

ARTICLES OF ASSOCIATION

of

● **LIMITED**

Adopted by special written resolution passed on
DD / MMM / 201●

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION

OF
● LIMITED

(Adopted by [special]/[written] resolution passed on [INSERT DATE])

1 DEFINITIONS AND INTERPRETATION

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

“Act”	the Companies Act 2006;
“acting in concert”	the meaning set out in the City Code on Takeovers and Mergers for the time being;
“Auditors”	the auditors of the Company for the time being unless auditors are not required pursuant to the Act and have not been appointed, in which case such reference shall mean the accountants of the Company;
“Bad Leaver”	any Leaver who is not a Good Leaver;
“Business Day”	any day (other than a Saturday or Sunday) on which banks are open in Edinburgh for normal banking business;
“Change of Control”	the meaning given to that expression in the Investment Agreement;
“Controlling Interest”	an interest (as defined in section 820 to 825 of the Act) in Shares in the Company conferring in aggregate more than 50% of the total voting rights normally exercisable at a general meeting of the Company;
“connected person”	the meaning given to that expression in section 993 of the Income Tax Act 2007 and “connected with” shall be construed accordingly;
“Deemed Transfer Notice”	has the meaning given at Article 9.2;
“Executives”	the “Executives” as defined in the Investment Agreement;
“Fair Value”	the value determined by the Auditors in accordance with Article 10;

“Family Member”	the wife, husband or civil partner (or widow, widower or surviving civil partner), children and grandchildren (including step, adopted children and grandchildren and their issue) of the relevant Investor;
“Financial Year”	an accounting period in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Statutes;
“Good Leaver”	<p>a person who is a Leaver as a result of:</p> <ul style="list-style-type: none"> (a) death; (b) retirement at 65 years of age or more; (c) Serious Ill Health; (d) wrongful or unfair dismissal or dismissal by reason of redundancy (in the case of an employee) or unlawful contractual termination (in the case of a Director or consultant); (e) becoming a Leaver after three years following the date of adoption of these Articles or the date of commencement of employment or holding of office (whichever is the later) except where such cessation occurs in circumstances justifying summary dismissal (in the case of an employee) or termination of contract (in the case of a Director or consultant); <p>or where the Board (with the written consent of an Investor Majority) determines such person is a Good Leaver;</p>
“Group”	the Company, its subsidiary undertakings and any holding company (as both are defined in the Act) from time to time and references to “member of the Group” and “Group Company” shall be construed accordingly;
“Investment Agreement”	the investment agreement dated [DATE] and made between the Company, the Investors and the Executives as supplemented, varied or replaced from time to time;
“Investors’ Director”	the meaning given to that expression in the Investment Agreement;
“Investor Majority”	the meaning given to that expression in the Investment Agreement;
“Investors”	the “Investors” as defined in the Investment Agreement;
“Issue Price”	in respect of a Share, the aggregate of the amount paid

up (or credited as paid up) in respect of the nominal value and any share premium;

“Leaver”

a shareholder who is an individual and who is or was previously a Director (other than any Investors’ Director) or consultant or employee of a member of the Group and who ceases to hold such office or employment or ceases to provide such consultancy services to the Company unless the Investor Majority notify the Company in writing that such person is not a Leaver;

“Model Articles”

the model articles for companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles;

“Ordinary Shares”

the ordinary shares of £[AMOUNT] each in the capital of the Company having the rights set out in these Articles;

“Permitted Transferee”

any Family Member, Related Company (as that term is defined in Article 6.1.1) as more fully described in Article 6;

“Seller”

a shareholder who wishes, or is required, to transfer Shares or any beneficial interest therein to a person to whom Article 6 (Permitted Transfers) does not apply;

“Serious Ill Health”

an illness or disability certified by a general medical practitioner (nominated or approved by the Investors) as rendering the person concerned permanently incapable of carrying out his role as an employee or Director save where such incapacity has arisen as a result of the abuse of drugs (including alcohol);

“Shares”

any share forming part of the share capital of the Company;

“the Statutes”

the Companies Act as defined in section 2 of the Act and every other statute, order, regulation, instrument or other subordinate legislation for the time being in force relating to companies and affecting the Company;

