

**PROPOSED AMENDMENTS SUBJECT TO SHAREHOLDER APPROVAL ON
9 FEBRUARY 2021**

“X”

COMPANIES ACT 2014

PUBLIC COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

Mainstay Medical Holdings Public Limited Company

(as adopted by Special Resolution dated [•] ~~2020~~2021)

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COMPANIES ACT 2014
PUBLIC COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION

of

Mainstay Medical Holdings Public Limited Company
(as adopted by Special Resolution dated 1 May 2020)

PART I - PRELIMINARY

1. Disapplication of certain optional provisions of the Act

Sections 43(2), 65(2) to (7), 77 to 81, 95(1)(a), 96(2) to (11), 124, 125, 144(3), 144(4), 148(2), 158(3), 158(4), 159 to 165, 182(2), 182(5), 183(3), 187, 188, 218(3), 218(4), 218(5), 229, 230, 338(5), 338(6), 618(1)(b), 1090, 1092 and 1113 of the Act shall not apply to the Company.

2. Interpretation

(a) In these Articles, unless the context otherwise requires, the following expressions shall have the following meanings:

the "Act" means the Companies Act 2014 and every statutory modification and re-enactment thereof for the time being in force;

the "Acts" means the Act and all statutory instruments which are to be read as one with, or construed or read together as one with, the Act;

"these Articles" means these articles of association as originally adopted or as from time to time altered or varied (and **"Article"** means one of these Articles);

"As Converted Basis" means on the basis that all Preferred Shares in issue had immediately previously been converted into ordinary shares in accordance with the provisions of these Articles;

the "Auditors" means the statutory auditors for the time being of the Company;

the "Company" means Mainstay Holdings public limited company, registered number 667520;

"Clear Days" means, in relation to the period of a notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

"Depository" means a custodian or other person (or a nominee for such custodian or other person) appointed under contractual arrangements with the Company or other arrangements approved by the Directors whereby such custodian or other person or nominee holds or is interested in shares of the Company or rights or interests in shares of the Company and issues securities or other documents of title or otherwise evidencing the entitlement of the holder thereof to or to receive such shares, rights or interests, provided and to the extent that such arrangements have been approved by the Directors for the purposes of these Articles, and shall include, where approved by the Directors, the trustees (acting in their capacity as such) of any employees' share scheme established by the Company or any other scheme or arrangement principally for the benefit of employees or those in the service of the Company and/or its subsidiaries or their respective businesses and the managers (acting in their capacity as such) of any investment or savings plan, which in each case the Directors have approved;

the **"Directors" or "Board"** means the directors for the time being of the Company or those of them present at a duly convened meeting of directors of the Company at which a quorum is present, and **"Director"** means a director for the time being of the Company;

"electronic address" means any address or number used for the purposes of sending or receiving documents or information by electronic means;

"electronic means" has the meaning given to such expression by the Act;

the **"Holder"** means, in relation to any share, the member whose name is entered in the Register as the holder of the share or, where the context permits, the members whose names are entered in the Register as the joint holders of the share;

the **"Office"** means the registered office for the time being of the Company;

"the ordinary shares" means the ordinary shares of €0.01 each in the capital of the Company;

"paid (up)" means, in relation to a share, paid or credited as paid (up);

"Preferred Shareholders" means the holders of the Preferred Shares;

"Preferred Shares" means the preferred A shares of €0.01 each in the capital of the Company from time to time;

"Redeemable Shares" means redeemable shares in accordance with Section 64 of the Act;

the **"Register"** means the register of members to be kept as required by the Act;

the **"Regulations"** means the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996, as amended from time to time including any

modification thereof or any regulations in substitution thereof under Section 1086 of the Act;

the "Seal" means the common seal of the Company or (where relevant) the official securities seal kept by the Company pursuant to the Act;

the "Secretary" means the secretary for the time being of the Company or any other person appointed to perform any of the duties of the secretary of the Company, including a joint, assistant or acting secretary;

"share" means any share (whether issued or unissued) in the capital of the Company;

the "State" means the Republic of Ireland;

"subsidiary" has the meaning given to such expression by the Act;

"voting record date" means a date and time specified by the Company for eligibility for participation and voting at a general meeting and which may not be more than 48 hours before the time fixed for the general meeting to which it relates.

- (b) Expressions in these Articles referring to writing shall be construed, unless the contrary intention appears, as including references to printing, lithography, photography and any other modes of representing or reproducing words in a legible and non-transitory form provided that it shall not include writing in electronic form except (i) as provided in these Articles and (ii) in the case of a notice, document or information to be given, served or delivered to the Company, where the Company has agreed to receipt in such form and such notice, document or information is given, served or delivered in such form and manner as may have been specified by the Directors from time to time for the giving, serving or delivery of notices, documents or information in electronic form. Expressions in these Articles referring to execution of any document shall include any mode of execution whether under seal or under hand and any mode of electronic signature as may from time to time be approved by the Directors.
- (c) A notice, document or information is given, served or delivered in "**electronic form**" if it is given, served or delivered by electronic means including, without limitation, by making such notice, document or information available on a website or by sending such notice, document or information by e-mail.
- (d) Unless specifically defined herein or the context otherwise requires, words or expressions defined in the Acts in force as at the date on which these Articles are adopted shall bear the same meaning in these Articles, except that the word "company" shall include any body corporate.
- (e) The headings and captions included in these Articles are inserted for convenience of reference only and shall not be considered a part of or affect the construction or interpretation of these Articles.

- (f) Unless the context otherwise requires, references in these Articles to any enactment or any section or provision thereof shall include any statutory modification or re-enactment thereof for the time being in force.
- (g) In these Articles, unless the context otherwise requires, words importing any gender shall include all genders, and the singular number shall include the plural, and vice versa, and words importing persons shall include firms or companies.
- (h) Unless the context otherwise requires, any reference in an Article to a paragraph or subparagraph shall be construed as a reference to a paragraph of that Article or (as the case may be) a subparagraph of the paragraph in which the reference is contained.
- (i) References in these Articles to "€" are references to euro.
- (j) The expression "address" shall include, in relation to a communication given in electronic form, any number or address (including, in the case of an Uncertificated Proxy Instruction (as defined in Article ~~72~~(c)) permitted under Article ~~72~~74, an identification number of a participant in the relevant system) used for the purpose of such communication.

3. Form of resolution

Subject to the Acts:

- (a) a special resolution shall be effective for any purpose for which an ordinary resolution is expressed to be required under the Acts or these Articles;
- (b) a resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting duly convened and held and if described as a special resolution shall be deemed to be a special resolution, and such resolution may consist of several documents in the like form each executed by one or more of the members.

