**Company No. **

**PRIVATE COMPANY LIMITED BY SHARES**

**WRITTEN RESOLUTION**

**of**

[Name of company] Limited

**("Company")**

Written resolution of the Company pursuant to chapter 2 part 13 of the Companies Act 2006 proposed as a special resolution as detailed below:

**SPECIAL RESOLUTION**

**That** the draft articles of association in the form attached be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association of the Company.

**Circulation date:**202[]

**Registered office:** [***Include registered office of the Company***]

**Agreement to written resolution**

[We][I], the undersigned, being the person(s) entitled to vote on the above resolution, irrevocably agree to such resolution:

|  |  |  |
| --- | --- | --- |
| Name of member: | *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* ***(INSERT NAME)*** |  |
| Signed: | ...........................................................……………….. | Dated: ………………... |

|  |  |  |
| --- | --- | --- |
| Name of member: | *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* ***(INSERT NAME)*** |  |
| Signed: | ...........................................................……………….. | Dated: ………………... |

**Company No. **

ARTICLES OF ASSOCIATION

OF

[*Name of company*] Limited

**(Adopted by special resolution passed on                     202[])**

**[*Remove all footnotes*]**

CONTENTS

[1. Definitions and interpretation 1](#_Toc494289924)

[2. Definitions 1](#_Toc494289925)

[3. Share capital 8](#_Toc494289926)

[4. Dividends 8](#_Toc494289927)

[5. Liquidation 9](#_Toc494289928)

[6. Exit provisions 9](#_Toc494289929)

[7. Allotment of new shares or other securities: pre-emption 9](#_Toc494289930)

[8. Transfers of Shares – general 11](#_Toc494289931)

[9. Permitted Transfers 12](#_Toc494289932)

[10. Transfers of Shares subject to pre-emption rights 14](#_Toc494289933)

[11. Valuation of Shares 17](#_Toc494289934)

[12. Compulsory transfers – general 19](#_Toc494289935)

[13. Purchase of own shares 19](#_Toc494289936)

[14. Departing employees 19](#_Toc494289937)

[15. tag along on a Change of Control 20](#_Toc494289938)

[16. Drag-along 22](#_Toc494289939)

[17. Number of Directors 24](#_Toc494289940)

[18. Appointment of INVESTOR DIRECTOR AND Observer 24](#_Toc494289941)

[19. Disqualification of Directors 25](#_Toc494289942)

[20. Proceedings of Directors 25](#_Toc494289943)

[21. Directors' interests 26](#_Toc494289944)

[22. Notices 29](#_Toc494289945)

[23. Secretary 31](#_Toc494289946)

**Company No. **

**ARTICLES OF ASSOCIATION**

**OF**

**[                    ]
("Company")**

(Adopted by special resolution passed on                      202                    )

# interpretation

## The model articles for private companies limited by shares contained or incorporated in Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these articles (**"Model Articles"**) shall apply to the Company, save insofar as they are varied or excluded by, or are inconsistent with, the following Articles.

## In these Articles and the Model Articles any reference to any statutory provision shall be deemed to include a reference to each and every statutory amendment, modification, re‑enactment and extension thereof for the time being in force.

## In these Articles:

### article headings are used for convenience only and shall not affect the construction or interpretation of these Articles;

### words denoting the singular include the plural and vice versa and reference to one gender includes the other gender and neuter and vice versa;

### Articles 8(2), 9(4), 10(3), 11(2), 13, 14, 19, 21, 26(5), 27, 28, 29, 30(5) to (7) (inclusive), 44(4) and 51 of the Model Articles shall not apply to the Company;

### reference to **"issued Shares"** of any class shall exclude any Shares of that class held as Treasury Shares from time to time, unless stated otherwise; and

### reference to the **"holders"** of Shares or a class of Share shall exclude the Company holding Treasury Shares from time to time, unless stated otherwise.

# Definitions

1. In these Articles the following words and expressions shall have the following meanings:
2. **"Act"** means the Companies Act 2006 (as amended from time to time);
3. **"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 (as amended from time to time);
4. **“Articles”** means these articles of association as adopted by special resolution on the date specified above;
5. **"Asset Sale"** means the disposal by the Company of all or substantially all of its undertaking and assets (which may include, without limitation, the grant by the Company of an exclusive licence of all or substantially all Intellectual Property owned by the Company);
6. **"Associate"** in relation to any person means:
	* 1. any person who is an associate of that person and the question of whether a person is an associate of another is to be determined in accordance with section 435 of the Insolvency Act 1986 and (whether or not an associate as so determined); or
		2. any Member of the same Group;
7. **"Auditors"** means the auditors of the Company from time to time;
8. **"Available Profits"** means profits available for distribution within the meaning of part 23 of the Act;

**"Bad Leaver"** means a Leaver:

* + 1. [who has given notice to terminate his employment contract or service agreement to the relevant Group Company;][[1]](#footnote-2)
		2. whose employment contract or service agreement is terminated by any Group Company:
			1. for fraud, dishonesty or gross misconduct; or
			2. in circumstances justifying summary dismissal or immediate termination (or the equivalent in the relevant jurisdiction);

**"Board"** means the board of Directors and any committee of the board constituted for the purpose of taking any action or decision contemplated by these Articles;