“Tag Along Offer”

an unconditional offer, open for acceptance for not less than 15 Business Days, to purchase Shares at a price per Share equal to the highest price per share (exclusive of stamp duty) paid or to be paid by any transferee referred to in Article 8.1 (or any person with whom such transferee is connected with or with whom such transferee is acting in concert) for Shares (inclusive of the Shares giving rise to the obligation to make the Tag Along Offer);

“Transfer Event”

has the meaning given to that term in Article 9; and

“Transfer Price” in relation to a Transfer Notice given under a voluntary transfer pursuant to Article 7, the price stated in the Transfer Notice or as otherwise determined in accordance with Article 10, or in the case of a Deemed Transfer Notice as determined in accordance with Article 9.4.

- 1.2 references to any statute or statutory provision include, unless inconsistent with the context, a reference to that statute or statutory provision as modified, re-enacted or consolidated and in force from time to time, whether before or after the date of these Articles;
- 1.3 where the word “address” appears in these Articles it is deemed to include postal address and, where applicable, electronic address (being any address or number used for the purposes of sending or receiving documents or information by electronic means);
- 1.4 references to a person include any individual, firm, body corporate, unincorporated association or partnership;
- 1.5 references to the plural will include the singular and vice-versa;
- 1.6 headings are for convenience only and do not affect the construction or interpretation of these Articles;
- 1.7 the Model Articles shall apply to the Company, except insofar as they are modified or excluded by these Articles;
- 1.8 save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Investment Agreement or the Model Articles shall have the same meaning in these Articles subject to which and unless the context otherwise requires, words and expressions which have a particular meaning in the Act shall have the same meaning in the Articles; and
- 1.9 all references herein to consents, approval or permission by the Investors will mean the Investors acting by Investor Majority, unless otherwise stated.

2 **SHARE CAPITAL**

- 2.1 The issued share capital of the Company at the date of adoption of these Articles is £[AMOUNT] divided into [NUMBER] Ordinary Shares of £[AMOUNT] each.
- 2.2 The Ordinary Shares shall be treated *pari passu* in all respects.

3 **DIVIDENDS AND RETURN OF CAPITAL**

3.1 **Dividends**

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

3.2 Return of Capital

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

- 3.2.1 first, in paying to each holder of Ordinary Shares, firstly, any dividends thereon which have been declared but are unpaid; and
- 3.2.2 thereafter, in distributing the balance of such assets amongst the holders of the Ordinary Shares (*pari passu*) in proportion to the numbers of the Ordinary Shares held by them respectively.

4 ALLOTMENT OF SHARES

- 4.1 The Directors shall not allot any Shares unless notice in writing is given to each shareholder specifying the number and classes of Shares which are proposed to be issued, the consideration payable on the Shares, and any other material terms or conditions of the proposed issue. Each shareholder shall be entitled to subscribe for shares in proportion (as nearly as may be) to their existing holdings of Shares ("Proportionate Entitlement"). It shall be open to each such shareholder to specify if he/it is willing to subscribe for Shares in excess of his/its Proportionate Entitlement ("Additional Shares") and, if the shareholder does so specify, he/it shall state the number of Additional Shares.
- 4.2 The notice specified in Article 4.1 shall invite each shareholder to state, in writing within 10 Business Days from the date of such notice whether he/it will subscribe for any Shares, and if so, how many Shares.
- 4.3 Within 3 Business Days of the expiry of the invitation made pursuant to the notice given under Article 4.1 the Board shall allocate the Shares in the following manner:
 - 4.3.1 if the total number of Shares applied for is equal to or less than the available number of Shares to be issued the Company shall allocate the number applied for in accordance with the applications and may dispose of any Shares not accepted by the shareholders in such manner as they think most beneficial to the Company provided that such Shares shall not be disposed of on terms that are more favourable to the allottee than the terms on which they were offered under this Article 4; or
 - 4.3.2 if the total number of Shares applied for is more than the available number of Shares to be issued, each shareholder shall be allocated his/its Proportionate Entitlement (or such lesser number of Shares to be issued for which he/it may have applied) and applications for Additional Shares shall be allocated in accordance with such applications or, in the event of competition, to each shareholder willing to subscribe for Additional Shares in proportion (as nearly as may be) to the proportion which the Shares held by a shareholder bear to the total number of Shares held by all shareholders applying for Additional Shares provided that any shareholder shall not be allocated more Additional Shares than he/it shall have stated himself willing to take.
- 4.4 Pursuant to the Act, all statutory rights of pre-emption shall be excluded from applying to the Company.