4. Uncertificated shares

- (a) Notwithstanding anything in these Articles to the contrary and subject to the Regulations and the rules of any relevant system, the Directors may permit any class of shares to be held in uncertificated form and title to those shares to be transferred by means of a relevant system or may determine at any time that any class of shares shall no longer be held in uncertificated form and that title to those shares shall cease to be transferred by means of any particular relevant system. Any provisions of these Articles shall not apply to any uncertificated shares to the extent that such provisions are inconsistent with:
 - (i) the holding of shares in uncertificated form;
 - (ii) the transfer of title to shares by means of a relevant system; or

- (iii) any provision of the Regulations.
- (b) Without prejudice to the generality and effectiveness of the foregoing:
 - (i) Articles ~~14, 15, 16, 37~~17, ~~18, 39, 38~~40 and ~~43~~45 shall not apply to uncertificated shares and Article ~~40~~42 shall apply in relation to such shares as if the reference therein to the date on which the transfer was lodged with the Company were a reference to the date on which the appropriate instruction was received by or on behalf of the Company in accordance with the facilities and requirements of the relevant system;
 - (ii) the Directors may refuse to register a transfer of uncertificated shares only in such circumstances as may be permitted or required by the Regulations or where the transfer is in favour of more than four persons jointly, and Article ~~39~~41 shall be construed accordingly;
 - (iii) references in these Articles to a requirement on any person to execute or deliver an instrument of transfer or certificate or other document which shall not be appropriate in the case of uncertificated shares shall, in the case of uncertificated shares, be treated as references to a requirement to comply with any relevant requirements of the relevant system and any relevant arrangements or regulations which the Directors may make from time to time pursuant to sub-paragraph (xii) below;
 - (iv) for the purposes referred to in Article ~~46~~48, a person entitled by transmission to a share in uncertificated form who elects to have some other person registered shall either:
 - (A) procure that instructions are given by means of the relevant system to effect transfer of such uncertificated share to that person; or
 - (B) change the uncertificated share to certificated form and execute an instrument of transfer of that certificated share to that person;
 - (v) the Company shall enter on the Register the number of shares which are held by each member in uncertificated form and in certificated form and shall maintain the Register in each case as is required by the Regulations and the relevant system and, unless the Directors otherwise determine, holdings of the same Holder or joint Holders in certificated form and uncertificated form shall be treated as separate holdings;
 - (vi) a class of share shall not be treated as two classes by virtue only of that class comprising both certificated shares and uncertificated shares or as a result of any provision of these Articles or the Regulations which applies only in respect of certificated shares or uncertificated shares;

- (vii) references in Article ~~145-147~~ to instruments of transfer shall include, in relation to uncertificated shares, instructions and/or notifications made in accordance with the relevant system relating to the transfer of such shares;
- (viii) for the purposes referred to in Article 49(b), the Directors may in respect of uncertificated shares authorise some person to transfer and/or require the Holder to transfer the relevant shares in accordance with the facilities and requirements of the relevant system and, so far as the Acts allow, the Directors may treat certificated shares and uncertificated shares of a member as separate holdings in giving effect to subdivisions and consolidations and may cause any shares arising on consolidation and representing fractional entitlements to be entered in the Register as certificated shares where this is desirable to facilitate the sale of those shares;
- (ix) for the purposes of Article ~~123(a)~~126(a), any payment in the case of uncertificated shares may be made by means of the relevant system (subject always to the facilities and requirements of the relevant system) and without prejudice to the generality of the foregoing such payment may be made by the sending by the Company or any person on its behalf of an instruction to the operator of the relevant system to credit the cash memorandum account of the Holder or joint Holders of such shares or, if permitted by the Company, of such person as the Holder or joint Holders may in writing direct, and the making of a payment in accordance with the facilities and requirements of the relevant system concerned shall be a good discharge to the Company;
- (x) subject to the Acts, the Directors may issue shares as certificated shares or as uncertificated shares in their absolute discretion and Articles ~~8, 125-10~~ and ~~133~~136 shall be construed accordingly;
- (xi) for the purposes of Article ~~135(a)~~137(a), a notice or document may be given to, served on or delivered to any member by the Company by means of a relevant system, and where a notice or document is so given, served or delivered it shall be deemed to be given, served or delivered when the Company or any sponsoring system-participant acting on its behalf serves the issuer-instruction relating thereto;
- (xii) the Directors may make such arrangements or regulations (if any) as they may from time to time in their absolute discretion think fit in relation to the evidencing and transfer of uncertificated shares and otherwise for the purpose of implementing and/or supplementing the provisions of this Article and the Regulations, and the facilities and requirements of the relevant system and such arrangements and regulations (as the case may be) shall have the same effect as if set out in this Article;
- (xiii) the Directors may utilise the relevant system to the fullest extent available from time to time in the exercise of the Company's powers or

functions under the Acts or these Articles or otherwise in effecting any actions.

- (c) Where any class of shares in the capital of the Company is a participating security and the Company is entitled under any provisions of the Acts, or the rules made and practices instituted by the operator of any relevant system or under these Articles, to dispose of, forfeit, enforce a lien or sell or otherwise procure the sale of any shares which are held in uncertificated form, such entitlement (to the extent permitted by the Regulations and the rules made and practices instituted by the operator of the relevant system) shall include the right to:
 - (i) request or require the deletion of any computer-based entries in the relevant system relating to the holding of such shares in uncertificated form; and/or
 - (ii) require any Holder of any uncertificated shares which are the subject of any exercise by the Company of any such entitlement, by notice in writing to the Holder concerned, to change his holding of such uncertificated shares into certificated form within such period as may be specified in the notice, prior to completion of any disposal, sale or transfer of such shares or direct the Holder to take such steps, by instructions given by means of a relevant system or otherwise, as may be necessary to sell or transfer such shares; and/or
 - (iii) appoint any person to take such other steps, by instructions given by means of a relevant system or otherwise, in the name of the Holder of such shares as may be required to effect a transfer of such shares and such steps shall be as effective as if they had been taken by the Holder of the uncertificated shares concerned; and/or
 - (iv) transfer any uncertificated shares which are the subject of any exercise by the Company of any such entitlement by entering the name of the transferee in the Register in respect of those shares as transferred shares; and/or
 - (v) otherwise rectify or change the Register in respect of those shares in such manner as may be appropriate; and
 - (vi) take such other actions as may be necessary to enable those shares to be registered in the name of the person to whom the shares have been sold or disposed of or as directed by him.
- (d) For the purposes of this Article:
 - (i) words and expressions shall have the same respective meanings as in the Regulations;
 - (ii) references herein to an uncertificated share or to a share being held in uncertificated form are references to that share being an uncertificated unit of a security, and references to a certificated share or to a share

being in certificated form are references to that share being a unit of a security which is not an uncertificated unit; and

- (iii) "cash memorandum account" means an account so designated by the operator of the relevant system.

PART II - SHARE CAPITAL AND VARIATION OF RIGHTS

5. Share Capital

The share capital of the Company is ~~€375,000~~ ~~€1,125,000~~ divided into ~~350,000,000~~ 50,000,000 preferred shares of €0.01 each and 60,000,000 ordinary shares of €0.01 each and 25,000 deferred shares of €1.00 each.

6. ~~5A.~~ Deferred Shares

The holders of deferred shares of €1.00 each ("**Deferred Shares**") do not have the right to receive notice of any general meeting of the Company or to attend, speak or vote at any such meeting and are not entitled to receive any dividend or distribution. On a return of assets on a winding up of the Company, the holders of the Deferred Shares shall only be entitled to repayment of the amounts paid up on those shares after the holders of the ordinary shares have received the sum of €1,000,000 for each ordinary share held by them and shall not be entitled to any further participation in the assets and profits of the Company. The Company is authorised at any time to appoint any person to execute on behalf of the holder(s) of Deferred Shares a transfer thereof and/or an agreement to transfer the same, without making any payment to the holder(s) thereof and persons so entitled, to such person(s) as the Company may determine as holder(s) thereof and beneficially entitled thereto.