1. **"Bonus Issue"** means any return of capital, bonus issue of shares or other securities of the Company by way of capitalisation of profits or reserves or any consolidation or sub-division or redenomination or any repurchase or redemption of 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 shares issued as a result of the events set out in Article 7.6;
2. **"Business Day"** means a day other than a Saturday or a Sunday on which the banks are open for general business in London;
3. **"Called Shareholder"** has the meaning set out in Article 16.1;
4. **"Called Shares"** has the meaning set out in Article 16.2;
5. **"Civil Partner"** means in relation to a Shareholder, a civil partner (as defined in the Civil Partnership Act 2004) of the Shareholder;
6. **"Continuing Shareholders"** has the meaning set out in Article 10.7.1;
7. **"Controlling Interest"** means an interest in shares giving to the holder or holders control of the Company within the meaning of section 1124 of the CTA 2010;
8. **"CTA 2010"** means the Corporation Tax Act 2010;
9. **"Date of Adoption"** means the date on which these Articles were adopted;
10. **"Director(s)"** means a director or directors of the Company from time to time;
11. **"Drag Along Notice"** has the meaning set out in Article 16.2;
12. **"Drag Along Option"** has the meaning set out in Article 16.1;
13. **"Drag Completion Date"** has the meaning set out in Article 16.6;
14. **"Drag Consideration"** has the meaning set out in Article 16.4;
15. **"Drag Documents"** has the meaning set out in Article 16.6;
16. **"Drag Purchaser"** has the meaning set out in Article 16.1;
17. **"Effective Termination Date"** means the date on which the Employee's employment or consultancy terminates;
18. **"electronic address"** has the same meaning as in section 333 of the Act;
19. **"electronic form"** and **"electronic means"** have the same meaning as in section 1168 of the Act;
20. **"Eligible Director"** means a Director who would be entitled to vote on a matter had it been proposed as a resolution at a meeting of the Directors;
21. **"Employee"** means an individual who is employed by or who provides consultancy services to the Company or any member of the Group;
22. **"Employee Shares"** in relation to an Employee means all Ordinary Shares held by:
	* 1. the Employee in question; and
		2. any Permitted Transferee of that Employee other than those Ordinary Shares held by those persons that the Investor declares itself satisfied were not acquired directly or indirectly from the Employee or by reason of that person's relationship with the Employee;
23. [other than][including] [Ordinary] Shares that an Employee holds as result of exercising option(s) under any Share Option Plan(s);][[2]](#footnote-3)
24. **"Encumbrance"** means any mortgage, charge, security, interest, lien, pledge, assignment by way of security, equity, claim, right of pre-emption, option, covenant, restriction, reservation, lease, trust, order, decree, judgment, title defect (including without limitation any retention of title claim), conflicting claim of ownership or any other encumbrance of any nature whatsoever (whether or not perfected other than liens arising by operation of law);
25. **"Equity Securities"** has the meaning given in sections 560(1) to (3) inclusive of the Act and for the avoidance of doubt an allotment of Equity Securities includes a transfer of shares which immediately before such transfer were held by the Company as Treasury Shares;
26. **"Excluded Shares"** means those Employee Shares which are subject to a Transfer Notice in accordance with Article 14;
27. **"Exit"** means a Share Sale, an Asset Sale or an IPO;
28. **"Expert Valuer"** is as determined in accordance with Article 11.2;
29. **"Fair Value"** is as determined in accordance with Article 11.3;
30. **"Family Trust"** means as regards any particular individual member or deceased or former individual member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than the individual and/or Privileged Relations of that individual; and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is liable to be transferred or paid or applied or appointed to or for the benefit of such person or any voting or other rights attaching thereto are exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons;
31. **"Financial Year"** has the meaning set out in section 390 of the Act;
32. **"Fund Manager"** means a person whose principal business is to make, manage or advise upon investments in securities;
	1. **"Good Leaver"** means a person who ceases to be an Employee by reason of:
		1. death;
		2. permanent disability or ill health which results in the Leaver being permanently unable to work;
		3. resignation solely as a result of any of the matters referred to in paragraphs (a) and (b) above occurring to the Leaver's spouse or child; or
		4. who does not fall within categories (a) to (c) above, but is determined by the Board (with Investor Majority Consent) to be a Good Leaver;[[3]](#footnote-4)
33. **"Group"** means the Company and its Subsidiary Undertaking(s) (if any) from time to time and **"Group Company"** shall be construed accordingly and **"a Member of the same Group"** means as regards any company, a company which is from time to time a Parent Undertaking or a Subsidiary Undertaking of that company or a Subsidiary Undertaking of any such Parent Undertaking;
34. **"hard copy form"** has the same meaning as in section 1168 of the Act;
35. **"Holding Company"** means a newly formed holding company, pursuant to which the membership, pro rata shareholdings and classes of shares comprised in such holding company matches that of the Company (excluding Treasury Shares) immediately prior to the transfer of the issued share capital of the Company to such holding company;
36. **"Intellectual Property"** means patents, rights in inventions, know how, confidential information, show how and trade secrets, copyright and related rights, moral rights, registered designs, design rights, database rights, semiconductor topography rights, trade marks and service marks, trade names, business names, brand names, get up, logos, domain names and URLs, rights in unfair competition, goodwill and rights to sue for passing off and any other intellectual property rights (in each case, whether or not registered, and including all applications to register and rights to apply to register any of them and all rights to sue for any past or present infringement of them) and all rights or forms of protection having equivalent or similar effect in any jurisdiction;
37. **"Intermediate Leaver"** means:
	* 1. any Leaver who is not a Good Leaver or a Bad Leaver; or
		2. a Bad Leaver who is determined by the Board (with Investor Majority Consent) to be an Intermediate Leaver;
38. **"Investor"** has the meaning set out in in the Shareholders' Agreement;
39. "**Investor Directors**" means such directors of the Company nominated by the Investors under Article 18;
40. "**Investor Director Consent**" means the prior written consent of an Investor Director;
	1. **"Investor Majority Consent"** means the approval in writing (or by email) of those shareholders holding seventy five per cent (75%) or more of the Shares from time to time;
41. **"IPO"** means the admission of all or any of the Shares or securities representing those shares (including without limitation depositary interests, American depositary receipts, American depositary shares and/or other instruments) on NASDAQ or the Official List of the United Kingdom Listing Authority or the AIM Market operated by the London Stock Exchange Plc or any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000);
42. **"ITEPA"** means Income Tax (Earnings and Pensions) Act 2003;
43. **"Joiner Date"** means [                    ] 20[                    ];
	1. **"Leaver"** means an Employee who ceases to be an employee or consultant of the Company;
	2. **"Minimum Transfer Condition"** has the meaning set out in Article 10.2.4;
44. **"NASDAQ"** means the NASDAQ Stock Market of the NASDAQ OMX Group Inc.;
45. **"New 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 (other than shares or securities issued as a result of the events set out in Article 7.6) excluding for the avoidance of doubt any Treasury Shares transferred by the Company after the Date of Adoption;
46. **"New Shareholder"** has the meaning set out in Article16.11;
47. **"Offer"** has the meaning set out in Article 15.2;
48. **"Offer Period"** has the meaning set out in Article 15.3;
49. **"Ordinary Shares"** means the ordinary shares of [£                    ] each in the capital of the Company from time to time;
50. **"Original Shareholder"** has the meaning set out in Article 9.1;
51. **"Permitted Transfer"** means a transfer of Shares in accordance with Article 9;
52. **"Permitted Transferee"** means:
	* 1. in relation to a Shareholder who is an individual, any of his Privileged Relations, Trustees or Qualifying Companies;
		2. in relation to a Shareholder which is an undertaking (as defined in section 1161(1) of the Act) means any Member of the same Group;
		3. in relation to an Investor:
			1. to any Member of the same Group; or
			2. to any nominee of that Investor;
53. **"Priority Rights"** means the rights of Shareholders to purchase Shares contained in a Transfer Notice in the priority stipulated in Article 10.6 or Article 14.7 (as the case may be);
54. **"Privileged Relation"** in relation to a Shareholder who is an individual member or deceased or former member means a spouse, Civil Partner, child or grandchild (including step or adopted or illegitimate child and their issue) (provided that a spouse or Civil Partner cease to be a Privileged Relation by reason of divorce or termination of a civil partnership);
55. **"Proceeds of Sale"** means the consideration payable (including any deferred and/or contingent consideration) 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;
56. **"Proposed Purchaser"** means a bona fide third party proposed purchaser who at the relevant time has made an offer on arm's length terms;
57. **"Proposed Sale Date"** has the meaning given in Article 15.3;
58. **"Proposed Sale Notice"** has the meaning given in Article 15.3;
59. **"Proposed Sale Shares"** has the meaning given in Article 15.3;
60. **"Proposed Seller"** means any person proposing to transfer any shares in the capital of the Company;
61. **"Proposed Transfer"** has the meaning given in Article 15.1;
62. **"Qualifying Company"** means a company in which a Shareholder or Trustee(s) holds the entire issued share capital and over which that Shareholder or Trustee(s) exercises control (within the meaning of section 1124 of the CTA 2010);
63. **"Relevant Interest"** has the meaning set out in Article 21.5;
64. **"Restricted Member"** has the meaning set out in Article 14.8;
65. **"Restricted Shares"** has the meaning set out in Article 14.9;
66. **"Sale Agreement"** has the meaning set out in Article 16.2.5;
67. **"Sale Shares"** has the meaning set out in Article 10.2.1;
68. **"Seller"** has the meaning set out in Article 10.2;
69. **"Sellers' Shares"** has the meaning set out in Article 16.1;
70. **"Selling Shareholders"** has the meaning set out in Article 16.1;
71. **"Shareholder"** means any holder of any Shares (but excludes the Company where the Company is holding Treasury Shares);
72. **["Share Option Plan(s)"** means the share option plan(s) of the Company, [the terms of which have been approved by the Investor][[4]](#footnote-5);]
73. **"Shares"** means the Ordinary Shares and other issued shares in the Company from time to time;
74. **"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 him together acquiring a Controlling Interest in the Company, except where following completion of the sale the shareholders 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;
75. **"Shareholders' Agreement"** means the subscription and shareholders' agreement dated on or around the Date of Adoption between, amongst others, the Company and the Investor;
76. **"Subscriber"** has the meaning set out in Article 7.2;
77. **"Subscription Period"** has the meaning set out in Article 7.2;
78. **"Subsidiary"**, **"Subsidiary Undertaking"** and **"Parent Undertaking"** have the respective meanings set out in sections 1159 and 1162 of the Act;
79. **"Transfer Notice"** shall have the meaning given in Article 10.2;
80. **"Transfer Price"** shall have the meaning given in Article 10.2;
81. **"Treasury Shares"** means shares in the capital of the Company held by the Company as treasury shares from time to time within the meaning set out in section 724(5) of the Act;
82. **"Trustees"** in relation to a Shareholder means the trustee or the trustees of a Family Trust;
83. **"Unvested Shares"** means in respect of an Intermediate Leaver, any Employee Shares held by such Intermediate Leaver that are not Vested Shares; and
	1. **"Vested Shares"** means in respect of an Intermediate Leaver, the number of Employee Shares determined by applying the following formula (expressed as a percentage):
	2. number of Employee Shares held by the Intermediate Leaver
	3. where: N is the complete number of whole calendar [months] that have elapsed between the Joiner Date and the Effective Termination Date in respect of such Intermediate Leaver [provided that if N is less than 12 then N for these purposes shall be deemed to be zero];

# Share capital

## In these Articles, unless the context requires otherwise, references to shares of a particular class shall include shares allotted and/or issued after the Date of Adoption and ranking *pari passu* in all respects (or in all respects except only as to the date from which those shares rank for dividend) with the shares of the relevant class then in issue.