5 **TRANSFER OF SHARES: GENERAL**

- 5.1 Subject to the provisions of Article 6, no transfer of any Share shall be made or registered unless such transfer:
- 5.1.1 complies with the provisions of these Articles;
 - 5.1.2 complies with the Investment Agreement;
 - 5.1.3 has been approved by the Directors (such approval to include the consent of any Investors' Director appointed); and
 - 5.1.4 the transferee has first entered into a Deed of Adherence pursuant to the Investment Agreement.

6 **PERMITTED TRANSFERS**

Notwithstanding the provisions of any other Article, the transfers set out in this Article 6 shall be permitted without restriction and the provisions of Articles 7 (Voluntary Transfers) and 8 (Drag Along and Tag Along) shall have no application provided that no transfer may be made under this Article 6 if a Drag Along Notice has been served under article 8.7 and has not lapsed. If the transferee under a transfer permitted by this Article 6 is not party to the Investment Agreement and has not executed a Deed of Adherence, the transferee must enter into a Deed of Adherence before the transfer is registered.

6.1 **Permitted Transfers by individuals**

- 6.1.1 Any Investor who is an individual may transfer any Shares (without restriction as to price or otherwise) to a Family Member of that Investor provided that if the Family Member ceases to be a Family Member they shall, within 15 Business Days of so ceasing, transfer the shares held by them to the original shareholder and failing such transfer the Family Member shall be deemed to have given a Transfer Notice pursuant to Article 9.

6.2 **Permitted Transfers by all Shareholders**

- 6.2.1 Subject to Article 6.2.2 any shareholder may at any time transfer any Shares in accordance with the provisions of the Statutes to the Company;
- 6.2.2 Any shareholder may at any time transfer all or any of his Shares to any other person with the written consent of an Investor Majority; and
- 6.2.3 Any Shares may be transferred pursuant to Article 8 (Drag Along and Tag Along).

7 **VOLUNTARY TRANSFERS**

- 7.1 Except as permitted under Article 6 any Seller who wishes to transfer shares shall give notice in writing (the "Transfer Notice") to the Company of his wish specifying:
- 7.1.1 the number of shares (the "Sale Shares") which he wishes to transfer;
 - 7.1.2 if he wishes to transfer the Sale Shares to a third party, the name of the third party;

