursuant to an offer made in accordance with Article 7.2 shall be used to satisfy any requests for Excess Securities made pursuant to Article 7.3(c). If there are insufficient Relevant Securities to satisfy the Excess Securities applications, the remaining Relevant Securities shall be allotted to the Subscribers in the respective proportions that the number of Shares held by each such Subscriber bears to the total number of Shares held by all Subscribers (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any Subscriber beyond that applied for by them).

- 7.6 Any shares offered to any shareholder who is a member of the SISV Group under Article 7.2 may be taken up by any other member of the SISV Group.
- 7.7 Any Relevant Securities not taken up by Shareholders pursuant to Articles 7.2 to 7.6 may be offered to any other person(s) as the Directors may determine, at the same price and on the same terms as the offer to the Shareholders.

## **8 LIQUIDATION PREFERENCE**

- 8.1 On a distribution of assets on a liquidation or a return of capital (other than a conversion, redemption or purchase of Shares) and subject always to the provisions of Article 8.2, the surplus assets of the Company remaining after payment of its liabilities (the “**Surplus Assets**”) shall be applied (to the extent that the Company is lawfully permitted to do so):
- (a) first in paying to each of the Series A Preferred Shareholders, in priority to any other classes of Shares, an amount per share held equal to the Preference Amount (provided that if there are insufficient Surplus Assets to pay the amounts per share equal to the Preference Amount, the remaining Surplus Assets shall be distributed to the Series A Preferred Shareholders pro rata to the amounts paid up on the Series A Preferred Shares); and
  - (b) the balance of the Surplus Assets (if any) shall be distributed among the holders of Ordinary Shares and A Ordinary Shares pro rata to the number of Ordinary Shares and A Ordinary Shares held as if they constituted one class of shares.
- 8.2 Notwithstanding Article 8.1, the Surplus Assets shall be distributed among the holders of Equity Shares pro rata to the number of Equity Shares held, as if all Equity Shares constituted one and the same class, if such pro rata distribution would entitle the Series A Preferred Shares to an amount of Surplus Assets greater than the amount to be received after application of Article 8.1.

## **9 EXIT PROVISIONS**

- 9.1 On a Share Sale the Proceeds of Sale shall be distributed in the order of priority set out in Article 8 and the Directors shall not register any transfer of Shares if the Proceeds of Sale are not so distributed save in respect of any Shares not sold in connection with that Share Sale provided that if the Proceeds of Sale are not settled in their entirety upon completion of the Share Sale:
- (a) the Directors shall not be prohibited from registering the transfer of the relevant Shares so long as the Proceeds of Sale that are settled have been distributed in the order of priority set out in Article 8; and
  - (b) the Shareholders shall take any action required by an Investor Majority to ensure that the Proceeds of Sale in their entirety are distributed in the order of priority set out in Article 8.
- In the event that the Proceeds of Sale are distributed on more than one occasion (for any deferred or contingent consideration or otherwise), the consideration so distributed on any further occasion shall be paid by continuing the distribution from the previous distribution of consideration in the order of priority set out in Article 8.
- 9.2 On an Asset Sale the Surplus Assets of the Company shall be distributed (to the extent that the Company is lawfully permitted to do so) in the order of priority set out in Article 8 provided always that if it is not lawful for the Company to distribute its Surplus Assets in accordance with the provisions of these Articles, the Directors and the Shareholders shall take any action required by an Investor Majority (including, but without prejudice to the generality of this Article 9.2, actions that may be necessary to put the Company into voluntary liquidation) so that Article 8 applies.

## 10 CONVERSION OF SERIES A PREFERRED SHARES

- 10.1 Any holder of Series A Preferred Shares shall be entitled, by notice in Writing to the Company, to require conversion into Ordinary Shares of all of the fully paid Series A Preferred Shares held by them at any time and those Series A Preferred Shares shall convert automatically on the date of such notice (the **Conversion Date**), provided that the holder may in such notice, state that conversion of its Series A Preferred Shares into Ordinary Shares is conditional upon the occurrence of one or more events (the **Conditions**).
- 10.2 All of the fully paid Series A Preferred Shares shall automatically convert into Ordinary Shares, at the then applicable conversion rate (in accordance with Article 10.5 and Article 10.8), upon:
  - (a) On the date of a notice given by the Series A Preferred Majority (which date shall be treated as the Conversion Date); or
  - (b) Immediately upon the occurrence of a Qualifying IPO.
- 10.3 In the case of (i) Articles 10.1 and 10.2(b), not more than five Business Days after the Conversion Date or (ii) in the case of Article 10.2(a), at least five Business Days prior to the occurrence of the Qualifying IPO each holder of the relevant Series A Preferred Shares shall deliver the certificate (or an indemnity for lost certificate in a form acceptable to the Board) in respect of the Series A Preferred Shares being converted to the Company at its registered office for the time being.
- 10.4 Where conversion is mandatory on the occurrence of a Qualifying IPO, that conversion will be effective only immediately prior to and conditional upon such Qualifying IPO (and "Conversion Date" shall be construed accordingly) and, if such Qualifying IPO does not become effective or does not take place, such conversion shall be deemed not to have occurred. In the event of a conversion under Article 10.1, if the Conditions have not been satisfied or waived by the relevant holder by the Conversion Date such conversion shall be deemed not to have occurred.
- 10.5 On the Conversion Date the relevant Series A Preferred Shares shall without further authority than is contained in these Articles stand converted into Ordinary Shares on the basis of one Ordinary Share for each Series A Preferred Share held (the **Conversion Ratio**), and the Ordinary Shares resulting from that conversion shall in all other respects rank pari passu with the existing issued Ordinary Shares.
- 10.6 The Company shall on the Conversion Date enter the holder of the converted Series A Preferred Shares on the register of members of the Company as the holder of the appropriate number of Ordinary Shares and, subject to the relevant holder delivering its certificate(s) (or an indemnity for lost certificate in a form acceptable to the Board) in respect of the Series A Preferred Shares in accordance with this Article, the Company shall within 10 Business Days of the Conversion Date forward to such holder of Series A Preferred Shares by post to his address shown in the register of members, free of charge, a definitive certificate for the appropriate number of fully paid Ordinary Shares.
- 10.7 On the Conversion Date (or as soon afterwards as it is possible to calculate the amount payable), the Company will, if it has sufficient Available Profits, pay to holders of the Series A Preferred Shares falling to be converted a dividend equal to all Arrears and accruals of dividends in relation to those Series A Preferred Shares to be calculated on a daily basis down to and including the day immediately preceding the Conversion Date. If the Company has insufficient Available Profits to pay all such Arrears and accruals of dividends in full then it will pay the same to the extent that it is lawfully able to do so and any Arrears and accruals of dividends that remain outstanding shall continue to be a debt due from and immediately payable by the Company.
- 10.8 The Conversion Ratio shall from time to time be adjusted in accordance with the provisions of this Article:

- (a) if Series A Preferred Shares remain capable of being converted into new Ordinary Shares and there is a consolidation and/or sub-division of Ordinary Shares, the Conversion Ratio shall be adjusted by an amount, which in the opinion of the Board is fair and reasonable, to maintain the right to convert so as to ensure that each Series A Preferred Shareholder is in no better or worse position as a result of such consolidation or sub-division, such adjustment to become effective immediately after such consolidation or sub-division;
  - (b) if Series A Preferred Shares remain capable of being converted into Ordinary Shares, on an allotment of fully-paid Ordinary Shares pursuant to a capitalisation of profits or reserves to holders of Ordinary Shares the Conversion Ratio shall be adjusted by an amount, which in the opinion of the Board is fair and reasonable, to maintain the right to convert so as to ensure that each Series A Preferred Shareholder is in no better or worse position as a result of such capitalisation of profits or reserves, such adjustment to become effective as at the record date for such issue.
- 10.9 If any Series A Preferred Shareholder becomes entitled to fractions of an Ordinary Share as a result of conversion (**Fractional Holders**), the Directors may (in their absolute discretion) deal with these fractions as they think fit on behalf of the Fractional Holders. In particular, the Directors may aggregate and sell the fractions to a person for the best price reasonably obtainable and distribute the net proceeds of sale in due proportions among the Fractional Holders or may ignore fractions or accrue the benefit of such fractions to the Company rather than the Fractional Holder. For the purposes of completing any such sale of fractions, the chairman of the Company or, failing him, the secretary will be deemed to have been appointed the Fractional Holder's agent for the purpose of the sale.
- 10.10 If a doubt or dispute arises concerning an adjustment of the Conversion Ratio in accordance with Article 10.8, or if so requested by a Series A Preferred Majority, the Board shall refer the matter to the Auditors for determination who shall make available to all Shareholders their report and whose certificate as to the amount of the adjustment is, in the absence of manifest error, conclusive and binding on all concerned and their costs shall be met by the Company;
- 10.11 If Series A Preferred Shares remain capable of being converted into new Ordinary Shares and Ordinary Shares are offered by the Company by way of rights to holders of Ordinary Shares (an **Offer By Way of Rights**), the Company shall on the making of each such offer, make a like offer to each Series A Preferred Shareholder as if immediately before the record date for the Offer By Way Of Rights, his Series A Preferred Shares had been converted into fully-paid Ordinary Shares at the then applicable Conversion Ratio.