## Subject to Investor Majority Consent and the Act, the Company may purchase its own Shares with cash to the extent permitted by section 692(1ZA) of the Act.

# Dividends

## The Company shall not distribute Available Profits in respect of any Financial Year unless the Board determines otherwise.

## If any Available Profits are to be distributed in respect of any Financial Year pursuant to Article 4.1 they will be distributed among the holders of the Shares pro rata to their respective holdings of Shares.

## Subject to the Act and these Articles, the Board may, provided Investor Majority Consent is given, pay interim dividends if justified by the Available Profits in respect of the relevant period.

## Every dividend shall accrue on a daily basis assuming a 365 day year. All dividends are expressed net and shall be paid in cash.

## If there are nil paid or partly paid share(s), any holder of such share(s) shall only be entitled, in the case of any dividend, to be paid an amount equal to the amount of the dividend multiplied by the percentage of the amount that is paid up (if any) on such share(s) during any portion or portions of the period in respect of which a dividend is paid.

## A capitalised sum which was appropriated from Available Profits may be applied in or towards paying up any sums unpaid on existing Shares held by the persons entitled to such capitalised sum.

## The Company will procure that the Available Profits of any other Group Company will be paid by way of dividend to the Company (or, as the case may be, the relevant Group Company that is its immediate holding company or Parent Undertaking) if and to the extent that dividends are necessary to permit lawful and prompt payment by the Company of any dividend.

# Liquidation

## On a distribution of assets on a liquidation or a return of capital (other than a conversion, redemption or purchase of Shares) the surplus assets of the Company remaining after payment of its liabilities shall be applied (to the extent that the Company is lawfully permitted to do so) among all holders of Shares pro rata (as if the Shares constituted one and the same class) to the number of Shares held.

# Exit provisions

## On a Share Sale, the Proceeds of Sale shall be distributed in the manner set out in Article 5 (as may be amended from time to time) 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:

### 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 5; and

### the Shareholders shall take any action required by the Investor to ensure that the Proceeds of Sale in their entirety are distributed as set out in Article 5.

1. If the Proceeds of Sale are distributed on more than one occasion (including in respect of any deferred or contingent consideration), the consideration so distributed on any further occasion shall be paid by continuing the distribution from the previous distribution of consideration in the manner set out in Article 5.

## On an Asset Sale, the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) in the manner set out in Article 5 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 Shareholders shall take any action required by the Investor (including, but without prejudice to the generality of this Article 6.2, actions that may be necessary to put the Company into voluntary liquidation) so that Article 5 applies.

# Allotment of new shares or other securities: pre-emption

## Sections 561(1) and 562(1) to (5) (inclusive) of the Act do not apply to an allotment of Equity Securities made by the Company.

## Unless otherwise agreed by special resolution, if the Company proposes to allot any New Securities, those New Securities shall not be allotted to any person unless the Company has in the first instance offered them to all existing holders of Shares (**"Subscribers"** and each a **"Subscriber"**) on the same terms and at the same price as those New Securities are being offered to other persons on a pari passu and pro rata basis to the number of Shares (as if the Shares constituted one and the same class) held by those holders (as nearly as may be without involving fractions). The offer:

### shall be in writing, be open for acceptance from the date of the offer to the date 10 Business Days after the date of the offer (inclusive) (**"Subscription Period"**) and give details of the number and subscription price of the New Securities; and

### may stipulate that any Subscriber who wishes to subscribe for a number of New Securities in excess of the proportion to which each is entitled shall in their acceptance state the number of excess New Securities for which they wish to subscribe.

## If, at the end of the Subscription Period, the number of New Securities applied for is equal to or exceeds the number of New Securities, the New Securities shall be allotted to the Subscribers who have applied for New Securities on a pro rata basis to the number of Shares held by such Subscribers which procedure shall be repeated until all New Securities have been allotted (as nearly as may be without involving fractions or increasing the number allotted to any Subscriber beyond that applied for by him).

## If, at the end of the Subscription Period, the number of New Securities applied for is less than the number of New Securities, the New Securities shall be allotted to the Subscribers in accordance with their applications and any remaining New Securities shall be offered to any other person as the Directors may determine at the same price and on the same terms as the offer to the Subscribers.

## Subject to the requirements of Articles 7.2 to 7.4 (inclusive) and to the provisions of section 551 of the Act, any New Securities shall be at the disposal of the Board who may allot, grant options over or otherwise dispose of them to any persons at those times and generally on the terms and conditions they think proper, provided that the allotment or grant to that person must be approved by Investor Majority Consent.

## The provisions of Articles 7.2 to 7.5 (inclusive) shall not apply to:

### [options to subscribe for Ordinary Shares under the Share Option Plans][[5]](#footnote-7);

### New Securities issued or granted in order for the Company to comply with its obligations under these Articles;

### [New Securities issued in consideration of the acquisition by the Company of any company or business which has been approved by special resolution];

### New Securities issued as a result of a Bonus Issue of shares which has been approved by the Board; and

### Shares or options for Shares issued or granted to the Investor in accordance with the terms of the Shareholders' Agreement.

## No Shares shall be allotted (nor any Treasury Shares be transferred) to any Employee, Director, prospective Employee or prospective director of the Company, who in the opinion of the Board is subject to taxation in the United Kingdom, unless such person has entered into a joint section 431 ITEPA election with the Company if so required by the Company.

# Transfers of Shares – general

## In Articles 8 to 16 inclusive, reference to the transfer of a Share includes the transfer or assignment of a beneficial or other interest in that Share or the creation of a trust or Encumbrance over that Share and reference to a Share includes a beneficial or other interest in a Share.

## No Share may be transferred unless the transfer is made in accordance with these Articles.

## If a Shareholder transfers or purports to transfer a Share otherwise than in accordance with these Articles he will be deemed immediately to have served a Transfer Notice in respect of all Shares held by him.

## Any transfer of a Share by way of sale which is required to be made under Articles 10 to 16 (inclusive) will be deemed to include a warranty that the transferor sells with full title guarantee.

## Other than Permitted Transfers or unless express provision is made in these Articles to the contrary, no Ordinary Shares held by any Employee shall be transferred without the prior consent of the Board.

## The Directors may refuse to register a transfer if:

### it is a transfer of a Share to a bankrupt, a minor or a person of unsound mind;

### the transfer is to an Employee, Director or prospective Employee or prospective director of the Company, who in the opinion of the Board is subject to taxation in the United Kingdom, and such person has not entered into a joint section 431 ITEPA election with the Company;

### it is a transfer of a Share which is not fully paid:

#### to a person of whom the Directors do not approve; or

#### on which Share the Company has a lien;

### the transfer is not lodged at the registered office or at such other place as the Directors may direct;

### the transfer is not accompanied by the certificate for the Shares to which it relates (or an indemnity for lost certificate(s) in a form acceptable to the Board) and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;

### the transfer is in favour of more than one transferee; or

### these Articles otherwise provide that such transfer shall not be registered.

1. If the Directors refuse to register a transfer, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

## The Directors may, as a condition to the registration of any transfer of shares in the Company (whether pursuant to a Permitted Transfer or otherwise), require the transferee to execute and deliver to the Company a deed agreeing to be bound by the terms of any shareholders' agreement or similar document in force between some or all of the Shareholders and the Company in any form as the Directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor under any such agreement or other document) and if any condition is imposed in accordance with this Article 8.7 the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee.