7. Preferred Shares

Save as set out in these Articles, the Preferred Shares and the ordinary shares shall rank pari passu with each other in all respects but shall constitute separate classes of Shares:

(a) Dividends

The Company shall not pay any dividends on shares of any class of shares other than the Preferred Shares unless (in addition to the obtaining of any consents required elsewhere in these Articles) the holders of the Preferred Shares then in issue shall first receive, or simultaneously receive, a dividend on each issued Preferred Share in an amount at least equal to, in the case of a dividend on ordinary shares or any class of shares that is convertible into ordinary shares, that dividend per Preferred Share as would equal the product of (i) the dividend payable on each share of such class determined, if applicable, as if all shares of such class had been converted into ordinary shares and (ii) the number of ordinary shares arising upon conversion of one Preferred Share, in each case calculated on the record date for determination of holders entitled to receive such dividend.

(b) **Liquidation Preference**

Preferential Payments to Preferred Shareholders

- (i) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, the holders of issued Preferred Shares shall be entitled to be paid out of the assets of the Company available for distribution to its members or, in the event of a Deemed Liquidation Event (as defined below), out of the consideration payable to members in such Deemed Liquidation Event or the Available Proceeds (as defined below), before any payment shall be made to the holders of ordinary shares by reason of their ownership thereof, an amount per share equal to 1.0 times the Original Issue Price, plus all dividends accrued or declared but unpaid thereon. If upon any such liquidation, dissolution or winding up of the Company or Deemed Liquidation Event, the assets of the Company available for distribution to its members shall be insufficient to pay the Preferred Shareholders the full amount to which they shall be entitled under this Article 7(b)(i), the Preferred Shareholders shall share rateably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

For these purposes:

- (A) “Original Issue Price” shall mean, with respect to the Preferred Shares, \$2.96 per share, subject to appropriate adjustment in the event of any scrip dividend, share division or consolidation or other similar recapitalization with respect to the applicable Preferred Shares; and
- (B) “Available Proceeds” shall mean, in respect of a Deemed Liquidation Event, any amounts or combined assets of the Company and its subsidiaries (or the consideration received by the Company, its subsidiaries, the Company’s shareholders or its subsidiaries’ respective shareholders in such transaction) legally available for distribution to holders of the Company’s shares of all classes, as determined in good faith by the Directors and including the approval of at least one Preferred Share Director (as defined below).

Distribution of remaining assets

- (ii) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, after the payment in full of all Liquidation Amounts required to be paid to Preferred Shareholders, the remaining assets of the Company available for distribution to its members or, in the case of a Deemed Liquidation Event, the remaining consideration net of the amounts paid to Preferred Shareholders pursuant to Article 7(b)(i) or the remaining Available Proceeds, as the

case may be, shall be distributed among the holders of Preferred Shares and ordinary shares, pro rata based on the number of shares held by each such holder, treating for this purpose all such shares as if they had been converted to ordinary shares in accordance with the provisions of these Articles, immediately prior to such liquidation, dissolution or winding up of the Company. The aggregate amount which a Preferred Shareholder is entitled to receive pursuant to Articles 7(b)(i) and 7(b)(ii) is hereinafter referred to as the “Liquidation Amount.” Article 143 shall be read accordingly.

Deemed Liquidation Events

(iii) Each of the following events shall be considered a “Deemed Liquidation Event” unless the holders of at least 55% of the Preferred Shares (the “Requisite Holders”) elect otherwise by written notice sent to the Company at least five days prior to the effective date of any such event:

(A) a merger or consolidation in which

(1) the Company is a constituent party; or

(2) a subsidiary of the Company is a constituent party and the Company issues shares pursuant to such merger or consolidation,

except any such merger or consolidation involving the Company or a subsidiary in which the ordinary shares of the Company in issue immediately prior to such merger or consolidation (on an As Converted Basis) continue to represent, or are converted into or exchanged for equity interests that represent, immediately following such merger or consolidation, a majority, by voting power, of the issued equity interests of: (1) the surviving or resulting company; or (2) if the surviving or resulting company is a wholly owned subsidiary of another company immediately following such merger or consolidation, the parent company of such surviving or resulting company;

(B) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all the assets of the Company and its subsidiaries taken as a whole, or the sale or disposition (whether by merger, consolidation or otherwise, and whether in a single transaction or a series of related transactions) of one or more subsidiaries of the Company if substantially all of the assets of the Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Company.

Effecting a Deemed Liquidation Event

- (iv) The Company shall not have the power to effect a Deemed Liquidation Event referred to in Article 7(b)(iii)(A)(1) unless the agreement or plan of merger or consolidation for such transaction (the “**Merger Agreement**”) provides that the consideration payable to the members of the Company in such Deemed Liquidation Event shall be allocated to the members in accordance with Articles 7(b)(i) and 7(b)(ii) above.

Amount deemed paid or distributed

- (v) The amount deemed paid or distributed to the holders of any class of shares in the Company upon any such merger, consolidation, sale, transfer, exclusive license or other disposition shall be the cash or the value of the property, rights or securities to be paid or distributed to such holders pursuant to such Deemed Liquidation Event. The value of such property, rights or securities shall be determined in good faith by the Directors, which shall include the approval of at least one Preferred Share Director.

Allocation of escrow and contingent consideration

- (vi) In the event of a Deemed Liquidation Event, if any portion of the consideration payable to the shareholders of the Company is payable only upon satisfaction of contingencies (the “**Additional Consideration**”), the Merger Agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the “**Initial Consideration**”) shall be allocated among the shareholders of the Company in accordance with Articles 7(b)(i) and 7(b)(ii) as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event; and (b) any Additional Consideration which becomes payable to the shareholders of the Company upon satisfaction of such contingencies shall be allocated among the shareholders of the Company in accordance with Articles 7(b)(i) and 7(b)(ii) after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this sub-paragraph (vi) consideration placed into escrow or retained as a holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Additional Consideration.

(c) **Voting**

- (i) Each Preferred Shareholder shall be entitled to cast the number of votes equal to the number of ordinary shares into which the Preferred Shares held by such holder are convertible as of the record date for determining holders entitled to vote on such matter. Except as provided by law or by the other provisions of these Articles, Preferred Shareholders shall vote together with the holders of ordinary shares as a single class and on an As Converted Basis.

- (ii) Where separate general meetings of holders of Preferred Shares are required, the provisions of these Articles relating to general meetings shall apply except that the quorum at any such separate general meeting shall be at least two persons present in person or by proxy representing a majority of the Preferred Shares. The provisions of Articles 11 and 58 are qualified accordingly.
- (iii) Unanimous written resolutions of the holders of Preferred Shares may be given in the manner provided for by Article 3(b). For the avoidance of doubt, unanimous written resolutions of the holders of Preferred Shares are required only in the circumstances expressly required by the Act and, in any other circumstance where the consent or approval of the Preferred Shareholders is required under these Articles or otherwise and such consent or approval can be given otherwise than in general meeting, then the requisite threshold for such consent or approval, and any provisions regarding the manner in which it must be obtained, shall be as provided for in these Articles.