## 11 ANTI-DILUTION PROTECTION

- 11.1 If Relevant Securities are issued by the Company at a price per Relevant Security which equates to less than the Starting Price (a **Qualifying Issue**) (which in the event that the Relevant Security is not issued for cash shall be a price certified by the Auditors acting as experts and not as arbitrators as being in their opinion the current cash value of the new consideration for the allotment of the Relevant Securities) then the Company shall, unless the Series A Preferred Majority shall have specifically waived the rights of all of the holders of Series A Preferred Shares, issue to each holder of Series A Preferred Shares (the **Exercising Investor**) a number of new Series A Preferred Shares determined by applying the following formula (and rounding the product, N, down to the nearest whole share), subject to adjustment as certified in accordance with Article 11.3 (the **Anti-Dilution Shares**):

$$N = \left( \left( \frac{SIP}{WA} \right) \times Z \right) - Z$$

Where:

N = Number of Anti-Dilution Shares to be issued to the Exercising Investor

$$WA = \frac{(SIP \times ESC) + (QISP \times NS)}{(ESC + NS)}$$

SIP = Starting Price

ESC = the number of Equity Shares in issue plus the aggregate number of shares in respect of which options to subscribe have been granted, or which are subject to convertible securities (including but not limited to warrants) in each case immediately prior to the Qualifying Issue

QISP = the lowest per share price of the Relevant Securities issued pursuant to the Qualifying Issue (which in the event that the Relevant Security is not issued for cash shall be the sum certified by the Auditors acting as experts and not arbitrators as being in their opinion the current cash value of the non-cash consideration for the allotment of the Relevant Security)

NS = the number of Relevant Securities issued pursuant to the Qualifying Issue

Z = the number of Series A Preferred Shares held by the Exercising Investor prior to the Qualifying Issue.

#### 11.2 The Anti-Dilution Shares shall:

- (a) be paid up by the automatic capitalisation of available reserves of the Company, unless and to the extent that the same shall be impossible or unlawful or a majority of the Exercising Investors shall agree otherwise, in which event the Exercising Investors shall be entitled to subscribe for the Anti-Dilution Shares in cash at par (being the par value approved in advance by Investor Director Consent) and the entitlement of such Exercising Investors to Anti-Dilution Shares shall be increased by adjustment to the formula set out in Article 11.1 so that the Exercising Investors shall be in no worse position than if they had not so subscribed at par. In the event of any dispute between the Company and any Exercising Investor as to the effect of Article 11.1 or this Article 11.2, the matter shall be referred (at the cost of the Company) to the Auditors for certification of the number of Anti-Dilution Shares to be issued. The Auditor's certification of the matter shall in the absence of manifest error be final and binding on the Company and the Exercising Investor; and
- (b) subject to the payment of any cash payable pursuant to Article 11.2(a) (if applicable), be issued, credited fully paid up in cash and shall rank *pari passu* in all respects with the existing Series A Preferred Shares, within five Business Days of the expiry of the offer being made by the Company to the Exercising Investor and pursuant to Article 11.2(a).

11.3 In the event of any Bonus Issue or Reorganisation, the Starting Price shall also be subject to adjustment on such basis as may be agreed by the Company with the Series A Preferred Majority within 10 Business Days after any Bonus Issue or Reorganisation. If the Company and the Series A Preferred Majority cannot agree such adjustment it shall be referred to the Auditors whose determination shall, in the absence of manifest error, be final and binding on the Company and each of the Shareholders. The costs of the Auditors shall be borne by the Company;

11.4 For the purposes of this Article 11, any shares held as Treasury Shares by the Company shall be disregarded when calculating the number of Anti-Dilution Shares to be issued.

## 12 PAYMENT OF COMMISSIONS ON SUBSCRIPTION FOR SHARES

12.1 The Company may pay any person a commission in consideration for that person:

- (a) subscribing, or agreeing to subscribe, for Shares, or
- (b) procuring, or agreeing to procure, subscriptions for Shares.

12.2 Any such commission may be Paid:

- (a) in cash or in fully Paid Shares or other securities, or partly in one way and partly in the other, and
- (b) in respect of a conditional or an absolute subscription.

### **13 PROCEDURE FOR DISPOSING OF FRACTIONS OF SHARES**

13.1 When, as a result of a sub-division or a consolidation of Shares, Shareholders are entitled to fractions of Shares the Directors may:

- (a) sell the Shares representing the fractions to any person for the best price reasonably obtainable;
- (b) authorise an Instrument of transfer to be executed in accordance with the directions of the purchaser; and
- (c) distribute the net proceeds of sale in due proportion among the Shareholders.

13.2 The purchaser of such Shares shall not be obliged to ensure that any purchase money is received by the person entitled to the relevant fractions.

13.3 The purchaser's title to the Shares shall not be affected by any irregularity in, or invalidity of the process leading to their sale.

### **14 TRANSFER OF SHARES**

14.1 In these Articles, reference to the transfer of a Share includes the transfer, assignment or other disposal of a beneficial or other interest in that Share or the creation of a trust or Encumbrance over that Share or the renunciation or assignment of any rights to receive or subscribe for that Share, and reference to a Share includes both a legal and a beneficial or other interest in a Share unless otherwise indicated, but it does not include, in situations where the Holder subscribed for or purchased the Share as nominee for one or more beneficial owners:

- (a) the transfer, assignment or other disposal of a beneficial or other interest in, or the creation of a trust or Encumbrance over or the renunciation or assignment of any rights to receive or subscribe for a beneficial or other interest in, a Share provided that the nominee that holds a legal interest in such Share remains the same; or
- (b) the transfer, assignment or other disposal of a legal interest in, or the creation of a trust or Encumbrance over or the renunciation or assignment of any rights to receive or subscribe for a legal interest in, a Share from the nominee to any person who has a beneficial or other interest in that Share, provided that notice of such transfer is given to the Company.

14.2 Shares may be transferred by means of an Instrument of transfer in any usual form or any other form approved by the Directors, which is executed by or on behalf of the Seller.

14.3 No fee may be charged for registering any Instrument of transfer or other Document relating to or affecting the title to any Share.

14.4 The Company may retain any Instrument of transfer which is registered.

- 14.5 The Seller remains the Holder of a Share until the transferee's name is entered in the register of members as Holder of it.
- 14.6 Any transfer of a Share by way of sale that is required to be made under these Articles shall be deemed to include a warranty that the Seller sells the Share with full title guarantee.
- 14.7 The Directors may refuse to register a transfer of a Share:
- (a) unless 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 (or a suitable indemnity for any lost share certificate) and such other evidence as the Directors may reasonably require to show the right of the Seller to make the transfer;
  - (b) to a bankrupt, a minor or a person of unsound mind; or
  - (c) 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.
- 14.8 The Directors may, as a condition to the registration of any transfer of any Share, require the transferee to execute and deliver to the Company a deed agreeing to be bound by the terms of any Shareholders' Agreement in such form as the Directors may reasonably require. If any condition is imposed in accordance with this Article 14.8, the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee.
- 14.9 To enable the Directors to determine whether or not there has been any transfer of a Share in breach of these Articles, the Directors may require any Holder, or the legal personal representatives of any deceased Holder, or any person named as transferee in any transfer lodged for registration or any other person who the Directors may reasonably believe to have information relevant to that purpose, to provide the Company with any information and evidence that the Directors request regarding any matter which they deem relevant to that purpose. If the information or evidence is not provided to enable the Directors to determine to their reasonable satisfaction that no breach has occurred, or as a result of the information and evidence the Directors are reasonably satisfied that a breach has occurred, the Directors shall immediately notify the Holder of such Shares in Writing of that fact and the following shall occur:
- (a) the relevant Shares shall cease to confer any rights to vote or to receive dividends or other distributions otherwise attaching to those Shares or to any further Shares in the capital of the Company issued in respect of those Shares, or in pursuance of an offer made to the relevant Holder; and
  - (b) the holder may be required at any time following receipt of the notice, to transfer some or all of their Shares to any person(s) at the price that the Directors may require by notice in Writing to that holder.
- 14.10 The rights referred to in Article 14.9(a) may be reinstated by the Directors at such time as they think fit or, if earlier, shall be reinstated on the completion of any transfer referred to in Article 14.9(b).
- 14.11 A Permitted Transfer may be made without restriction as to price or otherwise.
- 14.12 Subject to Article 14.13, where the relationship between any Original Shareholder and any Permitted Transfer Recipient changes such that a Transfer of Shares between them would no longer constitute a Permitted Transfer, the Permitted Transfer Recipient shall be deemed to have transferred all of the Shares held by it to the Original Shareholder immediately prior to such change.
- 14.13 The provisions of Article 14.12 shall not apply, and for the avoidance of doubt the Permitted Transfer Recipient shall be entitled to continue to hold the relevant Shares, where the Original Shareholder is:



- (a) a member of the Scottish Enterprise Group and the Permitted Transfer Recipient continues to perform the investment function previously carried on by the Scottish Enterprise Group (or activities analogous thereto); or
- (b) a member of the SISV Group and the Permitted Transfer is a transfer by a member of the SISV Group to an SISV Individual.