## In any case where the Board requires a Transfer Notice to be given in respect of any Shares, if a Transfer Notice is not duly given within a period of 10 Business Days of demand being made, a Transfer Notice shall be deemed to have been given at the expiration of that period.

## If a Transfer Notice is required to be given by the Board or is deemed to have been given under these Articles, the Transfer Notice, unless otherwise specified in the Articles, will be treated as having specified that:

### the Transfer Price for the Sale Shares will be as agreed between the Board (any director who is a Seller or with whom the Seller is connected (within the meaning of section 252 of the Act) not voting) and the Seller, or, failing agreement within five Business Days after the date on which the Board becomes aware that a Transfer Notice has been deemed to have been given, will be the Fair Value of the Sale Shares;

### it does not include a Minimum Transfer Condition (as defined in Article 10.2.4); and

### the Seller wishes to transfer all of the Shares held by it.

## 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 transferor; and

### (if any of the shares is partly or nil paid) the transferee.

# Permitted Transfers

## A Shareholder (who is not a Permitted Transferee) (**"Original Shareholder"**) may transfer all or any of his or its Shares to a Permitted Transferee, provided that the transfer of Ordinary Shares under this Article 9.1 shall require the prior approval of the Board (in its sole discretion).

## Shares previously transferred as permitted by Article 9.1 may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder.

## Where under the provision of a deceased Shareholder's will or laws as to intestacy, the persons legally or beneficially entitled to any Shares, whether immediately or contingently, are Permitted Transferees of the deceased Shareholder, the legal representative of the deceased Shareholder may transfer any Share to those Permitted Transferees.

## If a Permitted Transferee ceases to be a Permitted Transferee of the Original Shareholder, the Permitted Transferee must not later than five Business Days after the date on which the Permitted Transferee so ceases to be a Permitted Transferee of the Original Shareholder, transfer the Shares held by it to the Original Shareholder or another Permitted Transferee of the Original Shareholder (provided that in any case, such Permitted Transferee is not in liquidation), failing which it will be deemed to have given a Transfer Notice in respect of those Shares.

## Trustees may (i) transfer Shares to a Qualifying Company or (ii) transfer Shares to the Original Shareholder or to another Permitted Transferee of the Original Shareholder or (iii) transfer Shares to the new or remaining trustees upon a change of Trustees.

## No transfer of Shares may be made to Trustees unless the Board is satisfied:

### with the terms of the trust instrument and in particular with the powers of the trustees;

### with the identity of the proposed trustees;

### that the proposed transfer will not result in 50 per cent or more of the aggregate of the Company's equity share capital being held by trustees of that and any other trusts; and

### that no costs incurred in connection with the setting up or administration of the Family Trust in question are to be paid by the Company.

## On the death (subject to Article 9.3), bankruptcy, liquidation, administration or administrative receivership of a Permitted Transferee (other than a joint holder) his personal representatives or trustee in bankruptcy, or its liquidator, administrator or administrative receiver must, within five Business Days after the date of the grant of probate, the making of the bankruptcy order or the appointment of the liquidator, administrator or the administrative receiver, execute and deliver to the Company a transfer of the Shares held by the Permitted Transferee without restriction as to price or otherwise. The transfer shall be to the Original Shareholder if still living (and not bankrupt or in liquidation) or, if so directed by the Original Shareholder, to any Permitted Transferee of the Original Shareholder. If the transfer is not executed and delivered within five Business Days of such period or if the Original Shareholder has died or is bankrupt or is in liquidation, administration or administrative receivership, the personal representative or trustee in bankruptcy or liquidator, administrator or administrative receiver will be deemed to have given a Transfer Notice.

## Subject to Article 15, a transfer of any Shares approved by the Board may be made without restriction as to price or otherwise and with any such conditions as may be imposed and each such transfer shall be registered by the Directors.

## Any Shares may at any time be transferred where there is a sale of the entire issued share capital of the Company to a Holding Company, which has been approved by a majority of the Board.

## Subject to Article 15, the Company shall be permitted to sell or transfer any Shares held as Treasury Shares to any person.

# Transfers of Shares subject to pre-emption rights

## Save where the provisions of Articles 9, 15 and 16 apply, or where a special resolution is passed by the Shareholders to the contrary, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights contained in this Article 10.

## A Shareholder who wishes (or is required under these Articles) to transfer Shares (**"Seller"**) shall, except as otherwise provided in these Articles, before transferring or agreeing to transfer any Shares give notice in writing (**"Transfer Notice"**) to the Company specifying:

### the number of Shares which he wishes to transfer (or is obliged to transfer) (**"Sale Shares"**);

### if he wishes to sell the Sale Shares to a third party, the name of the proposed transferee (the **"Proposed Transferee"**);

### the price at which he wishes (or is obliged) to transfer the Sale Shares; and

### whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold to Shareholders (**"Minimum Transfer Condition"**).

If no cash price is specified by the Seller (or in these Articles), the price at which the Sale Shares are to be transferred (**"Transfer Price"**) must be agreed by the Board. In addition, if the price is not specified in cash, an equivalent cash value price must be agreed between the Seller and the Board. In both cases, the price will be deemed to be the Fair Value of the Sale Shares if no price is agreed within 5 Business Days of the Company receiving the Transfer Notice.

## Except with the prior approval of the Board, no Transfer Notice once given or deemed to have been given under these Articles may be withdrawn.

## A Transfer Notice constitutes the Company as the agent of the Seller for the sale of the Sale Shares at the Transfer Price.

## As soon as practicable following the later of:

### receipt of a Transfer Notice; and

### in the case where the Transfer Price has not been agreed, the determination of the Transfer Price under Article 10.2 or Article 11 (as applicable),

1. the Board shall offer the Sale Shares for sale to the Shareholders in the manner set out in Articles 10.6 and 10.7 (as applicable). Each offer must be in writing and give details of the number and Transfer Price of the Sale Shares offered.

## *Priority for offer of Sale Shares[[6]](#footnote-8)*

### Except in the case of an Employee (in which case Article 14 shall apply), any Sale Shares shall:

#### [first, be offered to the Employees (at their pro-rata entitlement); and]

#### [second, following completion of the offer in accordance with Article 10.6.1.1, any remainder] shall be offered to the holders of Ordinary Shares,

#### in each case on the basis as set out in Article 10.7.

## *Transfers: Offer*

### The Board shall offer the Sale Shares pursuant to the Priority Rights to all shareholders specified in the offer other than the Seller and his Permitted Transferees (**"Continuing Shareholders"**) inviting them to apply in writing within the period from the date of the offer to the date 10 Business Days after the offer (inclusive) (**"Offer Period"**) for the maximum number of Sale Shares they wish (or, in the case of the Company, are able) to buy.

### If the Sale Shares are subject to a Minimum Transfer Condition then any allocation made under Article 10.7 will be conditional on the fulfilment of the Minimum Transfer Condition.

### If, at the end of each Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Board shall allocate the Sale Shares to each Continuing Shareholder who has applied for Sale Shares in the proportion (fractional entitlements being rounded to the nearest whole number) which his existing holding of Shares bears to the total number of Shares held by those Continuing Shareholders who have applied for Sale Shares which procedure shall be repeated until all Sale Shares have been allocated but no allocation shall be made to a Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy.

### If, at the end of the Offer Period, the number of Sale Shares applied for is less than the number of Sale Shares, the Board shall allocate the Sale Shares to the Continuing Shareholders in accordance with their applications and the balance will be dealt with in accordance with Article 10.8.5.