(d) **Election of directors**

The Preferred Shareholders, exclusively and as a separate class, shall be entitled to elect two Directors (the “Preferred Share Directors”). For convenience, the initial Preferred Share Directors may also be appointed by the Board in connection with the approval of the initial issuance of Preferred Shares without a written resolution by the Preferred Shareholders. Subject to the Acts, any Director elected as provided in this Article 7(d) may be removed without cause by, and only by, a vote by the Preferred Shareholders entitled to elect such director or directors, given either at an extraordinary general meeting of such shareholders called for that purpose or pursuant to a special written resolution of shareholders. The holders of ordinary shares, exclusively and as a separate class, shall be entitled to elect two Directors. The holders of ordinary shares and the Preferred Shares, exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Company in accordance with the remaining provisions of these Articles. No Preferred Share Director shall be elected at a general meeting of the Company unless at least two persons representing a majority of the Preferred Shares are present in person or by proxy at the meeting. If the Preferred Shareholders fail to elect a sufficient number of Directors to fill the positions to which they are entitled under this Article 7(d), then any such position shall remain vacant until such time as the Preferred Shareholders elect the person(s) to fill such position in accordance with Article 7(c). The rights of the Preferred Shareholders and the rights of the holders of the ordinary shares set forth in this Article 7(d) shall terminate on the first date following the date the first Preferred Share was issued (the “Original Issue Date”) on which there are issued less than 6,800,000 Preferred Shares (subject to appropriate adjustment in the event of any dividend, subdivision, consolidation or other similar recapitalization with respect to the Preferred Shares). Articles 93 to 98 shall be applied to give effect to the provisions of this Article 7(d).

(e) **Optional conversion**

Right to convert

(i) **The Preferred Shareholders shall have conversion rights as follows (the “Conversion Rights”):**

- (A) Each Preferred Share shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid ordinary shares as is determined by dividing the applicable Original Issue Price by the applicable Conversion Price (as defined below) in effect at the time of conversion. The “Conversion Price” applicable to the Preferred Shares shall initially be equal to the Original Issue Price. Such initial Conversion Price, and the rate at which Preferred Shares may be converted into ordinary shares, shall be subject to adjustment as provided in this Article 7(e).
- (B) In the event of a liquidation, dissolution or winding up of the Company or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last business day preceding the date fixed for the payment of any such amounts distributable on such event to the Preferred Shareholders; provided that the foregoing termination of Conversion Rights shall not affect the amount(s) otherwise paid or payable in accordance with Article 7(b)(i) to the Preferred Shareholders pursuant to such liquidation, dissolution or winding up of the Company or a Deemed Liquidation Event.
- (C) Upon the conversion of Preferred Shares under this Article 7(e) or Article 7(f), each Preferred Share shall convert:
- (1) by an automatic process of re-designation of each authorised and issued Preferred Share into one ordinary share; and
 - (2) if the Conversion Price is subject to adjustment as provided in Article 7(e)(vi) such that the number of ordinary shares arising following such re-designation is greater than the number of Preferred Shares being re-designated (such excess being the “Excess Shares”), by the issue of new ordinary shares to satisfy the Excess Shares and the Company shall do all things necessary to procure that such Excess Shares are issued by way of and in the manner provided for by sub-paragraph (3) below or, if that is not possible at par; and
 - (3) notwithstanding the provisions of Article 136, the Company shall, to the extent permitted by law, be entitled to capitalise any sum standing to the credit of

any of the Company's reserves (including any capital redemption reserve fund or share premium account or merger reserve) or to the credit of the profit or loss account which is not available for distribution and apply such sum on behalf of the Preferred Shareholders in paying up in full unissued shares to be allotted as Excess Shares in accordance with sub-paragraph (2) above.

and the special resolution adopting these Articles shall be deemed to be the authority for such re-designation and any such bonus issue.

Fractional shares

- (ii) No fractional ordinary shares shall be issued upon conversion of the Preferred Shares. In lieu of any fractional shares to which the holder would otherwise be entitled, the number of ordinary shares to be issued upon conversion of the Preferred Shares shall be rounded down to the nearest whole share.

Mechanics of conversion

- (iii) In order for a Preferred Shareholder to voluntarily convert Preferred Shares into ordinary shares, such holder shall: (a) provide written notice to the Company at its registered office that such holder elects to convert all or any number of Preferred Shares and, if applicable, any event on which such conversion is contingent and (b), surrender the certificate or certificates for Preferred Shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Company to indemnify the Company against any claim that may be made against the Company on account of the alleged loss, theft or destruction of such certificate), at the registered office of the Company. Such notice shall state such holder's name or the names of the nominees in which such holder wishes ordinary shares to be issued. If required by the Company, any certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Company, duly executed by the registered holder or his, her or its attorney duly authorised in writing. The close of business on the date of receipt by the Company of such notice and, if applicable, certificates (or lost certificate affidavit and agreement) shall be the time of conversion (the "**Conversion Time**"), and the ordinary shares issuable upon conversion of the specified shares shall be deemed to be issued as of such date. The Company shall, as soon as practicable and in any event within ten (10) days after the Conversion Time (i) issue and deliver to the holder of Preferred Shares, or to his, her or its nominees, a certificate or certificates for the number of ordinary shares issuable upon such conversion in accordance with the provisions hereof and a certificate for the number (if any) of the Preferred Shares represented

by the surrendered certificate that were not converted into Ordinary, and (ii) pay all declared but unpaid dividends on the Preferred Shares converted.

No further adjustment

- (iv) Upon any conversion, no adjustment to the Conversion Price shall be made for any declared but unpaid dividends on the Preferred Shares converted to ordinary shares.

Adjustments to Conversion Price for diluting issues

- (v) For purposes of this sub-paragraph (v) the following definitions shall apply:

(A) “**Additional Ordinary Shares**” shall mean all ordinary shares issued (or, pursuant to Article 7(e)(vii), deemed to be issued) by the Company after the Original Issue Date, other than (1) the following ordinary shares and (2) ordinary shares deemed issued pursuant to the following Options and Convertible Securities (as defined below) (collectively, “**Exempted Securities**”):

- (1) as to any Preferred Shares, Options or Convertible Securities issued as a dividend or distribution on such Preferred Shares;
- (2) Preferred Shares, Options or Convertible Securities issued by reason of a dividend, share split, division or other distribution of ordinary shares that is covered by Articles 7(e)(xi) to 7(e)(xiv);
- (3) ordinary shares or Options issued to employees or directors of, or consultants or advisors to, the Company or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board;
- (4) ordinary shares or Convertible Securities issued upon the exercise of Options or ordinary shares or Preferred Shares issued or arising upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security
- (5) ordinary shares, Options or Convertible Securities issued to lenders, equipment lessors or other financial institutions, or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transaction approved by the Board;
- (6) ordinary shares, Options or Convertible Securities issued to suppliers or third party service providers in

connection with the provision of goods or services pursuant to transactions approved by the Board, including the approval of at least one Preferred Share Director;

- (7) ordinary shares, Options or Convertible Securities issued pursuant to the acquisition of another company by the Company by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided that such issuances are approved by the Board; or
 - (8) ordinary shares, Options or Convertible Securities issued in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or strategic partnerships approved by the Board, including the approval of at least one Preferred Share Director.
- (B) “Convertible Securities” shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for ordinary shares, but excluding Options.
- (C) “Option” shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire ordinary shares or Convertible Securities.

No adjustment of Conversion Price

- (vi) No adjustment in the Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Ordinary Shares if the Company receives written notice from the Requisite Holders that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Ordinary Shares.