## **15 COMPULSORY TRANSFERS**

15.1 Subject to Article 15.4, if any Shares remain registered in the name of a deceased Shareholder for longer than one year after the date of their death, the Directors may require the legal personal representatives of that deceased Shareholder either:

- (a) to effect a transfer of those Shares; or
- (b) to show, to the satisfaction of the Directors, that a transfer will be effected before (or promptly on) the completion of the administration of the estate of the deceased Shareholder.

If either paragraph 15.1(a) or 15.1(b) of this Article 15.1 is not fulfilled to the satisfaction of the Directors, a Compulsory Transfer Notice shall be deemed to have been given in respect of such Shares on such date as the Directors determine.

15.2 Subject to Article 15.4, if a Shareholder is adjudged bankrupt or makes any arrangement or composition with their creditors generally, then that Shareholder shall immediately be deemed to have given a Compulsory Transfer Notice in relation to all Shares held by them.

15.3 Subject to Article 15.4, if a Shareholder that is a company suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it (or a material part of its business) or enters into a composition or arrangement with its creditors generally, then that Shareholder shall immediately be deemed to have given a Compulsory Transfer Notice in respect of all Shares held by it.

15.4 Where a Shareholder holds a legal interest in a Share on behalf of another person and the Company is on notice of such arrangement, the provisions of Articles 15.1, 15.2 and 15.3 shall not apply to such Shareholder, and instead if such a Shareholder suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it (or a material part of its business) or enters into a composition or arrangement with its creditors generally, then:

- (a) If the Shareholder notifies the Company of its intention to transfer the legal interest in the relevant Shares within one month from the date of such appointment or composition or arrangement, then the Company shall, together with such Shareholder, take such steps as may be reasonably be required to effect such a transfer of the legal interest of the relevant Shares; and
- (b) If the Shareholder fails to notify the Company in accordance with Article 15.4(a), then a Compulsory Transfer Notice shall be deemed to have been given in respect of such Shares on such date as the Directors determine.

## **16 LEAVER PROVISIONS**

16.1 Subject to Article 16.8,

if any Founder:

- (a) has their employment terminated or otherwise ceases to be an Director prior to the second anniversary of the date of adoption of these Articles; or

- (b) at any time following the adoption of these Articles (whether before, on or after 1 January 2022) has their employment terminated or otherwise ceases to be engaged by the Company as an employee or Director and is a Very Bad Leaver,

or, if any Employee who is a Leaver at any time following the adoption of these Articles has their employment terminated or otherwise ceases to be an Employee and is a Very Bad Leaver,

then in each case the Company shall, within 40 Business Days following:

- (c) if the Company or the relevant Group Company engages in settlement discussions with the relevant Leaver following the date of such Leaver's termination, the date when the Company or the relevant Group Company makes a determination in good faith that such discussions should be finished; and otherwise
- (d) the date of such termination,

serve a notice in Writing on the Leaver (**Leaver Notice**) which shall oblige the Leaver to transfer:

- (e) in the case of a Leaver who is a Very Bad Leaver, all the Shares held by them and procure that their Associates transfer all the Shares transferred to them by the Leaver, or
- (f) in the case of a Founder who is a Leaver prior to the second anniversary of the date of adoption of these Articles, such number of Shares held by them as represent ((1 – that Founder's Vested Proportion) multiplied by the aggregate number of Shares held by that Founder and by each of that Founder's Associates holding Shares transferred to them by that Founder or on behalf of that Founder) and procure that their Associates holding Shares transferred to them by the Leaver or on behalf of that Founder transfer an equal proportion of Shares,

(together **Leaver Shares**) in each case in accordance with the provisions of this Article 16, on a specified date not less than ten Business Days following the date of service of the Leaver Notice.

16.2 The Leaver Notice shall set out the price payable per Leaver Share, which shall be:

- (a) where a Leaver for a Good Leaver Reason, the Fair Value of each Leaver Share; or
- (b) where the Leaver is a Bad Leaver or a Very Bad Leaver, nominal value of each Leaver Share.

16.3 On the date specified in the Leaver Notice, the Company (to the extent that it is able to do so under applicable law or regulation) or such other willing buyer(s) as the Company with Investor Majority Consent shall direct, shall acquire all of the Leaver Shares, at the price set out in the Leaver Notice. The Leaver shall, and shall procure if applicable that their Associates shall, take all steps necessary to complete such Transfer.

16.4 If a Leaver and / or any Associate of a Leaver holding Leaver Shares fails to comply with the provisions of Article 16.3 they shall be deemed to have given a Compulsory Transfer Notice on the date specified in the Leaver Notice in respect of each Leaver Share held such person and the Company may take all necessary steps to enter into and give effect to such Transfer.

16.5 Excluding the Founders, all voting rights attached to Shares held by a Leaver shall, at the time the relevant Leaver ceases to be an Employee, be suspended unless the Board acting with Investor Majority Consent notify such person otherwise.

16.6 Any Shares held by Leaver whose voting rights are suspended pursuant to Article 16.5 ("**Restricted Shares**") shall confer on the holders of Restricted Shares the right to receive a notice of and attend all general meetings of the Company but shall have no right to vote either in person or by proxy or to vote on any proposed written resolution. Voting rights suspended pursuant to this Article shall

be automatically restored immediately prior to an IPO. Once a Leaver transfers any Restricted Shares in accordance with the provisions of this Article 16 all voting rights attached to the Restricted Shares so transferred shall upon completion of the transfer (as evidenced by the transferee's name being entered in the Company's register of members) automatically be restored.

16.7 Where any Employee or Founder who is a Leaver and / or any Associate of such Founder or Employee is entitled or permitted to retain any Shares following upon becoming a Leaver and is subsequently deemed within 12 months of becoming a Leaver to be a Very Bad Leaver,, by reason of any act or omission of the Leaver occurring after their Leaver Date (other than in the case of any act or conduct falling within leg (b) of the definition of Bad Leaver) or any act or omission of the Leaver occurring prior to the Leaver Date which was not known to the Board when the Leaver was deemed entitled or permitted to retain Shares then:

- (a) the provisions of Article 16.1 shall apply to any Shares held at that date by the Leaver and by any Associate of the Leaver;
- (b) the Sale Price for the Shares previously sold by the Leaver and / or any Associate of the Leaver pursuant to the provisions of this Article 16 at any price greater than nominal value shall be deemed to be retrospectively adjusted to nominal value and the Leaver shall pay the Company on demand such sum as represents the difference between the amount that was paid to him or to his Associate and nominal value per Share so sold less any amount paid by the Leaver in taxes or properly and reasonably incurred fees; and
- (c) if the Company was not the transferee of the Leaver Shares sold pursuant to the provisions of this Article 16, it shall act as agent for, and reimburse (upon receipt from the Leaver) to, the transferees the difference in the price paid by them to the Leaver or to his Associate in respect of such Leaver Shares.

16.8 The provisions of this Article 16 shall not apply if:

- (a) a Founder's status as a Director or an employee is terminated in connection with the acquisition of a Controlling Interest; or
- (b) the Board, with Investor Majority Consent, elects not to serve a Leaver Notice on the Leaver.

## **17 TRANSMISSION OF SHARES**

### **17.1 Transmission**

- (a) If title to a Share passes to a Transmitttee, the Company may only recognise the Transmitttee as having any title to that Share.
- (b) A Transmitttee who produces such evidence of entitlement to Shares as the Directors may properly require:
  - (i) may, subject to the Articles, choose either to become the Holder of those Shares or to have them transferred to another person; and
  - (ii) subject to the Articles, and pending any transfer of the Shares to another person, has the same rights as the Holder had.
- (c) But Transmitttees do not have the right to attend or vote at a general meeting, or agree to a proposed Written resolution, in respect of Shares to which they are entitled, by reason of the Holder's death or bankruptcy or otherwise, unless they become the Holders of those Shares.

### **17.2 Exercise of Transmitttees' rights**

- (a) Transmittees who wish to become the Holders of Shares to which they have become entitled must notify the Company in Writing of that wish.
- (b) If the Transmittree wishes to have a Share transferred to another person, the Transmittree must execute an Instrument of transfer in respect of it.
- (c) Any transfer made or executed under this Article is to be treated as if it were made or executed by the person from whom the Transmittree has derived rights in respect of the Share, and as if the event which gave rise to the transmission had not occurred.

### 17.3 Transmittrees bound by prior notices

If a notice is given to a Shareholder in respect of Shares and a Transmittree is entitled to those Shares, the Transmittree is bound by the notice if it was given to the Shareholder before the Transmittree's name has been entered in the register of members.