## *Completion of transfer of Sale Shares*

### If the Transfer Notice includes a Minimum Transfer Condition and the total number of Shares applied for does not meet the Minimum Transfer Condition the Board shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under Article 10.7 stating the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

### If:

#### the Transfer Notice does not include a Minimum Transfer Condition; or

#### the Transfer Notice does include a Minimum Transfer Condition and allocations have been made in respect of all of the Sale Shares or at least the necessary amount to satisfy the Minimum Transfer Condition,

the Board shall, when no further offers are required to be made under Article 10.7 and once the requirements of Articles 15 and/or 16 have been fulfilled to the extent required give written notice of allocation (**"Allocation Notice"**) to the Seller and each Shareholder to whom Sale Shares have been allocated (**"Applicant"**) specifying the number of Sale Shares allocated to each Applicant and the place and time (being not less than 5 Business Days nor more than 10 Business Days after the date of the Allocation Notice) for completion of the transfer of the Sale Shares.

### Upon service of an Allocation Notice, the Seller must, against payment of the Transfer Price, transfer the Sale Shares in accordance with the requirements specified in it.

### If the Seller fails to comply with the provisions of Article 10.8.3:

#### the Company (acting by one of its Directors), or some other person nominated by resolution of the Board, shall be constituted the agent of such defaulting Seller to:

##### take such actions and complete, execute and deliver in his name any and all agreements or documents as are necessary to effect the transfer of the relevant Sale Shares to the Applicants pursuant to this Article 10;

##### receive the Transfer Price and give a good discharge for it;

##### (subject to the transfer being duly stamped) enter the Applicants in the register of Shareholders as the holders of the Shares purchased by them; and

#### the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) or otherwise hold the Transfer Price on trust for the Seller until he has delivered to the Company his certificate or certificates for the relevant Shares (or an indemnity for lost certificate in a form acceptable to the Board).

### If an Allocation Notice does not relate to all the Sale Shares then, subject to Article 10.8.6, the Seller may, within eight weeks after service of the Allocation Notice, transfer the unallocated Sale Shares to the Proposed Trasnferee at a price at least equal to the Transfer Price.

### The right of the Seller to transfer Shares under Article 10.8.5 does not apply if:

#### the Board is of the opinion on reasonable grounds that the Proposed Transferee is a person (or a nominee for a person) who the Board determine in their absolute discretion is a competitor with (or an Associate of a competitor with) the business of the Company or with a Subsidiary Undertaking of the Company;

#### the Board is of the opinion on reasonable grounds that the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the Proposed Transferee;

#### the Board is of the opinion on reasonable grounds that the Seller has failed or refused to provide promptly information available to it or him and reasonably requested by the Board for the purpose of enabling it to form the opinion mentioned above; or

#### the Transfer Notice has been served under Article 14, in which case the Company shall purchase or cancel the unallocated Sale Shares as it sees fit in its absolute discretion.

# Valuation of Shares

## If no Transfer Price can be agreed between the Seller and the Board in accordance with the provisions of Articles 8.9, 10.2 or 14.6 or otherwise then, on the date of failing agreement as determined by the relevant Article or in any event within 5 Business Days of the relevant Transfer Notice, the Board shall either:

### appoint an expert valuer in accordance with Article 11.2 (**"Expert Valuer"**) to certify the Fair Value of the Sale Shares; or

### (if the Fair Value has been certified by an Expert Valuer in the 12 weeks prior to the date of the relevant Transfer Notice) specify that the Fair Value of the Sale Shares will be calculated by dividing any Fair Value so certified by the number of Sale Shares to which it related and multiplying such Fair Value by the number of Sale Shares the subject of the Transfer Notice.

## The Expert Valuer will be either:

### the Auditors; or

### (if otherwise agreed by the Board and the Seller) an independent firm of Chartered Accountants to be agreed between the Board and the Seller or if the Board and the Seller fail to agree the identity of the Expert Valuer not later than the date 10 Business Days after the date of service of the Transfer Notice to be nominated by the then President of the Institute of Chartered Accountants in England and Wales on the application of either party and approved by the Company.

## The **"Fair Value"** of the Sale Shares shall be determined by the Expert Valuer on the following assumptions and bases:

### valuing the Sale Shares assuming an arm's-length sale between a willing seller and a willing buyer;

### if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;

### that the Sale Shares are capable of being transferred without restriction;

### valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares (excluding any Shares held as Treasury Shares) without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent but taking account of the rights attaching to the Sale Shares;

### [in the case of a compulsory transfer pursuant to Article 14, valuing the Sale Shares as of the Effective Termination Date]; and

### reflecting any other factors which the Expert Valuer reasonably believes should be taken into account.

## If any difficulty arises in applying any of these assumptions or bases then the Expert Valuer shall resolve that difficulty in whatever manner they shall in their absolute discretion think fit.

## The Expert Valuer shall be requested to determine the Fair Value within 20 Business Days of their appointment and to notify the Board of their determination.

## The Expert Valuer shall act as expert and not as arbitrator and their determination shall be final and binding on the parties (in the absence of fraud or manifest error).

## The Board will give the Expert Valuer access to all accounting records or other relevant documents of the Company subject to them agreeing to such confidentiality provisions as the Board may reasonably impose.

## The Expert Valuer shall deliver their certificate to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Seller. Unless the Sale Shares are to be sold under a Transfer Notice, which is deemed to have been served, the Seller may by notice in writing to the Company within five Business Days of the service on him of the copy certificate, cancel the Company's authority to sell the Sale Shares.

## The cost of obtaining the certificate shall be paid by the Company unless:

### the Seller cancels the Company's authority to sell; or

### the Sale Price certified by the Expert Valuer is less than the price (if any) offered by the Directors to the Seller for the Sale Share before the Expert Valuer was instructed,

1. in which case the Seller shall bear the cost.

# Compulsory transfers – general

## A person entitled to a Share in consequence of the bankruptcy of a Shareholder shall be deemed to have given a Transfer Notice in respect of that Share at a time determined by the Directors.

## If a Shareholder which is a company, either suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it or any material part of its assets (other than as part of a bona fide restructuring or reorganisation), the relevant Shareholder (and all its Permitted Transferees) shall be deemed to have given a Transfer Notice in respect of all the Shares held by the relevant Shareholder and its Permitted Transferees save to the extent that, and at a time that, the Directors may determine.

## If there is a change in control (as control is defined in section 1124 of the CTA 2010) of any Shareholder which is a company, it shall be bound at any time, if and when required in writing by the Directors to do so, to give (or procure the giving in the case of a nominee) a Transfer Notice in respect of all the Shares registered in its and their names and their respective nominees' names save that, in the case of the Permitted Transferee, it shall first be permitted to transfer those Shares back to the Original Shareholder from whom it received its Shares or to any other Permitted Transferee before being required to serve a Transfer Notice. This Article 12.3 shall not apply to a member that is an Investor.

# Purchase of own shares

* 1. The Company may purchase Shares in accordance with the provisions of the Act.
	2. The Company may finance the purchase of Shares in any way permitted by the Act, including by way of cash reserves up to the limits provided by the Act.

# Departing employees[[7]](#footnote-9)

## If at any time an Employee becomes a Leaver, such Leaver shall (unless otherwise determined by the Board (with Investor Majority Consent)) be deemed to have given a Transfer Notice in respect of all the Employee Shares on the Effective Termination Date.

## If a Leaver is a Bad Leaver, the aggregate Transfer Price for all the Employee Shares in respect of which a Transfer Notice is deemed to have been given shall be the lower of Fair Value and the nominal value of the Employee Shares.

## If a Leaver is a Good Leaver, the Transfer Price for any Employee Shares in respect of which a Transfer Notice is deemed to have been given shall be their Fair Value as at the Effective Termination Date.

## If a Leaver is an Intermediate Leaver:

### the Transfer Price for any Vested Shares in respect of which a Transfer Notice is deemed to have been given, shall be their Fair Value as at the Effective Termination Date; and

### the Transfer Price for any Unvested Shares, in respect of which a Transfer Notice is deemed to have been given, shall be the lower of Fair Value and the nominal value of the Employee Shares.