Deemed Issuance of Additional Ordinary Shares

- (vii)
 - (A) If the Company at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of shares entitled to receive any such Options or Convertible Securities, then the maximum number of ordinary shares (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the

exercise of such Options or, in the case of Convertible Securities and Options therefore, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Ordinary Shares issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(B) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price of any Preferred Shares pursuant to the terms of Article 7(e)(viii), are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of ordinary shares issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Company upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (i) the Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Conversion Price that would have resulted from any issuances of Additional Ordinary Shares (other than deemed issuances of Additional Ordinary Shares as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(C) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Conversion Price of any Preferred Shares pursuant to the terms of Article 7(e)(viii) (either because the consideration per share (determined pursuant to Article 7(e)(ix)) of the Additional Ordinary Shares subject thereto was equal to or greater than the Conversion Price then in effect, or because such Option or Convertible Security was issued before the Original Issue Date), are revised after the Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or

Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number ordinary shares issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Company upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Ordinary Shares subject thereto (determined in the manner provided in sub-paragraph (A) above shall be deemed to have been issued effective upon such increase or decrease becoming effective.

- (D) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price pursuant to the terms of Article 7(e)(viii), the Conversion Price shall be readjusted to such Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.
- (E) If the number of ordinary shares issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Company upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Conversion Price of any Preferred Shares provided for in this Article 7(e)(vii) shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in sub-paragraphs (A) and (B) above). If the number of ordinary shares issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Company upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Conversion Price that would result under the terms of this Article 7(e)(vii) at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

Adjustment of Conversion Price on issuance of Additional Ordinary Shares

- (viii) In the event the Company shall at any time after the Original Issue Date issue Additional Ordinary Shares (including Additional Ordinary Shares deemed to be issued pursuant to Article 7(e)(vii)), without consideration or for a consideration per share less than the Conversion Price at that time of any Preferred Shares in issue immediately prior to such issuance or deemed issuance, then such Conversion Price shall be reduced, concurrently with such issuance, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$\text{CP2} = \text{CPI} * (\text{A} + \text{B}) \div (\text{A} + \text{C}).$$

For purposes of the foregoing formula, the following definitions shall apply:

- (A) “CP2” shall mean the applicable Conversion Price in effect immediately after such issuance or deemed issuance of Additional Ordinary Shares;
- (B) “CPI” shall mean the applicable Conversion Price in effect immediately prior to such issuance or deemed issuance of Additional Ordinary Shares;
- (C) “A” shall mean the number of ordinary shares in issue immediately prior to such issuance or deemed issuance of Additional Ordinary Shares (treating for this purpose as being in issue all ordinary issuable upon exercise of Options outstanding immediately prior to such issuance or deemed issuance or upon conversion or exchange of Convertible Securities (including the Preferred Shares) in issue (assuming exercise of any outstanding Options therefor) immediately prior to such issuance);
- (D) “B” shall mean the number of ordinary shares that would have been issued if such Additional Ordinary Shares had been issued or deemed issued at a price per share equal to CPI (determined by dividing the aggregate consideration received by the Company in respect of such issuance by CPI); and
- (E) "C" shall mean the number of such Additional Ordinary Shares issued in such transaction.

Determination of consideration

- (ix) For purposes of this sub-paragraph (ix), the consideration received by the Company for the issuance or deemed issuance of any Additional Ordinary Shares shall be computed as follows:
- (A) Consideration comprising cash and property shall:

- (1) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Company, excluding amounts paid or payable for accrued interest;
 - (2) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board, including the approval of at least one Preferred Share Director; and
 - (3) in the event Additional Ordinary Shares are issued together with other shares or securities or other assets of the Company for consideration which covers both, be the proportion of such consideration so received, computed as provided in sub-clauses (1) and (2) above, as determined in good faith by the Board, including the approval of at least one Preferred Share Director.
- (B) The consideration per share received by the Company for Additional Ordinary Shares deemed to have been issued pursuant to Article 7(e)(vii), relating to Options and Convertible Securities, shall be determined by dividing:
- (1) the total amount, if any, received or receivable by the Company as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Company upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by
 - (2) the maximum number of ordinary shares (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

Multiple closing dates

- (x) In the event the Company shall issue on more than one date Additional Ordinary Shares that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion

Price of any Preferred Shares pursuant to the terms of Article 7(e)(viii), and such issuance dates occur within a period of no more than (90) days from the first such issuance to the final such issuance, then, upon the final such issuance, such Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

Adjustment for share divisions and consolidations.

- (xi) If the Company shall at any time or from time to time after the Original Issue Date effect a subdivision of the issued ordinary shares, each Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of ordinary shares issuable on conversion of each share of such class shall be increased in proportion to such increase in the aggregate number of issued ordinary shares. If the Company shall at any time or from time to time after the Original Issue Date consolidate the issued ordinary shares, the Conversion Price in effect immediately before the consolidation shall be proportionately increased so that the number of ordinary shares issuable on conversion of each share shall be decreased in proportion to such decrease in the aggregate number of issued ordinary shares. Any adjustment under this sub-paragraph (xi) shall become effective at the close of business on the date the subdivision or consolidation becomes effective.

Adjustment for certain dividends and distributions

- (xii) In the event the Company at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of the holders of ordinary shares entitled to receive, a dividend or other distribution payable on the ordinary shares in additional shares, then and in each such event the Conversion Price for Preferred Shares issued immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Conversion Price then in effect by a fraction:
- (A) the numerator of which shall be the total number of issued ordinary shares immediately prior to the time of such issuance or the close of business on such record date, and
- (B) the denominator of which shall be the total number issued ordinary shares immediately prior to the time of such issuance or the close of business on such record date plus the number of ordinary shares issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not

fully made on the date fixed therefor, the Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Price shall be adjusted pursuant to this Section as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the Preferred Shareholders simultaneously receive a dividend or other distribution of ordinary shares in a number equal to the number of ordinary shares as they would have received if all issued Preferred Shares had been converted into ordinary shares on the date of such event.

Adjustments for other dividends and distributions

- (xiii) In the event the Company at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of ordinary shares entitled to receive, a dividend or other distribution payable in securities of the Company (other than a distribution of ordinary shares in respect of issued ordinary shares) or in other property and the provisions of Article 7(a) do not apply to such dividend or distribution, then and in each such event the Preferred Shareholders shall receive, simultaneously with the distribution to the holders of ordinary shares, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all issued Preferred Shares had been converted into ordinary shares on the date of such event.

Adjustment for merger or reorganisation, etc.

- (xiv) Subject to the provisions of Article 7(b) if there shall occur any reorganisation, recapitalisation, reclassification, consolidation or merger involving the Company in which the ordinary shares (but not the Preferred Shares) are converted into or exchanged for securities, cash or other property (other than a transaction covered by subparagraphs (x) to (xiii)), then, following any such reorganisation, recapitalisation, reclassification, consolidation or merger, each Preferred Share shall thereafter be convertible in lieu of the ordinary shares into which it was convertible prior to such event into the kind and amount of shares, cash or other property which a holder of the number ordinary shares issuable upon conversion of one (1) Preferred Shares immediately prior to such reorganisation, recapitalisation, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Directors) shall be made in the application of the provisions in this Article 7(e) with respect to the rights and interests thereafter of the Preferred Shareholders, to the end that the provisions set forth in this Article 7(e) (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Shares.

Certificate as to adjustments

- (xv) Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to Article 7(e), the Company at its expense shall, as promptly as reasonably practicable but in any event not later than (10) days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Shares a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Preferred Shares is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, as promptly as reasonably practicable after the written request at any time of any holder of Preferred Shares (but in any event not later than (10) days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Conversion Price then in effect, and (ii) the number of ordinary shares and the amount, if any, of other securities, cash or property which then would be received upon the conversion of the Preferred Shares.

Notice of Record Date.