## 18 PRE-EMPTION RIGHTS AND CO-SALE RIGHTS ON TRANSFERS OF SHARES

### *PRE-EMPTION RIGHTS*

- 18.1 If any Seller proposes to transfer any Shares (the **Sale Shares**), other than where such transfer is a Permitted Transfer or exempt pursuant to Article 18.12, the Seller shall promptly deliver a notice (the **Sale Notice**) to the Company and each of the Shareholders stating the proposed terms and conditions of such transfer including, without limitation, the number of Sale Shares, the nature of such transfer, the consideration to be paid per Sale Share, and (if prospective purchasers have been identified) the name and address of each prospective purchaser or transferee.
- 18.2 Each Shareholder may, within ten Business Days of receiving the Sale Notice (the **Pre-Emption Period**), give Written notice to the Company that it intends to purchase Sale Shares at the price and subject to the terms and conditions set out in the Sale Notice (an **Acceptance Notice**) and shall specify the number of Sale Shares it is willing to purchase.
- 18.3 At the end of the Pre-Emption Period (or, if sooner, the date on which the Company has received Acceptance Notices from all of the Shareholders) the Company shall:
  - (a) allocate the Sale Shares to each Shareholder who has served an Acceptance Notice, pro rata to their respective ownership of Shares but subject in each case to the maximum number of Sale Shares which they are willing to purchase; and
  - (b) notify each Shareholder that served an Acceptance Notice and the Seller of the number of Sale Shares to be purchased by each such Shareholder and the date on which the purchase shall be completed (to be no fewer than five Business Days from the date of service of such notice).
- 18.4 On the date specified by the Company pursuant to Article 18.3 each Shareholder that is purchasing Sale Shares shall pay the price for the Sale Shares that they are purchasing, by wire transfer against delivery of their respective Sale Shares, and their respective Sale Shares shall be transferred to them.
- 18.5 To the extent that there are any Sale Shares that no Shareholder or Other Shareholder elects to purchase in accordance with the provisions of this Article 18, subject to the application of Articles 18.6 through 18.12, the Seller may enter into an agreement to transfer such Sale Shares to a third party, provided that:
  - (a) it enters into such agreement within 30 Business Days of the end of the Pre-Emption Period;

- (b) the terms of such agreement are no more favourable to the purchaser than those that were set out in the Sale Notice;
- (c) the transfer contemplated by the agreement is consummated within 45 Business Days of the end of the Pre-Emption Period; and
- (d) the Directors, acting reasonably, do not object to the identity of the proposed transferee.

#### CO-SALE RIGHTS

- 18.6 No transfer (other than a Permitted Transfer) of any of the Ordinary Shares relating to a Founder may be made or validly registered unless the relevant Founder and any Permitted Transferee of that Founder (each a **Selling Founder**) shall have observed the following procedures of this Article unless an Investor Majority has determined that Articles 18.6 through 18.12 shall not apply to such transfer.
- 18.7 After the Selling Founder has gone through the pre-emption process set out in Articles 18.1 through 18.5, the Selling Founder shall give to each Investor, who has not taken up its pre-emptive rights under Articles 18.1 through 18.5 (a **Co-Sale Holder**) not less than 15 Business Days' notice in advance of the proposed sale (a **Co-Sale Notice**). The Co-Sale Notice shall specify:
- (a) the identity of the proposed purchaser (the **Co-Sale Buyer**);
  - (b) the price per share which the Co-Sale Buyer is proposing to pay;
  - (c) the manner in which the consideration is to be paid;
  - (d) the number of Ordinary Shares which the Selling Founder proposes to sell; and
  - (e) the address where the counter-notice should be sent.
- 18.8 For the purposes of Articles 18.6 through 18.12, it is acknowledged that Shares of different classes will be transferable at different prices, such price per class of Share being a sum equal to that to which they would be entitled if the consideration payable by the Co-Sale Buyer to the Selling Founder were used to determine the valuation of the entire issued share capital of the Company and such valuation was then allocated as between the Shares in accordance with Articles 8 and 9.
- 18.9 Each Co-Sale Holder shall be entitled within five Business Days after receipt of the Co-Sale Notice, to notify the Selling Founder that they wish to sell a certain number of Investor Shares held by them at the proposed sale price, by sending a counter-notice which shall specify the number of Investor Shares which such Co-Sale Holder wishes to sell. The maximum number of shares which a Co-Sale Holder can sell under this procedure shall be **(N)**:

$$\left( \frac{X}{Y} \right) \times Z$$

where:

- X is the number of Investor Shares held by the Co-Sale Holder;
- Y is the total number of Investor Shares held by the Co-Sale Holders and Ordinary Shares held by the Selling Founder;
- Z is the number of Ordinary Shares the Selling Founder proposes to sell.

Any Co-Sale Holder who does not send a counter-notice within such five Business Day period shall be deemed to have specified that they wish to sell no shares.

- 18.10 Following the expiry of five Business Days from the date the Co-Sale Holders receive the Co-Sale Notice, the Selling Founder shall be entitled to sell to the Co-Sale Buyer on the terms notified to the Co-Sale Holders a number of shares not exceeding the number specified in the Co-Sale Notice (Z) less any shares which Co-Sale Holders have indicated they wish to sell (not to exceed N for each Co-Sale Holder), provided that at the same time the Co-Sale Buyer (or another person) purchases from the Co-Sale Holders the number of shares they have respectively indicated they wish to sell (not to exceed N for each Co-Sale Holder) on terms no less favourable than those obtained by the Selling Founder from the Co-Sale Buyer.
- 18.11 No sale by the Selling Founder shall be made pursuant to any Co-Sale Notice more than three months after service of that Co-Sale Notice.
- 18.12 Sales made in accordance with Articles 18.6 through 18.11 shall not be subject to Articles 18.1 through 18.5.

## **19 DRAG-ALONG**

- 19.1 If Shareholders holding in aggregate at least sixty per cent. of the Shares and constituting an Investor Majority approve in Writing or in a meeting a transaction or series of related arm's length transactions in which a bona fide third party person or group of related third party persons (the **Drag Along Buyer**) wishes to acquire all of the Shares (a **Drag Along Sale**) then the Company shall provide Written notice of such approval to all of the other Shareholders (each a **Dragged Seller**), which notice shall describe the Drag Along Sale in reasonable detail, including the proposed time and place of the closing thereof (which shall be at least 15 and at most 20 Business Days after service of the notice) and the consideration the Drag Along Buyer will pay for the acquisition of all of the Shares (the **Drag Along Notice**).
- 19.2 Subject to Article 19.3, on the date specified in the Drag Along Notice each of the Dragged Sellers shall:
- (a) sell, transfer and deliver, or cause to be sold, transferred and delivered, to the Drag Along Buyer all of the Shares held by such Dragged Sellers on the terms set out in the Drag Along Notice;
  - (b) deliver certificates for such Shares at such closing, free and clear of all liens and other Encumbrances; and
  - (c) if Shareholder approval of the Drag Along Sale is required, vote, or provide an irrevocable proxy directing the holder of such proxy to vote, in each case in favour thereof.
- 19.3 The obligations of each Dragged Seller are subject to the satisfaction of the following conditions, unless waived in Writing by that Dragged Seller:
- (a) any representations and warranties to be made by such Dragged Seller in connection with the Drag Along Sale are limited to representations and warranties related to authority, ownership and the ability to convey title to such Dragged Seller's Shares, including, without limitation, representations and warranties that:
    - (i) the Dragged Seller holds all right, title and interest in and to the Shares such Dragged Seller purports to hold, free and clear of all liens and Encumbrances;
    - (ii) the obligations of the Dragged Seller in connection with the transaction have been duly authorised, if applicable;

- (iii) the documents to be entered into by the Dragged Seller have been duly executed by the Dragged Seller and delivered to the acquiror and are enforceable against the Dragged Seller in accordance with their respective terms; and
    - (iv) neither the execution and delivery of documents to be entered into in connection with the transaction, nor the performance of the Dragged Seller's obligations thereunder, will cause a breach or violation of the terms of any agreement, law or judgment, order or decree of any court or governmental agency to or by which such Dragged Seller is subject or bound;
  - (b) upon the consummation of the Drag Along Sale, each Shareholder will receive the same form and amount of consideration per Share, provided that any consideration received in the Drag Along Sale by Shareholders who are Employees by virtue of their engagement in that capacity shall not be counted for these purposes; and
  - (c) the total aggregate liability of the Dragged Seller shall be limited to at most the proceeds of the Drag Along Sale actually received by that Dragged Seller, or deposited into an escrow established for the purpose, at a given time, except with respect to claims related to fraud by such Dragged Seller, the liability for which need not be limited.
- 19.4 Any Transfer in respect of which a Drag Along Notice is served shall constitute a Permitted Transfer.