## The Board (acting with Investor Majority Consent) may determine (at their respective absolute discretions) to permit a Good Leaver, a Bad Leaver or an Intermediate Leaver to retain one or more of the Employee Shares in respect of which he is deemed to have given a Transfer Notice pursuant to Article 14.1.

## For the purposes of this Article 14, Fair Value shall be as agreed between the Board and the relevant Employee, or failing agreement within five Business Days of seeking to agree such price, shall be as determined in accordance with Article 11.

## For the purposes of this Article 14, the Priority Rights shall be such that the Employee Shares are offered in the following order of priority:

### firstly, to any person(s) approved by the Board (other than the departing Employee);

### secondly, in accordance with Article 10.6; and

### thirdly, if any Employee Shares remain to be accepted by persons to whom they have been offered in accordance with Articles 14.7.1 and 14.7.2, to the Company (subject always to the provisions of the Act).

1. *Suspension of voting rights*

## All voting rights attached to Employee Shares held by an Employee or by any Permitted Transferee of that Employee (**"Restricted Member"**), if any, shall at the Effective Termination Date be suspended if the Board serves a notice at any time, or after the Effective Date on such shareholder informing him of the same.

## Any Employee Shares whose voting rights are suspended pursuant to Article 14.8 (**"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 Article 14.8 shall be automatically restored immediately prior to an IPO. If a Restricted Member transfers any Restricted Shares in accordance with these Articles 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.

# tag along on a Change of Control

## Except in the case of Permitted Transfers and transfers pursuant to Articles 12 and 14 the provisions of Article 15.2 will apply if one or more Proposed Sellers propose to transfer in one or a series of related transactions any Shares (**"Proposed Transfer"**) which would, if put into effect, result in any Proposed Purchaser (and Associates of his or persons Acting in Concert with him) acquiring a Controlling Interest in the Company.

## A Proposed Seller must, before making a Proposed Transfer procure the making by the Proposed Purchaser of an offer (**"Offer"**) to the other Shareholders to acquire all of the Shares for a consideration per share the value of which is at least equal to the Specified Price (as defined in Article 15.6).

## The Offer must be given by written notice (**"Proposed Sale Notice"**) at least 10 Business Days (**"Offer Period"**) prior to the proposed sale date (**"Proposed Sale Date"**). The Proposed Sale Notice must set out, to the extent not described in any accompanying documents, the identity of the Proposed Purchaser, the purchase price and other terms and conditions of payment, the Proposed Sale Date and the number of Shares proposed to be purchased by the Proposed Purchaser (**"Proposed Sale Shares"**).

## If an Offer is not made to the Shareholders (other than the Proposed Seller) in accordance with this Article 15, the Proposed Sellers will not be entitled to complete their sale and the Company will not register any transfer intended to carry that sale into effect.

## If the Offer is accepted by any Shareholder (an "**Accepting Shareholder**") within the Offer Period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Shares held by each Accepting Shareholders.

## For the purpose of this Article:

### the expression **"Specified Price"** shall mean in respect of each Share a sum in cash equal to the highest price per Share offered or paid by the Proposed Purchaser:

#### in the Proposed Transfer; or

#### in any related or previous transaction by the Proposed Purchaser or any person Acting in Concert with the Proposed Purchaser in the 12 months preceding the date of the Proposed Transfer,

plus an amount equal to the Relevant Sum, as defined in Article 15.6.2, of any other consideration (in cash or otherwise) paid or payable by the Proposed Purchaser or any other person Acting in Concert with the Proposed Purchaser, which having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Shares (**"Supplemental Consideration"**) provided that the total consideration paid by the Proposed Purchaser in respect of the Proposed Transfer is distributed to the Proposed Seller and the Accepting Shareholders in accordance with the provisions of Articles 5 and 6;

### **Relevant Sum** = C ÷ A

where: A = number of Shares being sold to the Proposed Purchaser by any Proposed Seller or any Accepting Shareholder in connection with the relevant Proposed Transfer;

C = the Supplemental Consideration.

# Drag-along

## If holders of more than [75 per cent][[8]](#footnote-10) of the number of Ordinary Shares in issue from time to time (excluding any Excluded Shares and any Treasury Shares) (**"Selling Shareholders"**) wish to transfer all their interest in Shares (**"Sellers' Shares"**) to a Proposed Purchaser, then the Selling Shareholders shall have the option (**"Drag Along Option"**) to compel each other holder of Shares (each a **"Called Shareholder"** and together the **"Called Shareholders"**) to sell and transfer all their Shares to the Proposed Purchaser or as the Proposed Purchaser shall direct (**"Drag Purchaser"**) in accordance with the provisions of this Article.

## The Selling Shareholders may exercise the Drag Along Option by giving a written notice to that effect (**"Drag Along Notice"**) to the Company. The Company shall, within 5 business Days of receipt of such Drag Along Notice send a copy of the Drag Along Notice to each Called Shareholder. A Drag Along Notice shall specify that:

### the Called Shareholders are required to transfer all their Shares (**"Called Shares"**) under this Article;

### the person to whom they are to be transferred;

### the consideration for which the Called Shares are to be transferred (calculated in accordance with this Article);

### the proposed date of transfer, and

### the form of any sale agreement or form of acceptance or any other document of similar effect that the Called Shareholders are required to sign in connection with such sale (**"Sale Agreement"**),

1. (and, in the case of paragraphs 16.2.2 to 16.2.3 above, whether actually specified or to be determined in accordance with a mechanism described in the Drag Along Notice). No Drag Along Notice or Sale Agreement may require a Called Shareholder to agree to any terms except those specifically provided for in this Article.

## Drag Along Notices shall be irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares by the Selling Shareholders to the Drag Purchaser within 60 Business Days after the date of service of the Drag Along Notice. The Selling Shareholders shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

## The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be that to which they would be entitled if the total consideration proposed to be paid by the Drag Purchaser were distributed to the holders of the Called Shares and the Sellers' Shares in accordance with the provisions of Articles 5 and 6 (**"Drag Consideration"**).

## In respect of a transaction that is the subject of a Drag-Along Notice and with respect to any Drag Document, a Called Shareholder shall only be obliged to undertake to transfer his Shares with full title guarantee (and provide an indemnity for lost certificate in a form acceptable to the Board if so necessary) in receipt of the Drag Consideration when due and shall not be obliged to give warranties or indemnities except a warranty as to capacity to enter into a Drag Document and the full title guarantee of the Shares held by such Called Shareholder.

## Within three Business Days of the date the Drag Along Notice has been deemed to be served on each Called Shareholder in accordance with Article 22 (or such later date as may be specified in the Drag Along Notice) (**"Drag Completion Date"**), each Called Shareholder shall deliver:

### duly executed stock transfer form(s) for its Shares in favour of the Drag Purchaser;

### the relevant share certificate(s) (or a duly executed indemnity for lost certificate in a form acceptable to the Board) to the Company; and

### a duly executed Sale Agreement, if applicable, in the form specified in the Drag Along Notice or as otherwise specified by the Company,

1. (together the **"Drag Documents"**).

## On the Drag Completion Date, the Company shall pay each Called Shareholder, on behalf of the Drag Purchaser, the Drag Consideration that is due to the extent the Drag Purchaser has paid such consideration to the Company. The Company's receipt of the Drag Consideration shall be a good discharge to the Drag Purchaser. The Company shall hold the Drag Consideration on trust for each of the Called Shareholders without any obligation to pay interest.

## To the extent that the Drag Purchaser has not, on the Drag Completion Date, paid the Drag Consideration that is due to the Company, the Called Shareholders shall be entitled to the immediate return of the Drag Documents for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this Article 16 in respect of their Shares.