- (xvi) In the event:
- (A) the Company shall take a record of the holders of ordinary shares (or securities at the time issuable upon conversion of the Preferred Shares) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of any class or any other securities, or to receive any other security; or
 - (B) of any capital reorganisation of the Company any reclassification of the ordinary shares, or any Deemed Liquidation Event; or
 - (C) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company,

then, and in each such case, the Company will send or cause to be sent to the holders of the Preferred Shares a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganisation, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders ordinary shares shall be entitled to exchange their ordinary shares for securities or other property deliverable upon such reorganisation, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Shares and the

ordinary shares. Such notice shall be sent at least ten (10) days prior to the record date or effective date for the event specified in such notice.

(f) **Mandatory conversion**

Trigger events

- (i) Upon either (a) the closing of the sale of shares of ordinary shares to the public at a price of at least 1.5 times the Original Issue Price (subject to appropriate adjustment in the event of any dividend, subdivision, consolidation or other similar recapitalisation with respect to the ordinary shares), in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least \$30 million of gross proceeds to the Company and in connection with such offering the ordinary shares are listed for trading on the Nasdaq Stock Market's National Market, the New York Stock Exchange or another exchange or marketplace approved by the Board or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the Requisite Holders (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the "Mandatory Conversion Time"), then (i) all issued Preferred Shares shall automatically be converted into shares ordinary shares, at the then effective conversion rate as calculated pursuant to Article 7(e)(i) and (ii) such shares may not be reissued by the Company.

Procedural Requirements.

- (ii) All Preferred Shareholders shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such Preferred Shares pursuant to this Article 7(f). Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each Preferred Shareholder in certificated form shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Company to indemnify the Company against any claim that may be made against the Company on account of the alleged loss, theft or destruction of such certificate) to the Company at the place designated in such notice. If so required by the Company, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Company, duly executed by the registered holder or by his, her or its attorney duly authorised in writing. All rights with respect to the Preferred Shares converted pursuant to this Article 7(f), including the rights, if any, to receive notices and vote (other than as a holder of ordinary shares), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender any certificates at or prior to such time), except only the rights of the holders thereof,

upon surrender of any certificate or certificates of such holders (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this sub-paragraph (ii). As soon as practicable after the Mandatory Conversion Time and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for Preferred Shares, the Company shall (a) issue and deliver to such holder, or to his, her or its nominees, a notice of issuance of uncertificated shares and may, upon written request, issue and deliver a confirmation regarding the number of ordinary shares issuable upon such conversion in accordance with the provisions hereof and (b) pay any declared but unpaid dividends on the converted Preferred Shares.

(g) **Protective provisions**

Notwithstanding any other provision of these Articles, for so long as at least 10,000,000 Preferred Shares (subject to appropriate adjustment in the event of any share dividend, share subdivisions, consolidations or other similar recapitalization with respect to the Preferred Shares) are in issue, the Company shall not, either directly or indirectly by merger, consolidation, recapitalization, reclassification, or otherwise, do any of the following without the written consent or affirmative vote of the holders of at least 55% of the issued Preferred Shares given in writing or by vote at a meeting, consenting or voting (as the case may be) as a single class on an as-converted to Ordinary Shares basis:

- (i) create or authorise the creation of any security of the Company (other than shares) convertible into or exercisable for any equity security having rights, preferences or privileges senior to or on parity with the Preferred Shares (and the Directors' powers under Articles 8 and 10(a) to create or authorise any such security shall be qualified accordingly);
- (ii) except with respect to purchase or redemption of the Deferred Shares in issue in the Company as at 1 January 2021, purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of the Company other than (A) dividends or distributions on the Preferred Shares as expressly authorised pursuant to these Articles, (B) dividends or other distributions payable on the ordinary shares solely in the form of additional ordinary shares and (C) repurchases or redemptions of shares from former employees, officers, directors, consultants or other persons who performed services for the Company or any subsidiary in connection with the cessation of such employment or service at no greater than the original purchase price thereof, (D) pursuant to a contractual right of first refusal in favor of the Company, or (E) as approved by the Board including the approval of at least one Preferred Share Director (and the Directors' powers under Article 9(b), 41, 53, 121 and 122 shall be qualified accordingly);
- (iii) increase or decrease the Board size (and the Directors' power under Article 79 to determine the Board size shall be qualified accordingly);

- (iv) create, adopt, amend, terminate or repeal any equity (or equity-linked) compensation plan or other incentive or profit-sharing program;
- (v) set or amend a comprehensive operating budget forecasting the Company's revenues, expenses and cash position on a month-to-month basis for the current and upcoming financial year where the budget is approved by the Board, but with the affirmative vote of none or only one of the Preferred Share Directors;
- (vi) create, or authorise the creation of, or issue, or authorise the issuance of any debt security or create any lien or security interest (except for purchase money liens or statutory liens of landlords, mechanics, materialmen, workmen, warehousemen and other similar persons arising or incurred in the ordinary course of business) or incur other indebtedness for borrowed money, including but not limited to obligations and contingent obligations under guarantees, or permit any subsidiary to take any such action with respect to any debt security lien, security interest or other indebtedness for borrowed money, if the aggregate indebtedness of the Company and its subsidiaries for borrowed money following such action would exceed US\$5,000,000 unless such debt security has received the prior approval of the Board, including the approval of each of the Preferred Share Directors (and the Directors' powers under Article 91 shall be qualified accordingly);
- (vii) acquire or sell any entity or assets of the Company in one or a series of related transactions if the purchase price exceeds US\$1,000,000 in the aggregate, other than in the ordinary course of business;
- (viii) acquire any entity or assets if the target entity is not, or the acquired assets are not, as applicable, related to the principal product or products of the Company;
- (ix) issue loans to, or make investments in, any of the Company's joint ventures, partnerships or any other entity in which the Company holds equity securities, other than a subsidiary that is wholly owned (either directly or through one or more other subsidiaries) by the Company; or
- (x) materially change or alter the nature of the Company's business.

8. ~~6~~ Rights of shares on issue

Without prejudice to any special rights conferred on the Holders of any existing shares or class of shares and subject to the provisions of the Acts, any share may be issued with such rights or restrictions (whether as regards dividends, return of capital, voting or otherwise) as the Company may from time to time by ordinary resolution determine.

9. ~~7~~ Redeemable shares

- (a) Subject to the provisions of the Acts, any shares may be issued on terms that they are, or are liable at the option of the Company or the Holder, to be

redeemed on such terms and in such manner as may be provided by these Articles, ~~and the Company may convert any of its shares into redeemable shares.~~ Subject as aforesaid, the Company may cancel any shares which it has redeemed or may hold them as treasury shares and re-issue any such treasury shares as shares of any class or classes or cancel them.

- (b) Unless the Directors determine otherwise, a share shall be deemed to be a Redeemable Share on, and from the time of, the existence or creation of an agreement, transaction or trade between the Company (including any agent or broker acting on behalf of the Company) and any third party pursuant to which the Company acquires or will acquire shares, or an interest in shares, from the relevant third party save for an acquisition for nil consideration pursuant to section 102(1)(a) of the Act. In these circumstances, the acquisition of such shares by the Company, save where acquired for nil consideration in accordance with the Act, shall constitute the redemption of a Redeemable Share in accordance with Part 3 of the Act. No resolution, whether special or otherwise, shall be required to be passed to deem any share in the capital of the Company a Redeemable Share.