## 20 TAG ALONG

- 20.1 Except in the case of transfers pursuant to Article 15 or which are obligatory pursuant to any Shareholders' Agreement, the provisions of Article 20.2 shall apply if, in one or a series of related transactions one or more Sellers propose to transfer any Shares (a **Proposed Transfer**) which would, if carried out, result in any person (other than a person who holds a Controlling Interest in the Company at that time or an Associate of such a person) (a **Buyer**), and any person Acting in Concert with the Buyer, acquiring:
- (a) a Controlling Interest in the Company; or
  - (b) a majority of the Shares owned immediately prior to the transfer(s) by the Founders and their Associates.
- 20.2 Before completing the Proposed Transfer, a Seller shall procure that the Buyer makes an offer (an **Offer**) to each of the other Shareholders to buy all of the Shares held by them for a consideration in cash per Share that is at least equal to the highest price per Share offered or Paid by the Buyer, or any person Acting in Concert with the Buyer, in the Proposed Transfer or in any related previous transaction in the six months preceding the date of the Proposed Transfer (the **Specified Price**).
- 20.3 The Offer shall be made by Written notice (an **Offer Notice**), at least 20 Business Days (the **Offer Period**) before the proposed sale date (the **Sale Date**). To the extent not described in any accompanying documents, the Offer Notice shall set out:
- (a) the identity of the Buyer;
  - (b) the purchase price and other terms and conditions of payment;
  - (c) the proposed date of the transfer; and
  - (d) the number of Shares proposed to be purchased by the Buyer
- from each such Shareholder (the **Offer Shares**).

20.4 If the Buyer fails to make the Offer to all holders of Shares in the Company then the Seller shall not be entitled to complete the Proposed Transfer and the Company shall not register any transfer intended to effect the Proposed Transfer.

20.5 If the Offer is accepted by any Shareholder (an **Accepting Shareholder**) within the Offer Period, the completion of the Proposed Transfer shall be conditional on completion of the purchase of all the Offer Shares held by all Accepting Shareholders.

## **21 DIRECTORS' POWERS AND RESPONSIBILITIES**

### **21.1 Directors' general authority**

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

### **21.2 Shareholders' reserve power**

- (a) The Shareholders may, by Special Resolution, direct the Directors to take, or refrain from taking, specified action.
- (b) No such Special Resolution invalidates anything which the Directors have done before the passing of the resolution.

### **21.3 Directors may delegate**

- (a) Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles:
  - (i) to such person or committee;
  - (ii) by such means (including by power of attorney);
  - (iii) to such an extent;
  - (iv) in relation to such matters or territories; and
  - (v) on such terms and conditions; as they think fit.
- (b) If the Directors so specify, any such delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.
- (c) The Directors may revoke any delegation in whole or part, or alter its terms and conditions.

### **21.4 Committees**

- (a) Committees to which the Directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the Articles which govern the taking of decisions by Directors.
- (b) The Directors may make rules of procedure for all or any committees, which prevail over rules derived from the Articles if they are not consistent with them.

## **22 RECORDS AND RULES - DIRECTORS' DECISIONS**

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

The Directors must ensure that the Company keeps a record, in Writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the Directors.



## 22.2 **Directors' discretion to make further rules**

Subject to the Articles, the Directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to Directors.

## 23 **APPOINTMENT AND REMOVAL OF DIRECTORS**

### 23.1 **Number of Directors**

Unless and until the Company by Ordinary Resolution determines otherwise, the minimum number of Directors shall be one and there shall be no maximum.

### 23.2 **Methods of appointing Directors**

- (a) Any person who is willing to act as a Director, and is permitted by law to do so, may be appointed to be a Director:
  - (i) by Ordinary Resolution, or
  - (ii) by a decision of the Directors.
- (b) In any case where, as a result of death, the Company has no Shareholders and no Directors, the personal representatives of the last Shareholder to have died have the right, by notice in Writing, to appoint a person to be a Director.
- (c) For the purposes of paragraph 20.2, where two or more Shareholders die in circumstances rendering it uncertain who was the last to die, a younger Shareholder is deemed to have survived an older Shareholder.

### 23.3 **In addition:**

- (a) QCM may for so long as it holds any Shares, by notice in Writing to the Company, appoint, remove, and maintain in office one (1) director and on any resolution proposed to remove any director so appointed from office, the Shares held by QCM shall be deemed to have 50.1% of the votes capable of being cast on a poll at such general meeting;
- (b) Scottish Enterprise may for so long as it holds any Shares, by notice in Writing to the Company, appoint, remove, and maintain in office one (1) director and on any resolution proposed to remove any director so appointed from office, the Shares held by the Scottish Enterprise Group shall (notwithstanding the provisions of Article 30.7) be deemed to have 50.1% of the votes capable of being cast on a poll at such general meeting;
- (c) each Founder may for so long as that Founder is employed by any Group Company, by notice in Writing to the Company signed by that Founder, appoint, remove, and maintain in office one (1) director (which need not be the Founder) and on any resolution proposed to remove any director so appointed from office, the Shares held by the relevant Founder shall be deemed to have 50.1% of the votes capable of being cast on a poll at such general meeting; and
- (d) the employees of the Company may, by annual election on a one-employee-one-vote basis, appoint any one (1) employee of the Company who is willing to act as a director for a fixed term of a year from the date of such election, and may hold an ad-hoc election to replace any such director who resigns or is removed from office during such term.

### 23.4 **Termination of Directors' appointment**

A person ceases to be a Director as soon as:

- (a) that person ceases to be a Director by virtue of any provision of the Companies Act or is prohibited from being a Director by law;
- (b) a bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) 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;
- (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
- (f) notification is received by the Company from the Director that the Director is resigning from office as Director, and such resignation has taken effect in accordance with its terms;
- (g) they shall for more than six consecutive months have been absent without permission of the Directors from meetings of Directors held during that period (and their alternate Director (if any) has not during such period attended in their place) and the Directors resolve that their office be vacated;
- (h) they are convicted of a criminal offence (other than a motoring offence not involving a term of imprisonment) and the Directors resolve that their office should be vacated;
- (i) they are removed from office by notice in Writing served upon them by a majority of their fellow Directors, but only if they were appointed as a Director pursuant to Article 23.2(a)(ii);
- (j) in the case of an Investor Director, a notice is received removing them in accordance with Article 23.3(a) or 23.3(b) as applicable;
- (k) in the case of a Founder Director:
  - (i) a notice is received removing them in accordance with Article 23.3(c), or
  - (ii) the relevant Founder ceases to be employed by any Group Company; and
- (l) in the case of a Staff Representative, automatically at the end of their term of office.

### 23.5 **Directors' remuneration**

- (a) Directors may undertake any services for the Company that the Directors decide.
- (b) Directors are entitled to such remuneration as the Directors determine
  - (i) for their services to the Company as Directors, and
  - (ii) for any other service which they undertake for the Company,

save that, if the Directors and the relevant appointee are unable to agree the remuneration of a Director appointed pursuant to Article 23.3(b), then Scottish Enterprise may by notice in Writing to the Company determine the level of remuneration for such appointee provided such remuneration is commensurate with the level of fee that a non-executive director would reasonably receive for providing similar services to a company which is at a similar stage as the Company in Scotland.

- (c) Subject to the Articles, a Director's remuneration may
  - (i) take any form, and
  - (ii) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that Director.
- (d) Unless the Directors decide otherwise, Directors' remuneration accrues from day to day.
- (e) Unless the Directors decide otherwise, Directors are not accountable to the Company for any remuneration which they receive as Directors or other officers or employees of the Company's subsidiaries or of any other body corporate in which the Company is interested.

#### 23.6 **Directors' expenses**

- (a) The Company may pay any reasonable expenses which the Directors properly incur in connection with their attendance at:
  - (i) meetings of Directors or committees of Directors;
  - (ii) general meetings; or
  - (iii) separate meetings of the Holders of any class of Shares or of debentures of the Company,
  - (iv) or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

### 24 **ALTERNATE DIRECTORS**

#### 24.1 **Appointment and removal of alternates**

- (a) Any Director (the **Appointor**) may 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.
- (b) 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.
- (c) 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 the proposed alternate is willing to act as the alternate of the Director giving the notice.

#### 24.2 **Rights and responsibilities of alternate Directors**

- (a) 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.

## (b) 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 (without limitation), each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which their Appointor is a member.

## (c) A person who is an alternate Director but not a Director:

- (i) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's Appointor is not participating);
- (ii) may participate in a unanimous decision of the Directors (but only if their Appointor is eligible to vote 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 23.2(a)(i) and 23.2(a)(ii).

## (d) A Director who is also an alternate Director is entitled, in the absence of their Appointor, to a separate vote on behalf of their Appointor, in addition to their own vote on any decision of the Directors (provided that their Appointor is eligible to vote in relation to that decision), but shall not count as more than one Director for the purposes of determining whether a quorum is present.

## (e) An alternate Director may be paid expenses and may be indemnified by the Company to the same extent as their Appointor but shall not be entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the alternate's Appointor's remuneration as the Appointor may direct by notice in Writing made to the Company.