## If a Called Shareholder fails to deliver the Drag Documents for its Shares to the Company by the Drag Completion Date, the Company shall be constituted the agent of such defaulting Called Shareholder to take such actions and enter into any Drag Document or such other agreements or documents as are necessary to effect the transfer of the Called Shareholder's Shares pursuant to this Article 16 and the Company shall, if requested by the Drag Purchaser, authorise any Director to transfer the Called Shareholder's Shares on the Called Shareholder's behalf to the Drag Purchaser to the extent the Drag Purchaser has, by the Drag Completion Date, paid the Drag Consideration to the Company for the Called Shareholder's Shares offered to him. The Board shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Called Shareholder shall surrender his share certificate for his Shares (or suitable executed indemnity) to the Company. On surrender, he shall be entitled to the Drag Consideration due to him.

## Any transfer of Shares to a Drag Purchaser pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the provisions of Article 10.

## On any person, following the issue of a Drag Along Notice, becoming a Shareholder pursuant to the exercise of a pre-existing option or warrant to acquire shares in the Company or pursuant to the conversion of any convertible security of the Company (**"New Shareholder"**), a Drag Along Notice shall be deemed to have been served on the New Shareholder on the same terms as the previous Drag Along Notice who shall then be bound to sell and transfer all Shares so acquired to the Drag Purchaser and the provisions of this Article shall apply with the necessary changes to the New Shareholder except that completion of the sale of the Shares shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder.

# Number of Directors

1. Unless and until the Company shall otherwise determine by ordinary resolution, the number of Directors shall be not less than two and no more than [three][[9]](#footnote-11).

# Appointment of INVESTOR DIRECTOR AND Observer

* 1. For so long as the Investor(s) and their Permitted Transferees hold not less than [  ] per cent of the Shares (excluding Treasury Shares) in issue they shall have the right (acting jointly):
		1. to appoint and maintain in office [one] natural person as the Investor may from time to time nominate as a Director of the Company (and as a member of each and any committee of the Board) and to remove any Director so appointed and, upon his removal whether by the Investor or otherwise, to appoint another Director in his place; [and] [or]
		2. [to appoint one representative to attend as an Observer at each and any meeting of the Board and of each and any committee of the Board who will be entitled to speak at any such meetings but will not be entitled to vote.][[10]](#footnote-12)
	2. Appointment and removal of an Investor Director [or an observer] in accordance with Article 18.1 shall be by written notice from the appointing Investor(s) to the Company which shall take effect on delivery at the Company’s registered office or at any meeting of the Board or committee thereof.
	3. The Company shall send to the Investors, to any Investor Directors and any Observer appointed by an Investor (in electronic form if so required):
		1. reasonable advance notice of each meeting of the Board (being not fewer than five Business Days) and each committee of the Board, such notice to be accompanied by a written agenda specifying the business to be discussed at such meeting together with all relevant papers; and
		2. as soon as practicable after each meeting of the Board (or committee of the Board) a copy of the minutes.

## Save with Investor Director Consent (such consent to be deemed to be given if no response is given by the Investor Director on 15 Business Days' notice) no business shall be transacted at any meeting of the Board (or committee of the Board).

# Disqualification of Directors

1. In addition to that provided in article 18 of the Model Articles, the office of a Director shall also be vacated if:

### he is convicted of a criminal offence (other than a minor motoring offence) and the Directors resolve that his office be vacated; or

### in the case of Directors if a majority of his co-Directors serve notice on him in writing, removing him from office.

# Proceedings of Directors

## The quorum for Directors' meetings shall be:

### where an Investor Director has been appointed, two Directors at least one of which must be an Investor Director; or

### otherwise, two Directors.

### If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or at such time and place as determined by the Directors present at such meeting. If a quorum is not present at any such adjourned meeting within half an hour from the time appointed, then the meeting shall proceed.

## In the event that a meeting of the Directors is attended by a Director who is acting as alternate for one or more other Directors, the Director or Directors for whom he is the alternate shall be counted in the quorum despite their absence, and if on that basis there is a quorum the meeting may be held despite the fact (if it is the case) that only one Director is physically present.

## If all the Directors participating in a meeting of the Directors are not physically in the same place, the meeting shall be deemed to take place where the largest group of participators in number is assembled. In the absence of a majority the location of the chairman shall be deemed to be the place of the meeting.

## 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 at any time before or 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.

## Questions arising at any meeting of the Directors shall be decided by a majority of votes. In the case of any equality of votes, the chairman shall not have a second or casting vote unless otherwise determined by the Board (with Investor Majority Consent).

## A decision of the Directors may take the form of a resolution in writing, where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement in writing (including confirmation given by electronic means). Reference in article 7(1) of the Model Articles to article 8 of the Model Articles shall be deemed to include a reference to this article also.

# Directors' interests

1. *Specific interests of a Director*

## Subject to the provisions of the Act and provided (if these Articles so require) that he has declared to the Directors in accordance with the provisions of these Articles, the nature and extent of his interest, a Director may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest of the following kind:

### where a Director (or a person connected with him) is party to or in any way directly or indirectly interested in, or has any duty in respect of, any existing or proposed contract, arrangement or transaction with the Company or any other undertaking in which the Company is in any way interested;

### where a Director (or a person connected with him) is a director, employee or other officer of, or a party to any contract, arrangement or transaction with, or in any way interested in, any body corporate promoted by the Company or in which the Company is in any way interested;

### where a Director (or a person connected with him) is a shareholder in the Company or a shareholder in, employee, director, member or other officer of, or consultant to, a Parent Undertaking of, or a Subsidiary Undertaking of a Parent Undertaking of, the Company;

### where a Director (or a person connected with him) holds and is remunerated in respect of any office or place of profit (other than the office of auditor) in respect of the Company or body corporate in which the Company is in any way interested;

### where a Director is given a guarantee, or is to be given a guarantee, in respect of an obligation incurred by or on behalf of the Company or any body corporate in which the Company is in any way interested;

### where a Director (or a person connected with him or of which he is a member or employee) acts (or any body corporate promoted by the Company or in which the Company is in any way interested of which he is a director, employee or other officer may act) in a professional capacity for the Company or any body corporate promoted by the Company or in which the Company is in any way interested (other than as auditor) whether or not he or it is remunerated for this;

### an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest; or

### any other interest authorised by ordinary resolution.

*Interests of an Investor Director*

## In addition to the provisions of Article 21.1, subject to the provisions of the Act and provided (if these Articles so require) that he has declared to the Directors in accordance with the provisions of these Articles the nature and extent of his interest, a Director may (save to the extent not permitted by law from time to time), notwithstanding his office, have an interest arising from any duty he may owe to, or interest he may have as an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or direct or indirect investor (including without limitation by virtue of a carried interest, remuneration or incentive arrangements or the holding of securities) in:

### an Investor;

### a Fund Manager which advises or manages an Investor;

### any of the funds advised or managed by a Fund Manager who advises or manages an Investor from time to time; or

### another body corporate or firm in which a Fund Manager who advises or manages an Investor or any fund advised or managed by such Fund Manager has directly or indirectly invested, including without limitation any portfolio companies.

## *Interests of which a Director is not aware*

## For the purposes of this Article 21, an interest of which a Director is not aware and of which it is unreasonable to expect him to be aware shall not be treated as an interest of his.

1. *Accountability of any benefit and validity of a contract*

## In any situation permitted by this Article 21 (save as otherwise agreed by him) a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from that situation and no such contract, arrangement or transaction shall be avoided on the grounds of any such interest or benefit.