- 7.1.3 the price at which he wishes to transfer the Sale Shares (the "Transfer Price"); and
- 7.1.4 whether the Transfer Notice is conditional on all, or a specific number, of the Sale Shares being sold in which case no Sale Shares can be sold unless offers are received for all or the minimum number (as applicable) of the Sale Shares.
- 7.2 Where any Transfer Notice is deemed to have been given in accordance with Article 9 all the Shares registered in the name of the Seller shall be included for transfer, and the provisions of Article 7.1.4 shall not apply.
- 7.3 Once given, a Transfer Notice or Deemed Transfer Notice may not be withdrawn unless the Seller is obliged to procure the making of an offer under Articles 8.1 to 8.6 and is unable to procure the making of such an offer, it is permitted under Article 7.6 or the Investor Majority approves such withdrawal. In the event of a Transfer Notice being withdrawn the Seller shall bear all costs relating to such Transfer Notice or Deemed Transfer Notice.
- 7.4 The Transfer Notice shall constitute the Directors the agents of the Seller for the sale of the Sale Shares at the Transfer Price. As soon as reasonably practicable following receipt by the Company of a Transfer Notice the Directors shall give notice to all shareholders of the Company (other than the Sellers) inviting them to notify the Company in writing within 15 Business Days from the date of such offer (the "First Offer Period") confirming: (i) if he/it requires the Sale Shares to be valued; and (ii) if he/it does not, the maximum number of Sale Shares they wish to purchase at the Transfer Price.
- 7.5 If before the expiry of the First Offer Period any shareholder confirms in writing that he/it requires the Sale Shares to be valued in accordance with Article 7.4, the Directors shall instruct the Auditors to undertake a valuation in accordance with Article 10.
- 7.6 Within 7 Business Days of receipt of the Fair Value Certificate (as defined in Article 10) the Directors shall send a copy of such Certificate to the Seller and (other than in the case of a Deemed Transfer Notice) the Seller shall be entitled to revoke the Transfer Notice by notice in writing to the Directors within 7 days of receipt.
- 7.7 If the Transfer Notice is not revoked by the Seller or, in the case of a Deemed Transfer Notice, once the Fair Value has been determined in accordance with Article 10, the Directors shall give notice to all of the shareholders (other than the Seller) confirming the value of the Sale Shares as determined in accordance with Article 10 (which shall be the Transfer Price) inviting them to notify the Company in writing within 15 Business Days from the date of such notice (the "Second Offer Period") confirming the maximum number of Sale Shares they wish to purchase.
- 7.8 It shall be open to each shareholder to specify if he is willing to purchase Sale Shares in excess of his Proportionate Entitlement (as defined in Article 4.1) ("Excess Sale Shares") and, if the shareholder does so specify, he shall state the number of Excess Sale Shares.
- 7.9 7.9.1 Within 3 Business Days of the expiry of the First Offer Period or Second Offer Period (as appropriate) the Board shall allocate the Sale Shares in the following manner:
- 7.9.1.1 if the total number of Sale Shares applied for is equal to or less than the available number of Sale Shares the Company shall, subject to Article 7.1.4, allocate the number applied for in accordance with the applications; or
- 7.9.1.2 if the total number of Sale Shares applied for is more than the available number of Sale Shares, each shareholder shall be allocated his Proportionate Entitlement (or such lesser number of Sale Shares for which he may have applied) and applications

for Excess Sale Shares shall be allocated in accordance with such applications or, in the event of competition, as nearly as may be to the proportion which Shares held by a shareholder bear to the total number of Shares held by all shareholders applying for Excess Sale Shares provided that any shareholder shall not be allocated more Excess Sale Shares than he/it shall have stated himself willing to take;

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

- 7.10 Subject to Article 7.11 the Seller shall be bound, on payment of the Transfer Price, to transfer the Sale Shares comprised in the Allocation Notice to the Member Applicants free from any lien, charge or encumbrance. If the Seller makes default in so doing any Director shall forthwith be deemed to be the duly appointed attorney of the Seller with full power to execute, complete and deliver a transfer of the relevant Sale Shares and any Director may receive and give a good discharge for the purchase money on behalf of the Seller and (subject to the transfer being duly stamped) enter the name of the Member Applicant in the register of members. The Board shall forthwith pay the Transfer Price into a separate bank account in the Company's name and shall hold such money on trust (but without interest) for the Seller until he shall deliver up his certificate(s) for the relevant Shares (or an indemnity in respect of any lost certificate) to the Company when he shall thereupon be paid the Transfer Price.
- 7.11 If the provisions of Article 7.1.4 apply or where any Transfer Notice is deemed to have been given in accordance with these Articles] and if the total number of Shares applied for by Member Applicants is less than the number of Sale Shares the Directors may within 7 days of the date of the Allocation Notice determine (with the approval of any Investors' Director) that the Company shall (if it is permitted to do so under the Act) purchase some or all of the Sale Shares. The Directors shall have a period of 60 days from the date of any such determination by the Directors to obtain any necessary consents and authorities for any such purchase by the Company and to complete the purchase by the Company of the Sale Shares.
- 7.12 In the event of all of the Sale Shares not being sold under the preceding paragraphs of this Article 7 the Seller may, at any time within 3 months after receiving confirmation from the Company that the provisions herein contained have been exhausted, transfer all the Sale Shares (if Article 7.1.4 does apply) or any Sale Shares which have not been sold (if Article 7.1.4 does not apply) to any person or persons at any price not less than the Transfer Price.
- 7.13 The holders of any Shares which are subject of a Transfer Notice or Deemed Transfer Notice shall be entitled to receive notice of and attend general meetings of the Company but shall have no right to:
- 7.13.1 vote in respect of the Sale Shares; or
- 7.13.2 participate in any offer of Shares from any other member in accordance with these Articles; and Model Article 37 shall be modified accordingly.