10. ~~8.~~ Allotment of shares

- (a) Subject to the provisions of the Acts and of any resolution of the Company in general meeting, the shares shall be at the disposal of the Directors who may allot (with or without conferring a right of renunciation), grant options over or otherwise dispose of them to such persons, on such terms and conditions and at such times as they may consider to be in the best interests of the Company and its members, but so that no share shall be allotted at a discount and so that, except in the case of shares allotted pursuant to an employees' share scheme, the amount payable on application on each share shall not be less than one-quarter of the nominal amount of the share and the whole of any premium thereon.
- (b) Without prejudice to the generality of the powers conferred on the Directors by paragraph (a) and the powers and rights of the Directors under or in connection with any share option schemes or arrangements which were adopted or entered into by the Company prior to the adoption of these Articles, the Directors may from time to time grant options to subscribe for the unallotted shares in the capital of the Company to employees, consultants or customers of the Company or any subsidiary of the Company (including Directors holding executive offices), persons acting as consultants to or customers on such terms and subject to such conditions as the Directors may from time to time approve.
- (c) The Company may issue a warrant or certificate to any person to whom the Company has granted the right to subscribe for shares in the Company (other than under a share option scheme for employees), certifying the right of the holder thereof to subscribe for shares in the Company upon such terms and conditions as the right may have been granted.

11. ~~9.~~Variation of rights

- (a) ~~Whenever~~ Subject always to paragraph (b) below, whenever the share capital is divided into different classes of shares, the rights attached to any class may be varied or abrogated with the consent in writing of the Holders of three-fourths in nominal value of the issued shares of that class, or with the sanction of a special resolution passed at a separate general meeting of the Holders of the shares of the class, and may be so varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding-up. To every such separate general meeting the provisions of these Articles relating to general meetings shall apply except that the quorum at any such separate general meeting, other than an adjourned meeting, shall be two persons holding or representing by proxy at least one-third in nominal value of the issued shares of the class in question and the quorum at an adjourned meeting shall be one person holding shares of the class in question or his proxy.
- (b) The rights conferred upon the Holders of the shares of any class shall not, unless otherwise expressly provided by these Articles or the terms of the issue of the shares of that class, be deemed to be varied by (i) the creation or issue of further shares ranking pari passu therewith or subordinate thereto ~~or~~; (ii) the creation or issue of further shares with any rights which are preferential to such rights; (iii) the variation of the rights attaching to any other class of share; or (iv) by the purchase or redemption by the Company of any of its shares.

12. ~~10.~~Trusts not recognised

Except as required by law, no person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except only as by these Articles or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the Holder but this shall not preclude the Company from requiring the members or a transferee of shares to furnish the Company with information as to the beneficial ownership of any share when such information is reasonably required by the Company.

13. ~~11.~~Disclosure of interests

- (a)
- (i) For the purposes of this Article, unless the context otherwise requires:-
- "Deemed Voting Concert Party Interest"** means an agreement or arrangement between two or more persons with respect to, or to the exercise of, voting rights attaching to shares and which is likely to result in those rights being exercised so as to influence or to control the policy of the Company or the management of its affairs which the Directors have deemed to be a Deemed Voting Concert Party Interest for the purposes of this Article and, where the Directors so resolve, each of the persons who is party to such agreement or arrangement shall be deemed (for the purposes of this Article) to be interested in all

the shares to which the voting rights in question are attached and, in this definition, references to an arrangement include references to an understanding or mutual expectation, whether formal or informal and whether or not legally binding;

"Disclosure Notice" means a notice served pursuant to paragraph (b);

"Interest" means an interest (of any size) in the Relevant Share Capital which would be taken into account in deciding whether a notification to the Company would be required under Chapter 4 of Part 17 of the Act but shall include: (A) the interests referred to in section 260(1)(a) and (c) of the Act (as adapted and modified by section 1059 of the Act) except those of a bare trustee, and (B) any Deemed Voting Concert Party Interest; and **"interested"** shall be construed accordingly;

"Relevant Share Capital" means the relevant share capital of the Company (as that expression is defined in section 1047 of the Act);

"share" means any share in the Relevant Share Capital;

- (ii) For the purposes of this Article, a person, other than the Holder of a share, shall be treated as appearing to be or to have been interested in that share if the Holder has informed the Company that the person is, or may be, or has been, or may have been, so interested, or if the Company (after taking account of any information obtained from the Holder or, pursuant to a notice under section 1062 of the Act, from anyone else) knows or has reasonable cause to believe that the person is, or may be, or has been, or may have been, so interested.
- (b) If in their absolute discretion the Directors consider it to be in the interests of the Company to do so, they may, at any time and from time to time, by notice require any Holder of a share, or any other person appearing to be interested or to have been interested in such share, to disclose to the Company in writing within such period as may be specified in such notice (which shall not be less than 28 days from the date of issue of such notice) such information as the Directors shall require relating to the ownership of or any Interest in such share and as lies within the knowledge of such Holder or other person (supported if the Directors so require by a statutory declaration and/or by independent evidence) including (without prejudice to the generality of the foregoing) any information which the Company is entitled to seek pursuant to section 1062 of the Act.
- (c) Where a Disclosure Notice is served on the Holder of a share and such Holder is a Depositary acting in its capacity as such, the obligations of the Depositary as a Holder pursuant to this Article shall be limited to disclosing to the Company in accordance with this Article such information relating to the ownership of or Interests in the share concerned as has been recorded by it pursuant to the terms entered into between the Depositary and the Company provided that nothing in this Article shall in any other way restrict the powers of the Directors under this Article.

- (d) The Directors may give any number of Disclosure Notices pursuant to paragraph (b) to the same Holder or other person in respect of the same share.
- (e) The Directors may serve a notice pursuant to the terms of this Article irrespective of whether or not the person on whom it shall be served may be dead, bankrupt, insolvent or otherwise incapacitated and no such incapacity or any unavailability of information or inconvenience or hardship in obtaining the same shall be a satisfactory reason for failure to comply with any such notice, provided that if the Directors in their absolute discretion think fit, they may waive compliance in whole or in part with any notice given under this Article in respect of a share in any case of bona fide unavailability of information or genuine hardship or where they otherwise think fit but no such waiver shall prejudice or affect in any way any non-compliance not so waived whether by the person concerned or any other person appearing to the Directors to be interested in the share or by any person to whom a notice may be given at any time.
- (f) Any resolution or determination of, or decision or exercise of any discretion or power by, the Directors under or pursuant to the provisions of this Article shall be final and conclusive and things done by or on behalf of, or on the authority of, the Directors pursuant to the foregoing provisions of this Article shall be conclusive and binding on all persons concerned and shall not be open to challenge, whether as to validity or otherwise on any ground whatsoever. The Directors shall not be required to give any reasons for any decisions, determination or declaration taken or made in accordance with this Article.
- (g) The provisions of this Article are in addition to, and shall not limit, any other right or power of the Company or the Directors, including any right or power vested in the Company or the Directors by the Acts.

14. ~~12.~~Payment of commission

The Company may exercise the powers of paying commissions conferred by the Acts. Subject to the provisions of the Acts, any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid shares or partly in one way and partly in the other. On any issue of shares the Company may also pay such brokerage as may be lawful.

15. ~~13.~~Payment by instalments

If by the conditions of allotment of any share the whole or part of the amount or issue price thereof shall be payable by instalments, every such instalment when due shall be paid to the Company by the person who for the time being shall be the Holder of the share.