**24.3 Termination of alternate Directorship**

An alternate Director's appointment as an alternate terminates:

- (a) when the alternate's Appointor revokes the appointment by notice to the Company in Writing specifying when it is to terminate;
- (b) 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;
- (c) on the death of the alternate's Appointor; or
- (d) when the alternate's Appointor's appointment as a Director terminates.

**25 DECISION-MAKING BY DIRECTORS****25.1 Directors to take decisions collectively**

- (a) The general rule about decision-making by Directors is that any decision of the Directors must be either a majority decision at a meeting or a decision taken in accordance with Article 25.2.
- (b) If:
  - (i) the Company only has one Director, and
  - (ii) no provision of the Articles requires it to have more than one Director,
 the general rule does not apply, and the Director may take decisions without regard to any of the provisions of these Articles relating to Directors' decision-making, including those set out in Article 25.5.

#### **25.2 Unanimous decisions**

- (a) A decision of the Directors is taken in accordance with this Article when all eligible Directors indicate to each other by any means that they share a common view on a matter.
- (b) Such a decision may take the form of a resolution in Writing, copies of which have been signed by each eligible Director or to which each eligible Director has otherwise indicated agreement in Writing.
- (c) References in this Article to eligible Directors are to Directors who would have been entitled to vote on the matter had it been proposed as a resolution at a Directors' meeting.
- (d) A decision may not be taken in accordance with this Article if the eligible Directors would not have formed a quorum at such a meeting.

#### **25.3 Calling a Directors' meeting**

- (a) Any Director may call a Directors' meeting by giving notice of the meeting to the Directors or by authorising the Company secretary (if any) to give such notice.
- (b) Notice of any Directors' meeting must indicate:
  - (i) its proposed date and time;
  - (ii) where it is to take place; and
  - (iii) if it is anticipated that Directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
- (c) Notice of a Directors' meeting must be given to each Director, but need not be in Writing.
- (d) Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than seven days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

#### **25.4 Participation in Directors' meetings**

- (a) Subject to the Articles, Directors participate in a Directors' meeting, or part of a Directors' meeting, when:
  - (i) the meeting has been called and takes place in accordance with the Articles, and

- (ii) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- (b) In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.
- (c) If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

#### 25.5 **Quorum for Directors' meetings**

- (a) At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- (b) The quorum for Directors' meetings may be fixed from time to time by a decision of the Directors, but it must never be less than (and unless otherwise fixed it is) two, which must include at least one Founder Director (if any is in office) and at least one Investor Director (if any is in office).
- (c) If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision other than a decision:
  - (i) to appoint further Directors, or
  - (ii) to call a general meeting so as to enable the Shareholders to appoint further Directors.

#### 25.6 **Chairing of Directors' meetings**

- (a) The Directors may appoint a Director to chair their meetings.
- (b) The person so appointed for the time being is known as the **Chairperson**.
- (c) The Directors may terminate the Chairperson's appointment at any time.
- (d) If the Chairperson is not participating in a Directors' meeting within ten minutes of the time at which it was to start, the participating Directors must appoint one of themselves to chair it.

#### 25.7 **Votes at meetings**

- (a) The number, of votes cast by the Founder Directors shall always be equal to half of the total number of votes that can be cast by all Directors at any meeting.
- (b) If the numbers of votes for and against a proposal are equal, the Chairperson or other Director chairing the meeting shall not have a casting vote.
- (c) Article 25.7(b) does not apply if, in accordance with the Articles, the Chairperson or other Director is not to be counted as participating in the decision-making process for quorum or voting purposes.

### 26 **CONFLICTS OF INTEREST OF DIRECTORS**

- 26.1 Subject to the provisions of the Companies Act and provided that they have previously disclosed the nature and extent of such duty or interest to the Directors in accordance with the provisions of the Companies Act, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:

- (a) may vote at a Board meeting (or any committee of the Directors), and form part of a quorum present at that meeting, or participate in any decision making of the Directors in relation to such transaction or arrangement with the Company;
  - (b) may be a party to, or otherwise interested in, any such transaction or arrangement; and
  - (c) shall not, save as they may otherwise agree, be accountable to the Company for any benefit which they (or a person connected with them) derives from any such transaction or arrangement and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest nor shall the receipt of any remuneration or other benefit constitute a breach of their duty under section 176 of the Act.
- 26.2 For the purposes of section 175 of the Companies Act, the Directors shall have the power to authorise any matter which would or might otherwise constitute or give rise to a breach of the duty of a Director under that section to avoid a situation in which they have, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company.
- 26.3 Authorisation of a matter under Article 26.2 shall be effective only if:
- (a) the matter in question shall have been proposed in Writing for consideration at a meeting of the Directors or in accordance with the Board's normal procedures or in such other manner as the Directors may approve;
  - (b) 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 any other interested Director (together the **Interested Directors**) save that if there are only two Directors holding office, the quorum for that part of the meeting dealing with the matter is to be authorised under Article 26.2, shall be any Director who is not interested in the matter and Article 26.5(b) shall be amended accordingly;
  - (c) the matter was agreed to without the Interested Directors voting or would have been agreed to if the votes of the Interested Directors had not been counted; and
  - (d) in taking the decision, the Directors act in a way they consider, in good faith, will be most likely to promote the Company's success.
- 26.4 Any authorisation of a matter pursuant to Article 26.2 shall extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised.
- 26.5 Any authorisation of a matter under Article 26.2 shall be subject to such conditions or limitations as the Directors (excluding the Interested Directors) may determine, whether at the time such authorisation is given or subsequently, and may be varied or terminated by the Directors (excluding the Interested Directors) at any time. Such conditions or limitations may include (without limitation):
- (a) (without prejudice to a Director's general obligations of confidentiality) the application to the interested Director of a strict duty of confidentiality to the Company for any confidential information of the Company in relation to the matter;
  - (b) the exclusion of the interested Director from all information relating to, and discussion by the Company of, the matter; and
  - (c) that, where the interested Director obtains (other than through their position as a Director of the Company) information that is confidential to a third party, they will not be obliged to disclose it to the Company or to use it in relation to the Company's affairs in circumstances where to do so would amount to a breach of that confidence.
- 26.6 A Director shall comply with any obligations imposed on them by the Directors pursuant to any such authorisation.

26.7 A Director shall not, save as otherwise agreed by them, be accountable to the Company for any benefit which they (or a person connected with them) derives from any matter authorised by the Directors under Article 26.2 and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such benefit.

26.8 Subject to compliance by them with their duties as a Director under Part 10 of the Companies Act (other than the duty in section 175(1) of the Companies Act which is the subject of this Article 26.8), a Director (including the chairperson of the Board (if any) and any other non-executive Director) may, at any time:

- (a) be an officer of, employed by, or hold Shares or other securities (whether directly or indirectly) in, the Company; or
- (b) be a Director or other officer of, employed by or hold Shares or other securities (whether directly or indirectly) in, or otherwise be interested, whether directly or indirectly, in any other Group Company,

(in either case a **Group Company Interest**) and notwithstanding their office or the existence of an actual or potential conflict between any Group Company Interest and the interests of the Company which would fall within the ambit of that section 175(1), the relevant Director:

- (i) shall be entitled to attend any meeting or part of a meeting of the Directors or a committee of the Directors at which any matter which may be relevant to the Group Company Interest may be discussed, and to vote on any resolution of the Directors or a committee thereof relating to such matter, and any board papers relating to such matter shall be provided to the relevant Director at the same time as the other Directors (save that a Director may not vote on any resolution in respect of matters relating to their employment with the Company or other Group Company);
- (ii) shall not, save as otherwise agreed by them, be accountable to the Company for any benefit which they (or a person connected with them) derives in consequence of any Group Company Interest and any contract, transaction or arrangement relating to a Group Company Interest shall not be liable to be avoided on the grounds of any such benefit; and
- (iii) will not be obliged to disclose to the Company or use for the benefit of the Company any confidential information received by them by virtue of their Group Company Interest and otherwise than by virtue of their position as a Director, if to do so would breach any duty of confidentiality to any other Group Company or third party.

26.9 Any Director who has a Group Company Interest shall, as soon as reasonably practicable following the relevant interest arising, disclose to the Board the existence of such interest and the nature and extent of such interest so far as the relevant Director is able at the time the disclosure is made provided that no such disclosure is required to be made of any matter in respect of which the relevant Director owes any duty of confidentiality to any third party. A disclosure made to the Board under this Article 26.9 may be made either at a meeting of the Board or by notice in Writing to the Company marked for the attention of the Directors.

26.10 Notwithstanding the provisions of Article 26.8, the Directors (excluding the Interested Directors) may at any time impose such conditions or limitations on the authorisations given under Article 26.8 and may vary or terminate any such authorisations in respect of a particular Group Company Interest.