1. *Terms and conditions of Board authorisation*

## Any authority given in accordance with section 175(5)(a) of the Act in respect of a Director (**"Interested Director"**) who has proposed that the Directors authorise his interest (**"Relevant Interest"**) pursuant to that section may, for the avoidance of doubt:

### be given on such terms and subject to such conditions or limitations as may be imposed by the authorising Directors as they see fit from time to time, including, without limitation:

#### restricting the Interested Director from voting on any resolution put to a meeting of the Directors or of a committee of the Directors in relation to the Relevant Interest;

#### restricting the Interested Director from being counted in the quorum at a meeting of the Directors or of a committee of the Directors where such Relevant Interest is to be discussed; or

#### restricting the application of the provisions in Articles 21.6 and 21.7, so far as is permitted by law, in respect of such Interested Director;

### be withdrawn, or varied at any time by the Directors entitled to authorise the Relevant Interest as they see fit from time to time; and

1. an Interested Director must act in accordance with any such terms, conditions or limitations imposed by the authorising Directors pursuant to section 175(5)(a) of the Act and this Article 21.
2. *Director's duty of confidentiality to a person other than the Company*

## Subject to Article 21.7 (and without prejudice to any equitable principle or rule of law which may excuse or release the Director from disclosing information, in circumstances where disclosure may otherwise be required under this Article 21), if a Director, otherwise than by virtue of his position as director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required:

### to disclose such information to the Company or to any Director, or to any officer or Employee of the Company; or

### otherwise to use or apply such confidential information for the purpose of or in connection with the performance of his duties as a Director.

## Where such duty of confidentiality arises out of a situation in which a Director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company, Article 21.6 shall apply only if the conflict arises out of a matter which falls within Article 21.1 or has been authorised under section 175(5)(a) of the Act.

1. *Additional steps to be taken by a Director to manage a conflict of interest*

## Where a Director has an interest which can reasonably be regarded as likely to give rise to a conflict of interest, the Director shall take such additional steps as may be necessary or desirable for the purpose of managing such conflict of interest, including compliance with any procedures laid down from time to time by the Directors for the purpose of managing conflicts of interest generally and/or any specific procedures approved by the Directors for the purpose of or in connection with the situation or matter in question, including without limitation:

### absenting himself from any discussions, whether in meetings of the Directors or otherwise, at which the relevant situation or matter falls to be considered; and

### excluding himself from documents or information made available to the Directors generally in relation to such situation or matter and/or arranging for such documents or information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him to have access to such documents or information.

1. *Requirement of a Director is to declare an interest*

## Subject to section 182 of the Act, a Director shall declare the nature and extent of any interest permitted by Article 21.1 at a meeting of the Directors, or by general notice in accordance with section 184 (notice in writing) or section 185 (general notice) of the Act or in such other manner as the Directors may determine, except that no declaration of interest shall be required by a Director in relation to an interest:

### falling under Article 21.1.7;

### if, or to the extent that, the other Directors are already aware of such interest (and for this purpose the other Directors are treated as aware of anything of which they ought reasonably to be aware); or

### if, or to the extent that, it concerns the terms of his service contract (as defined by section 227 of the Act) that have been or are to be considered by a meeting of the Directors, or by a committee of Directors appointed for the purpose under these Articles.

1. *Shareholder approval*

## Subject to section 239 of the Act, the Company may by ordinary resolution ratify any contract, transaction or arrangement, or other proposal, not properly authorised by reason of a contravention of any provisions of this Article 21.

## For the purposes of this Article 21:

### a conflict of interest includes a conflict of interest and duty and a conflict of duties;

### the provisions of section 252 of the Act shall determine whether a person is connected with a Director; and

### a general notice to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified.

# Notices

## Subject to the requirements set out in the Act, any notice given or document sent or supplied to or by any person under these Articles, or otherwise sent by the Company under the Act, may be given, sent or supplied:

### in hard copy form;

### in electronic form; or

1. partly by one of these means and partly by another of these means.
2. Notices shall be given and documents supplied in accordance with the procedures set out in the Act, except to the extent that a contrary provision is set out in this Article 22.
3. *Notices in hard copy form*

## Any notice or other document in hard copy form given or supplied under these Articles may be delivered or sent by first class post (airmail if overseas):

### to the Company or any other company at its registered office; or

### to the address notified to or by the Company for that purpose; or

### in the case of an intended recipient who is a member or his legal personal representative or trustee in bankruptcy, to such member's address as shown in the Company's register of members; or

### in the case of an intended recipient who is a Director or alternate, to his address as shown in the register of Directors; or

### to any other address to which any provision of the Companies Acts (as defined in the Act) authorises the document or information to be sent or supplied; or

### where the Company is the sender, if the Company is unable to obtain an address falling within one of the addresses referred to in 22.21 to 22.2.5 above, to the intended recipient's last address known to the Company.

## Any notice or other document in hard copy form given or supplied under these Articles shall be deemed to have been served and be effective:

### if delivered, at the time of delivery; or

### if posted, on receipt or 48 hours after the time it was posted, whichever occurs first.

1. *Notices in electronic form*

## Subject to the provisions of the Act, any notice or other document in electronic form given or supplied under these Articles may:

### if sent by fax or email (provided that a fax number or an address for email has been notified to or by the Company for that purpose), be sent by the relevant form of communication to that address;

### if delivered or sent by first class post (airmail if overseas) in an electronic form (such as sending a disk by post), be so delivered or sent as if in hard copy form under Article 22.2; or

### be sent by such other electronic means (as defined in section 1168 of the Act) and to such address(es) as the Company may specify by notice (in hard copy or electronic form) to all members of the Company from time to time.

## Any notice or other document in electronic form given or supplied under these Articles shall be deemed to have been served and be effective:

### if sent by facsimile or email (where a fax number or an address for email has been notified to or by the Company for that purpose), on receipt or 48 hours after the time it was sent, whichever occurs first;

### if posted in an electronic form, on receipt or 48 hours after the time it was posted, whichever occurs first;

### if delivered in an electronic form, at the time of delivery; or

### if sent by any other electronic means as referred to in Article 22.4.3, at the time such delivery is deemed to occur under the Act.

## Where the Company is able to show that any notice or other document given or sent under these Articles by electronic means was properly addressed with the electronic address supplied by the intended recipient, the giving or sending of that notice or other document shall be effective notwithstanding any receipt by the Company at any time of notice either that such method of communication has failed or of the intended recipient's non-receipt.

1. *General*

## In the case of joint holders of a share all notices shall be given to the joint holder whose name stands first in the register of members of the Company in respect of the joint holding (**"Primary Holder"**). Notice so given shall constitute notice to all the joint holders.

## Anything agreed or specified by the Primary Holder in relation to the service, sending or supply of notices, documents or other information shall be treated as the agreement or specification of all the joint holders in their capacity as such (whether for the purposes of the Act or otherwise).

# Secretary

1. Subject to the provisions of the Act, the Directors may appoint a secretary for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.
1. **Note to Draft:** In some instances it is appropriate for resignation to be a Bad Leaver event (as this acts as an incentive to stay with the business). BUT – please do consider the consequences of doing so and whether this is appropriate in the circumstances (i.e. the price to be paid for a Bad Leaver’s equity will be the lower of nominal value and Fair Value). [↑](#footnote-ref-2)
2. **Note to Draft:** Include if share option plan to be adopted. [↑](#footnote-ref-3)
3. **Note to Draft**: Retirement is often considered to be a 'Good Leaver' event, but has not been included here as it is contrary to age discrimination legislation. [↑](#footnote-ref-4)
4. **Note to Draft:** Only applicable if share option plan is contemplated. [↑](#footnote-ref-5)
5. **Note to Draft:** Delete if there are no share option plans. [↑](#footnote-ref-7)
6. **Note to Draft:** Consider whether Employees should be first offered priority of the Sale Shares or, whether all Ordinary shareholders should be entitled at the onset. It is often the case that Founders would like to retain as much equity in the Company as possible. [↑](#footnote-ref-8)
7. **Note to Draft:** The Leaver provisions provide that all Leavers (including a Founder) will be required to sell their Shares for the price determined in accordance with this Article (the price being dependant on whether a Leaver is a Good Leaver, a Bad Leaver or an Intermediate Leaver). The Board (with Investor Majority Consent) has the right to allow a Leaver to retain all or part of their Shares. [↑](#footnote-ref-9)
8. **Note to Draft:** Consider shareholdings and whether this is an adequate threshold at which be dragged. [↑](#footnote-ref-10)
9. **Note to Draft:** Consider size of the board. [↑](#footnote-ref-11)
10. **Note to Draft:** Consider whether the Investor should be entitled to appoint a director, observer, or both. [↑](#footnote-ref-12)