8 DRAG ALONG AND TAG ALONG

Tag along

- 8.1 If in one or a series of related transactions, one or more Sellers propose to transfer any Shares to an arms' length purchaser (who is not an Existing Shareholder or an Investor) for value which would, if

completed, result in the transferee together with persons acting in concert or connected with that transferee obtaining a Controlling Interest, the Seller or Sellers shall (unless such transfer is a transfer to a Permitted Transferee) before making such transfer procure that the proposed transferee of the Seller's Shares makes a Tag Along Offer to all of the shareholders.

- 8.2 The Tag Along Offer shall set out:
- 8.2.1 the identity of the purchaser of the Shares referred to in Article 8.1;
 - 8.2.2 the purchase price ("Tag Along Price") including the calculation of any element not payable in cash and other terms and conditions of payment;
 - 8.2.3 the proposed date of sale; and
 - 8.2.4 the number of Shares proposed to be purchased.
- 8.3 The Tag Along Offer shall be given by written notice at least 30 Business Days before the proposed sale date.
- 8.4 Every shareholder, on receipt of a Tag Along Offer, shall be bound within 15 Business Days of the date of such offer (which date shall be specified therein) (the "Offer Period") either to accept or reject such offer in writing (and in default of so doing shall be deemed to have rejected the offer). If a Tag Along Offer is not made the Seller or Sellers shall not be entitled to complete the proposed sale and the Board shall not register any transfer to effect the sale.
- 8.5 If the Tag Along Offer is accepted by any shareholder within the Offer Period, the completion of the proposed transfer shall be conditional upon the purchase of all the Shares held by such accepting shareholders.
- 8.6 In the event of disagreement as to the calculation of the Tag Along Price such shall be referred to the Auditors for determination applying the terms of Article 10 mutatis mutandis.

Drag along

- 8.7 If the holders of at least 85% of the Shares (in this Article 8 the "Dragging Shareholders") wish to transfer their Shares in the Company to a bona fide arms length purchaser (the "Buyer"), then the Dragging Shareholders can require all of the other shareholders (and any persons who would become shareholders upon exercise of any options or other rights to subscribe for shares which exist at the date of the Offer) (the "Called Shareholders") to sell and transfer all of their Shares in the Company to the Buyer (or as the Buyer directs) by giving notice to that effect (the "Drag Along Notice") to such Called Shareholders, such Drag Along Notice to be served not less than 30 Business Days prior to the proposed completion of the transfer of Shares to the Buyer.
- 8.8 The Drag Along Notice shall specify:
- 8.8.1 that the Called Shareholders are required to transfer all their Shares free from all liens, charges and encumbrances;
 - 8.8.2 the price (the "Drag Along Price") including the calculation of any element not payable in cash at which such shares of the Company are proposed to be transferred which shall be a price per Share equal to that offered by the Buyer to the Dragging Shareholders;
 - 8.8.3 the identity of the Buyer; and

- 8.8.4 the proposed date of the transfer.
- 8.9 Once issued, a Drag Along Notice shall be irrevocable. A Drag Along Notice shall lapse if, for any reason, the Dragging Shareholders have not sold their Shares to the Buyer within 15 Business Days of serving the Drag Along Notice. The Dragging Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 8.10 The Called Shareholders shall be bound, on payment of the Drag Along Price to transfer the Called Shares in accordance with the Drag Along Notice at the time and place therein specified free from any lien, charge or encumbrance.
- 8.11 If the Called Shareholders (or any of them) shall make default in transferring their Shares pursuant to Article 8.10 the provisions of Article 7.9 (references therein to the Seller, Sale Shares, Allocation Notice and Member Applicant being read as references to the shareholder making such default, the Shares in respect of which such default is made, the Drag Along Notice and the Buyer respectively) shall apply to the transfer of such Shares.
- 8.12 In the event of disagreement as to the calculation of the Drag Along Price such shall be referred to the Auditors for determination applying the terms of Article 10 mutatis mutandis.