## 27 DIVIDENDS

### 27.1 Procedure for declaring dividends



- (a) The Company may by Ordinary Resolution declare dividends, and the Directors may decide to pay interim dividends.
- (b) A dividend must not be declared unless the Directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the Directors.
- (c) No dividend may be declared or Paid unless it is in accordance with Shareholders' respective rights.
- (d) Unless the Shareholders' resolution to declare or Directors' decision to pay a dividend, or the terms on which Shares are issued, specify otherwise, it must Paid by reference to each Shareholder's holding of Equity Shares, *pari passu* as if the Equity Shares constituted one class of shares and pro rata to their respective holdings of Equity Shares, on the date of the resolution or decision to declare or pay it.
- (e) Unless determined otherwise by the Shareholders and the Directors, no interim dividend may be Paid on Shares carrying deferred rights.
- (f) The Directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- (g) If the Directors act in good faith, they do not incur any liability to the Holders of Shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on Shares with deferred or non-preferred rights.

## 27.2 Payment of dividends and other distributions

- (a) Where a dividend or other sum which is a distribution is payable in respect of a Share, it must be Paid by one or more of the following means:
  - (i) transfer to a bank or building society account specified by the distribution recipient either in Writing or as the Directors may otherwise decide;
  - (ii) sending a cheque made payable to the Distribution Recipient by post to the distribution recipient at the Distribution Recipient's registered address (if the Distribution Recipient is a holder of the Share), or (in any other case) to an address specified by the Distribution Recipient either in Writing or as the Directors may otherwise decide;
  - (iii) sending a cheque made payable to such person by post to such person at such address as the Distribution Recipient has specified either in Writing or as the Directors may otherwise decide; or
  - (iv) any other means of payment as the Directors agree with the Distribution recipient either in Writing or by such other means as the Directors decide.
- (b) In the Articles, the **Distribution Recipient** means, in respect of a Share in respect of which a dividend or other sum is payable:
  - (i) the Holder of the Share; or
  - (ii) if the Share has two or more joint Holders, whichever of them is named first in the register of members; or
  - (iii) if the Holder is no longer entitled to the Share by reason of death or bankruptcy, or otherwise by operation of law, the Transmittree.

## 27.3 No interest on distributions

- (a) The Company may not pay interest on any dividend or other sum payable in respect of a Share unless otherwise provided by:
  - (i) the terms on which the Share was issued, or
  - (ii) the provisions of another agreement between the Holder of that Share and the Company.

#### 27.4 **Unclaimed distributions**

- (a) All dividends or other sums which are:
  - (i) payable in respect of Shares, and
  - (ii) unclaimed after having been declared or become payable,
 may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed.
- (b) The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it.
- (c) If:
  - (i) twelve years have passed from the date on which a dividend or other sum became due for payment, and
  - (ii) the Distribution Recipient has not claimed it,
 the Distribution Recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company.

#### 27.5 **Non-cash distributions**

- (a) Subject to the terms of issue of the Share in question, the Company may, by Ordinary Resolution on the recommendation of the Directors, decide to pay all or part of a dividend or other distribution payable in respect of a Share by transferring non-cash assets of equivalent value (including, without limitation, Shares or other securities in any company).
- (b) For the purposes of paying a non-cash distribution, the Directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:
  - (i) fixing the value of any assets;
  - (ii) paying cash to any Distribution Recipient on the basis of that value in order to adjust the rights of recipients; and
  - (iii) vesting any assets in trustees.

#### 27.6 **Waiver of distributions**

- (a) Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a Share by giving the Company notice in Writing to that effect, but if:
  - (i) the Share has more than one Holder; or
  - (ii) more than one person is entitled to the Share, whether by reason of the death or bankruptcy of one or more joint Holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the Holders or persons otherwise entitled to the Share.

## **28 CAPITALISATION OF PROFITS**

### **28.1 Authority to capitalise and appropriation of Capitalised Sums**

- (a) Subject to the Articles, the Directors may, if they are so authorised by an Ordinary Resolution:
  - (i) decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and
  - (ii) appropriate any sum which they so decide to capitalise (a **Capitalised Sum**) to the persons who would have been entitled to it if it were distributed by way of dividend (the **Persons Entitled**) and in the same proportions.
- (b) Capitalised Sums must be applied:
  - (i) on behalf of the Persons Entitled, and
  - (ii) in the same proportions as a dividend would have been distributed to them.
- (c) Any Capitalised Sum may be applied in paying up new Shares of a nominal amount equal to the Capitalised Sum which are then allotted credited as fully Paid to the Persons Entitled or as they may direct.
- (d) A Capitalised Sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the Company which are then allotted credited as fully Paid to the Persons Entitled or as they may direct.
- (e) Subject to the Articles the Directors may:
  - (i) apply Capitalised Sums in accordance with Articles 28.1(c) and 28.1(d) partly in one way and partly in another;
  - (ii) make such arrangements as they think fit to deal with Shares or debentures becoming distributable in fractions under this Article (including the issuing of fractional certificates or the making of cash payments); and
  - (iii) authorise any person to enter into an agreement with the Company on behalf of all the Persons Entitled which is binding on them in respect of the allotment of Shares and debentures to them under this Article.

## **29 ORGANISATION OF GENERAL MEETINGS**

### **29.1 Attendance and speaking at general meetings**

- (a) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- (b) A person is able to exercise the right to vote at a general meeting when:
  - (i) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and

- (ii) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (c) The Directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (d) In determining attendance at a general meeting, it is immaterial whether any two or more Shareholders attending it are in the same place as each other.
- (e) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

## 29.2 **Quorum for general meetings**

- (a) The quorum for any general meeting shall be four Shareholders, which must include at least two Investors.
- (b) No business other than the appointment of the Chairperson of the Meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

## 29.3 **Chairing general meetings**

- (a) If the Directors have appointed a Chairperson, the Chairperson shall chair general meetings if present and willing to do so.
- (b) If the Directors have not appointed a Chairperson, or if the Chairperson is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:
  - (i) the Directors present, or
  - (ii) (if no Directors are present), the meeting,
 must appoint a Director or Shareholder to chair the meeting, and the appointment of the Chairperson of the Meeting must be the first business of the meeting.
- (c) The person chairing a meeting in accordance with this Article is referred to as the **Chairperson of the Meeting**.

## 29.4 **Attendance and speaking by Directors and non-Shareholders**

- (a) Directors may attend and speak at general meetings, whether or not they are Shareholders.
- (b) The Chairperson of the Meeting may permit other persons who are not:
  - (i) Shareholders of the Company, or
  - (ii) otherwise entitled to exercise the rights of Shareholders in relation to general meetings,
 to attend and speak at a general meeting.

## 29.5 **Adjournment**

- (a) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chairperson of the Meeting must adjourn it.
- (b) The Chairperson of the Meeting may adjourn a general meeting at which a quorum is present if:
  - (i) the meeting consents to an adjournment, or
  - (ii) it appears to the Chairperson of the Meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (c) The Chairperson of the Meeting must adjourn a general meeting if directed to do so by the meeting.
- (d) When adjourning a general meeting, the Chairperson of the Meeting must:
  - (i) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Directors, and
  - (ii) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (e) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least seven clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
  - (i) to the same persons to whom notice of the Company's general meetings is required to be given, and
  - (ii) containing the same information which such notice is required to contain.
- (f) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

### **30 VOTING AT GENERAL MEETINGS**

#### **Voting: General**

30.1 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.

#### **30.2 Errors and disputes**

- (a) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- (b) Any such objection must be referred to the Chairperson of the Meeting, whose decision is final.

#### **30.3 Poll votes**

- (a) A poll on a resolution may be demanded:
  - (i) in advance of the general meeting where it is to be put to the vote, or

- (ii) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (b) A poll may be demanded by:
  - (i) the Chairperson of the Meeting;
  - (ii) the Directors;
  - (iii) two or more persons having the right to vote on the resolution; or
  - (iv) a person or persons representing not less than one tenth of the total voting rights of all the Shareholders having the right to vote on the resolution.
- (c) A demand for a poll may be withdrawn if:
  - (i) the poll has not yet been taken, and
  - (ii) the Chairperson of the Meeting consents to the withdrawal.
- (d) Polls must be taken immediately and in such manner as the Chairperson of the Meeting directs.

#### 30.4 **Content of proxy notices**

- (a) Proxies may only validly be appointed by a notice in Writing (a **Proxy Notice**), which:
  - (i) states the name and Address of the Shareholder appointing the proxy;
  - (ii) identifies the person appointed to be that Shareholder's proxy and the general meeting in relation to which that person is appointed;
  - (iii) is signed by or on behalf of the Shareholder appointing the proxy, or is Authenticated in such manner as the Directors may determine; and
  - (iv) 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,

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.
- (b) In calculating any period of hours for the purpose of this Article, no account shall be taken of any day or part of a day that is not a Business Day.
- (c) The Company may require Proxy Notices to be delivered in a particular form, and may specify different forms for different purposes.
- (d) Proxy Notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (e) Unless a Proxy Notice indicates otherwise, it must be treated as:
  - (i) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and

- (ii) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

### 30.5 **Delivery of Proxy Notices**

- (a) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid Proxy Notice has been delivered to the Company by or on behalf of that person.
- (b) An appointment under a Proxy Notice may be revoked by delivering to the Company a notice in Writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (c) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (d) If a Proxy Notice is not executed by the person appointing the proxy, it must be accompanied by Written evidence of the authority of the person who executed it to execute it on the Appointor's behalf.