9 COMPULSORY TRANSFERS

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

unless in any of the above events the Investor Majority notify the Company that such event is not to be treated as a Transfer Event.

- 9.2 Upon the happening of any Transfer Event, the shareholder in question or any Permitted Transferee of such shareholder who has derived title to Shares from them shall be deemed to have immediately given a Transfer Notice in respect of all the Shares then held by him/it (a "Deemed Transfer Notice"). A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice.
- 9.3 The Shares the subject of any Deemed Transfer Notice shall be offered for sale in accordance with Article 7 as if they were Sale Shares in respect of which a Transfer Notice had been given save that:

- 9.3.1 a Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event or, if later, the date upon which the Investor Majority becomes aware that the relevant event is a Transfer Event and has notified the Company that the relevant event is a Transfer Event;
 - 9.3.2 subject to Article 9.4, the Sale Price shall be a price per Sale Share agreed between the Seller (or their executors or representatives) the Board and the Investor Majority or, in default of agreement, within 14 Business Days after the date of the Transfer Event, the Fair Value;
 - 9.3.3 the provisions of Article 7.1.4 shall not apply to a Deemed Transfer Notice; and
 - 9.3.4 the Sale Shares shall be sold together with all rights attaching thereto as at the date of the Transfer Event.
- 9.4 The Sale Price for any Sale Shares which are the subject of a Deemed Transfer Notice given as a consequence of a Transfer Event arising due to a shareholder being a Leaver shall:
- 9.4.1 if the shareholder is a Good Leaver be their Fair Value; and
 - 9.4.2 if the shareholder is a Bad Leaver be the lower of their Fair Value and their Issue Price.
- 9.5 Article 9.4 shall not apply to the Investors (or any Permitted Transferee of the Investors) or to any Investors' Director.
- 9.6 In the event that prior to the transfer of his Shares but after ceasing to be an employee or Director of the Company, a Good Leaver is in breach of his restrictive covenants or obligations of confidentiality contained in his employment contract and/or service agreement ("Employment Breach"), the Member shall automatically be deemed to be a Bad Leaver and accordingly the Sale Price for any of his Sale Shares shall be the lower of the Fair Value and their Issue Price.
- 9.7 If in respect of a former Member whose Shares were the subject of a Deemed Transfer Notice by virtue of him being a Good Leaver and who is found, after the transfer of Shares, to have committed an Employment Breach, such former Member shall be deemed instead to have been a Bad Leaver and accordingly the Sale Price for the Shares formerly held by such Members shall be retrospectively adjusted to the lower of the Fair Value and Issue Price in respect of his Sale Shares. In such circumstances, the former Member shall pay the Company on demand such sum as represents the difference between the amount paid to him in respect of his former Shares as a Good Leaver and the amount which would have been paid to him as a Bad Leaver. Where the Company has not been the transferee of the former Member's Shares, it shall act as agent for, and reimburse (upon receipt from the former Member) to, the transferee Member, the difference in the price paid by such transferee Member to the former Member in respect of the Sale Shares as appropriate.
- 9.8 In the event of a dispute as to whether a Leaver is a Good Leaver or a Bad Leaver, such dispute shall not affect the validity of a Deemed Transfer Notice but any person who acquires Sale Shares (the "Purchaser") pursuant to a Deemed Transfer Notice while such a dispute is ongoing shall pay to the Seller (the "Seller") a sum equal to their Issue Price (or Fair Value, if lower) and, at the discretion of the Board, shall pay such amount representing the difference between the Fair Value of the Shares as determined pursuant to Article 10 and the Issue Price in respect of such Shares to the Company. The Company shall hold that amount in a separate bank deposit account as trustee to pay it, and all interest earned thereon, upon final determination of the dispute as to whether or not the relevant Member is a Good Leaver or a Bad Leaver as follows:-

9.8.1 to the Purchaser in the case of the relevant Member being a Bad Leaver; and

9.8.2 to the Seller in the case of the relevant Member being a Good Leaver.

Subject always to the Seller and the Purchaser agreeing otherwise prior to the determination of whether the Leaver is a Good Leaver or a Bad Leaver being finalised.

10 FAIR VALUE

- 10.1 If the Auditors are required to determine the price at which Shares are to be transferred pursuant to these Articles, such price shall be the amount the Auditors shall, on the application of the Board (which application shall be made as soon as practicable following the time it becomes apparent that a valuation is required), give their written opinion as to the price which represents a fair value for such Shares as between a willing seller and a willing buyer as at the date the Transfer Notice or Deemed Transfer Notice is given. The Directors shall instruct the Auditors to produce a certificate stating such value ("Fair Value Certificate") within 20 Business Days of being requested to do so.
- 10.2 In making such determination, the Auditors shall not take any account of whether the Sale Shares comprise a majority or a minority interest in the Company nor the fact that transferability is restricted by these Articles but account shall be taken of the effect of the relevant shareholder ceasing to be an employee, consultant or Director of the Company.
- 10.3 The Auditors shall act as experts and not as arbiters and their decision shall be conclusive and binding on the Company and all shareholders (in the absence of fraud or manifest error).
- 10.4 In the event that the Auditors decline to accept an instruction to provide a valuation, then the price will be determined by a firm of independent chartered accountants, such accountants to be appointed by the Company with the written consent of an Investor Majority.
- 10.5 The Auditors' costs in making any determination referred to them under this Article 10 shall (other than as specifically prescribed in these Articles) be borne by the Company unless the Auditors shall otherwise determine provided that if a Seller revokes a Transfer Notice in accordance with Article 7.6 such costs shall be borne by the Seller.

11 GENERAL MEETINGS

- 11.1 No business shall be transacted at any general meeting unless a quorum of shareholders is present. Two shareholders present in person, by proxy or by duly authorised representative (if a corporation), shall be the quorum at any general meeting.
- 11.2 Unless waived in writing (which may be by email) by an Investor Majority, the Company shall hold an annual general meeting in each calendar year.
- 11.3 A notice convening a general meeting (other than an adjourned meeting) must be called by at least 14 days' notice but a general meeting can be called by shorter notice if it is so agreed by the shareholders in accordance with the Act. The notice must state the time, date and place of the meeting and the general nature of the business to be dealt with at the meeting and shall be given in accordance with the Act.
- 11.4 The Company may send a notice of meeting by making it available on a website or by sending it in electronic form and if notice is sent in either way it will be valid provided it complies with the relevant provision of the Act.

12 APPOINTMENT AND REMOVAL OF DIRECTORS AND INVESTORS' DIRECTOR

- 12.1 Any Director shall only be appointed in accordance with the terms of the Investment Agreement and Model Article 17.1 shall be modified accordingly.
- 12.2 The Investor Majority shall be entitled at any time to appoint one person as Directors of the Company (and in their absolute discretion as Directors of any other member(s) of the Group and/or as members of each and any committee of the Company or any other member of the Group) who shall be designated as the Investors' Director for the purposes of this Agreement. The removal of any Director so appointed shall be made by notice in writing from any one of the Investors acting on behalf of the Investor Majority to the Company.
- 12.3 In the absence of any Investors' Director holding office at the relevant time, any provision in these Articles requiring the prior consent, approval or agreement of the Investors' Director(s) shall be deemed instead to refer to an Investor Majority.
- 12.4 A Director may only be removed in accordance with the terms of the Investment Agreement and this Article 12.
- 12.5 The office of any Director shall be vacated if:
- 12.5.1 he shall, for whatever reason, cease to be employed by the Company or any Group Company (provided that this Article 12.5.1 shall not apply to any Investors' Director);
 - 12.5.2 (other than in the case of any Investors' Director) he shall on more than six consecutive months have been absent without permission of the Directors from meetings of the Directors held during that period and the remaining Directors resolve that his office be vacated;
 - 12.5.3 other than in the case of any Investors' Director the other Directors acting by majority for this purpose, determine that such Director shall be removed from the Board; or
 - 12.5.4 in any of the circumstances listed in Model Article 18.