### 30.6 **Amendments to resolutions**

- (a) An Ordinary Resolution to be proposed at a general meeting may be amended by Ordinary Resolution if:
  - (i) notice of the proposed amendment is given to the Company in Writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairperson of the meeting may determine), and
  - (ii) the proposed amendment does not, in the reasonable opinion of the Chairperson of the Meeting, materially alter the scope of the resolution.
- (b) A Special Resolution to be proposed at a general meeting may be amended by Ordinary Resolution, if:
  - (i) the Chairperson of the Meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
  - (ii) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- (c) If the Chairperson of the Meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairperson's error does not invalidate the vote on that resolution.

### 30.7 **Scottish Enterprise voting cap**

- (a) Subject to Article 30.7(c), in the event that the aggregate voting rights attributable to the Scottish Enterprise Group pursuant to these Articles would otherwise amount to 30% or more of the votes to be cast at a general meeting of the Company (and/or a written resolution of the Shareholders) (a **Trigger Event**), the voting rights of those Shares held by the Scottish Enterprise Group shall be deemed to be restricted to 29.9% of the votes cast on any poll (and/or a written resolution of the Shareholders), and (subject to Article 30.8) the voting rights of all other Shares shall be deemed to be proportionately increased such that the aggregate voting rights of all other Holders of Shares for the purpose of any vote shall equal 70.1%.

- (b) The Company shall give notice to Scottish Enterprise immediately upon becoming aware of the occurrence or anticipated occurrence of any event which could reasonably be expected to constitute a Trigger Event.
- (c) The operation of Article 30.7(a) may be cancelled or suspended at any time or times either prior to the occurrence of any Trigger Event or subsequent to such provisions taking effect by Scottish Enterprise (and/or the Scottish Enterprise Group) in its sole discretion providing Written notice to the Company of its intention to cancel or suspend the operation of Article 30.7(a). Immediately upon receipt of such notice, the provisions of Article 30.7(a) shall be suspended or cancelled accordingly. Votes taken by the Company during the period of operation of any suspension or cancellation under Article 30.7(a) shall not be affected by any such subsequent suspension or cancellation.
- (d) Notice given by Scottish Enterprise (and/or the Scottish Enterprise Group) in terms of Article 30.7(c) shall be given by the Company to all Shareholders whose rights to vote are affected by the operation of such Article.

### **30.8 Departed Founder voting cap**

Subject always to Article 30.7, in the event that, but for this Article, the aggregate voting rights attributable to all Shares held by any Departed Founders together with those held by any Associate of such Founder (which shall be deemed to include (i), for so long as, Winterwell is an Associate of a Departed Founder, those Shares held by Winterwell and (ii) any Shares held by any individual or company that has received a transfer of Shares as a Permitted Transfer from Winterwell save where (a) such transferee is not an Associate of a Departed Founder and (b) if the transferee is a company, the Departed Founder is not a director of that company) would otherwise amount to 25% or more of the votes to be cast at a general meeting of the Company (and/or a written resolution of the Shareholders) in aggregate, the voting rights of all Shares held by the Departed Founders any all such Associates shall be deemed to be restricted to 24.9% of the votes cast on any poll (and/or a written resolution of the Shareholders), and (subject to Article 30.7) the voting rights of all other Shares shall be deemed to be proportionately increased such that the aggregate voting rights of all other Holders of Shares for the purpose of any vote shall equal 75.01%.

## **31 NAME**

The Company may change its name by a decision of the Board.

## **32 COMMUNICATIONS**

- 32.1 Any Document or information required or permitted to be given by or to the Company, any Shareholders and Directors under these Articles or the Companies Act, other than a notice convening a meeting of the Directors, shall, unless otherwise specified in these Articles, be in Writing and, subject to the Companies Act and any specific requirements of these Articles, may be given:
- (a) personally or by sending it by post or other delivery service in a prepaid envelope addressed to the recipient at its registered address, or any other Address notified to the sender for the time being for the service of Documents or information, or by leaving it at any such Address or by any other means authorised in Writing by the recipient concerned;
  - (b) by sending it in Electronic Form to an Address for the time being notified to the sender by the recipient for that purpose; or
  - (c) in the case of any Document or information to be given by the Company, by making it available on a website.



- 32.2 If properly addressed, a Document or information sent or supplied by the Company in accordance with Article 32.1 shall be deemed to be received:
- (a) in the case of a Document or information delivered personally or left at the recipient's Address, when delivered or left;
  - (b) in the case of a Document or information sent by post or other delivery service, 48 hours after sending;
  - (c) in the case of a Document or information sent by Electronic Means, immediately after sending; and
  - (d) in the case of a Document or information made available on a website:
    - (i) when the Document or information was first made available on the website; or
    - (ii) if later, when the recipient received (or is deemed to have received) notice of the fact that the Document or information was made available on the website.
- 32.3 Notices sent to any member of the Scottish Enterprise Group shall be marked for the attention of The Head of Transactions, and a copy shall be sent to the Head of Portfolio Management. Any notice sent to the Scottish Enterprise Group by Electronic Means shall be followed by a copy sent by post.
- 32.4 In the case of Documents or information sent or supplied by the Company, proof that an envelope containing a Document or information was properly addressed, prepaid and posted (or consigned to the relevant delivery service or, in the case of a Document or information delivered personally or left at the recipient's Address, was properly addressed and delivered personally or left at the recipient's Address) shall be conclusive evidence that the document or information was given. In the case of Documents or information sent or supplied by the Company, proof that a Document or information contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the Document or information was given.
- 32.5 A Document or information sent in Electronic Form shall not be treated as received by the Company if it is rejected by computer virus protection arrangements.
- 32.6 Where a Document or information is sent or supplied to the Company it must be Authenticated. Where a Document or information is sent or supplied to the Company by a person on behalf of another, the Company may require reasonable evidence of the authority of the former to act on behalf of the latter.
- 32.7 In the case of joint Holders of a Share, all Documents or information required to be given by the Company may be given either to each of the joint holders or to the joint Holder whose name stands first in the register of Shareholders in respect of the joint holding and Documents or information so given shall be sufficiently given to all the joint holders.
- 32.8 A Shareholder whose registered address is not within the United Kingdom and who gives to the Company an Address within the United Kingdom at which Documents or information may be given to them or an Address to which Documents or information may be given to them in Electronic Form shall be entitled to have Documents or information given to them at such Address but otherwise, subject to the Companies Act, no such Shareholder shall be entitled to receive any Document or information from the Company.
- 32.9 A Shareholder present, either in person or by proxy or (being a corporation) by a duly authorised representative, at any meeting of the Company or of the Holders of any class of Shares shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

### **33 COMPANY SEALS**

- 33.1 Any common seal may only be used by the authority of the Directors.
- 33.2 The Directors may decide by what means and in what form any common seal is to be used.
- 33.3 Unless otherwise decided by the Directors, if the Company has a common seal and it is affixed to a Document, the Document must also be signed by at least one authorised person in the presence of a witness who attests the signature.
- 33.4 For the purposes of this Article, an authorised person is:
- (a) any Director of the Company;
  - (b) the Company secretary (if any); or
  - (c) any person authorised by the Directors for the purpose of signing Documents to which the common seal is applied.

### **34 NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**

Except as provided by law or authorised by the Directors or an Ordinary Resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or Documents merely by virtue of being a Shareholder.

### **35 PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS**

The Directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a Director or former Director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that Subsidiary.

### **36 INDEMNITY AND INSURANCE**

- 36.1 Subject to Article 36.2, but without prejudice to any indemnity to which they may otherwise be entitled, each relevant director shall be indemnified out of the Company's assets against:
- (a) any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated company;
  - (b) any liability incurred by that Director in connection with the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act; and
  - (c) any other liability incurred by that Director as an officer of the Company or an associated company.
- 36.2 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Act or by any other provision of law.
- 36.3 Subject to the provisions of, and so far as may be permitted by, the Companies Act, the Company shall be entitled to fund by way of loan (or make arrangements for them to avoid incurring) the expenditure of every relevant director incurred or to be incurred in defending any criminal or civil proceedings or any investigation or other action proposed to be taken by a regulatory authority or in connection with any application for relief.
- 36.4 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant director in respect of any relevant loss.

36.5 In this Article:

- (a) companies are associated if one is a Subsidiary of the other or both are subsidiaries of the same body corporate;
- (b) a relevant director means any director or former director of the Company or an associated company; and
- (c) a relevant loss means any loss or liability which has been or may be incurred by a relevant director in connection with that director'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.