13 ALTERNATE DIRECTORS

- 13.1 The appointment by any Investors' Director of an alternate Director shall not be subject to approval by a resolution of the Board but the appointment of an alternate by any Director other than an Investors' Director shall require such approval.
- 13.2 An alternate Director shall not be entitled to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may, by notice in writing to the Company from time to time, direct.
- 13.3 A Director, or alternate Director, may act as an alternate Director for and represent more than one Director, and an alternate Director shall be entitled at any meeting of the Board (or of any committee of the Board) to one vote for every Director whom he represents (in addition to his own vote (if any) as a Director), but he shall count as only one for the purpose of determining whether a quorum is present at any such meeting.

14 PROCEEDINGS OF DIRECTORS

- 14.1 The quorum for meetings of the Board shall be two Directors one of whom must be an Investors' Director (if appointed) unless such Investors' Director is unable to attend a Board meeting and has confirmed in writing (which may be by email) that he is satisfied that the Board meeting in question is quorate without him being present. Model Article 11.2 shall be modified accordingly.
- 14.2 The Investor Majority shall be entitled from time to time to appoint the Chairman of the Board (and any committee of the Board) and remove from office any such person so appointed and to appoint another Investors' Director in his place. Model Articles 12.1 to 12.3 shall be modified accordingly.
- 14.3 Model Articles 5.1 to 5.3 inclusive and 6.2 shall be modified by the insertion of the words "acting with written consent of an Investor Majority" following each reference to "the Directors" in such Model Articles.

15 CONFLICTS OF INTEREST

- 15.1 The Directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director breaching his duty under section 175 of the Act to avoid conflicts of interest which shall include, without limitation, conflicts of interest and duty and conflicts of duty ("Conflict").
- 15.2 Any authorisation under this article will be effective only if:
- 15.2.1 the matter in question shall have been proposed by any Director for consideration at a meeting of Directors in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine;
 - 15.2.2 any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question; and
 - 15.2.3 the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.
- 15.3 Any authorisation of a Conflict under this article may (whether at the time of giving the authorisation or subsequently):
- 15.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
 - 15.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the Directors may determine; and
 - 15.3.3 be terminated or varied by the Directors at any time.

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

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

- 15.4.1 disclose such information to the Directors or to any Director or other officer or employee of the Company; or
 - 15.4.2 use or apply any such information in performing his duties as a Director;
- where to do so would amount to a breach of that confidence.
- 15.5 Where the Directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the Director:
- 15.5.1 is excluded from discussions (whether at meetings of Directors or otherwise) related to the Conflict;
 - 15.5.2 is not given any documents or other information relating to the Conflict; and
 - 15.5.3 may or may not vote (or may or may not be counted in the quorum) at any future meeting of Directors in relation to any resolution relating to the Conflict.
- 15.6 Where the Directors authorise a Conflict:
- 15.6.1 the Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict; and
 - 15.6.2 the Director will not, by virtue of the Conflict, infringe any duty he owes to the Company pursuant to sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the Directors impose in respect of its authorisation.
- 15.7 A Director is not required, by reason of being a Director (or because of the fiduciary relationship established by reason of being a Director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the Directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

16 NOTICES

- 16.1 Any notice or other communication in connection with these Articles shall be in writing and may be delivered by hand, pre-paid first class post (or airmail if overseas) or (subject to the provisions below) by fax (but not by e-mail which shall be invalid other than as specifically permitted in these Articles), to the address or fax number of such party which the recipient has notified in writing to the sender, (to be received by the sender not less than 7 Business Days before the notice is despatched) in accordance with this Article marked for the attention of the recipient.
- 16.2 The notice or communication will be deemed to have been duly served if delivered by hand, at the time of delivery and if delivered by first class post, 2 Business Days after being posted or, in the case of airmail, 6 Business Days after being posted; if delivered by fax, when confirmation on completion of its transmission has been recorded by the sender's fax machine provided that, where in the case of delivery by hand or transmission by fax, such delivery or transmission occurs either after 4.00 pm on a Business Day, or on a day other than a Business Day, service will be deemed to occur at 9.00 am on the next following Business Day.

- 16.3 The Investors confirm that notices or other communications to be served upon them will be sent to them at the addresses marked for the attention of those persons detailed in the Investment Agreement.
- 16.4 For the avoidance of doubt and notwithstanding any other provision of these Articles, where the approval of the Investor Majority or any of the Investors or the Investors' Director is required by the Company, then such approval may be validly sent and requested by email