PART III - SHARE CERTIFICATES

16. ~~14.~~Issue of certificates

Every person whose name is entered as a member in the Register shall be entitled without payment to receive within two weeks (or such later time as determined by the

Board being in any case within two months-) after allotment or lodgement of a transfer to him of the shares in respect of which he is so registered (or within such other period as the conditions of issue shall provide) one certificate for all the shares of each class held by him or several certificates each for one or more of his shares upon payment for every certificate after the first of such reasonable sum as the Directors may determine provided that the Company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint Holder shall be a sufficient delivery to all of them. The Company shall not be bound to register more than four persons as joint Holders of any share (except in the case of executors or trustees of a deceased member). Every certificate shall be sealed with the Seal and shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid up thereon.

17. ~~15.~~ Balance and exchange certificates

- (a) Where some only of the shares comprised in a share certificate are transferred the old certificate shall be cancelled and a new certificate for the balance of such shares shall be issued in lieu without charge.
- (b) Any two or more certificates representing shares of any one class held by any member at his request may be cancelled and a single new certificate for such shares issued in lieu without charge, unless the Directors otherwise determine. If any member shall surrender for cancellation a share certificate representing shares held by him and request the Company to issue in lieu two or more share certificates representing such shares in such proportions as he may specify, the Directors may comply, if they think fit, with such request.

18. ~~16.~~ Replacement of certificates

If a share certificate is defaced, worn out, lost, stolen or destroyed, it may be replaced on such terms (if any) as to evidence and indemnity and payment of any exceptional expenses incurred by the Company in investigating evidence or in relation to any indemnity as the Directors may determine but otherwise free of charge, and (in the case of defacement or wearing out) on delivery up of the old certificate.

PART IV - LIEN ON SHARES

19. ~~17.~~ Extent of lien

The Company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share. The Directors, at any time, may declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien on a share shall extend to all moneys payable in respect of the share.

20. ~~18.~~ Power of sale

The Company may sell in such manner as the Directors determine any share on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within 14 days after notice demanding payment and stating

that, if the notice is not complied with, the shares may be sold, has been given to the Holder of the share or to the person entitled to it by reason of the death or bankruptcy of the Holder.

21. ~~19.~~Power to effect transfer

To give effect to any sale pursuant to Article ~~18~~20, the Directors may authorise some person to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser. The transferee shall be entered in the Register as the Holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase moneys nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale, and after the name of the transferee has been entered in the Register, the remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.

22. ~~20.~~Proceeds of sale

The net proceeds of a sale pursuant to Article ~~18~~20, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable and any residue (upon surrender to the Company for cancellation of the certificate for the shares sold and subject to a like lien for any moneys not presently payable as existed upon the shares before the sale) shall be paid to the person entitled to the shares at the date of the sale.

PART V - CALLS ON SHARES

23. ~~21.~~Making of calls

Subject to the terms of allotment, the Directors may make calls upon the members in respect of any moneys unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and each member (subject to receiving at least 14 days' notice specifying when and where payment is to be made) shall pay to the Company as required by the notice the amount called on his shares. A call may be required to be paid by instalments. A call may be revoked, before receipt by the Company of a sum due thereunder, in whole or in part and payment of a call may be postponed by the Directors in whole or in part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect of which the call was made.

24. ~~22.~~Time of call

A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.

25. ~~23.~~Liability of joint Holders

The joint Holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

26. ~~24.~~Interest on calls

If a call remains unpaid after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due until it is paid at the rate fixed by the terms of allotment of the share or in the notice of the call or, if no rate is fixed, at such rate, not exceeding 20 per cent per annum, as the Directors may determine but the Directors may waive payment of such interest wholly or in part.

27. ~~25.~~Sums due on allotment treated as calls

An amount payable in respect of a share on allotment or at any fixed date, whether in respect of nominal value of the share or by way of premium or as an instalment of a call, shall for all purposes of these Articles be deemed to be a call duly made and, if it is not paid, the provisions of these Articles shall apply as if that amount had become due and payable by virtue of a call.

28. ~~26.~~Power to differentiate

Subject to the terms of allotment, the Directors may make arrangements on the issue of shares for a difference between the Holders in the amounts and times of payment of calls on their shares.

29. ~~27.~~Interest on moneys advanced

The Directors, if they think fit, may receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may pay (until the same would, but for such advance, become payable) interest at such rate, not exceeding (unless the Company in general meeting otherwise directs) 10 per cent. per annum, as may be agreed upon between the Directors and the member paying such sum in advance; but any sum paid in excess of the amount for the time being called shall not be included or taken into account in ascertaining the amount of the dividend payable on the shares in respect of which such advance has been made.

30. ~~28.~~Evidence of debt

On the trial or hearing of any action for the recovery of any money due for any call it shall be sufficient to prove that the member sued is the Holder, or one of the Holders, of the shares in respect of which such debt accrued, that the resolution making the call is duly recorded in the minute book and that notice of such call was duly given to the member sued, in pursuance of these Articles, and it shall not be necessary to prove the appointment of the Directors who made such call nor any other matter whatsoever, but the proof of the matters aforesaid shall be conclusive evidence of the debt.

PART VI - FORFEITURE OF SHARES

31. ~~29.~~Notice requiring payment

- (a) If a member fails to pay any call or instalment of a call on or before the day appointed for payment thereof, the Directors may, at any time thereafter during such times as any part of the call or instalment remains unpaid, serve a

notice on him requiring payment of so much of the call or instalment as is unpaid together with any interest which may have accrued.

- (b) The notice shall name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.
- (c) If the requirements of any such notice as aforesaid are not complied with, any shares in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect. A forfeiture of shares shall include all dividends and other moneys payable in respect of the forfeited shares and not paid before forfeiture. The Directors may accept a surrender of any share liable to be forfeited hereunder. In such case, references in these Articles to forfeiture shall include surrender.

32. ~~30.~~Power of disposal

Until cancelled in accordance with the requirements of the Acts, a share so forfeited shall become the property of the Company (but the Company shall not exercise any rights vested in the share) and may be sold, re-allotted or otherwise disposed of either to the person who was before such forfeiture the Holder or entitled thereto or to any other person upon such terms and in such manner as the Directors think fit and at any time before a sale, re-allotment or disposition the forfeiture may be annulled by the Directors on such terms as they think fit. The Directors may, if necessary, authorise some person to transfer a forfeited share to any such other person as aforesaid.

33. ~~31.~~Effect of forfeiture

A person any of whose shares have been forfeited shall cease to be a member in respect of the forfeited shares but shall nevertheless remain liable to pay to the Company all moneys which, at the date of forfeiture, were payable by him to the Company in respect of the shares, together with interest at the rate at which interest was payable on those moneys before forfeiture or, if no interest was payable, at such rate (not exceeding 20 per cent per annum) as the Directors shall think fit from the date of forfeiture until payment, and to satisfy all claims and demands (if any) which the Company might have enforced in respect of the shares at the time of forfeiture without any deduction or allowance for the value of the shares at the time of forfeiture. Such liability shall cease if and when the Company shall have received payment in full of all such moneys in respect of the shares, together with interest as aforesaid. The Directors may, if they think fit, waive the payment of such interest or any part thereof.

34. ~~32.~~Statutory declaration

A statutory declaration that the declarant is a Director or the Secretary, and that a share in the Company has been duly forfeited or sold to satisfy a lien of the Company on the date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. Such declaration and

the receipt of the Company for the consideration (if any) given for the share on the sale, re-allotment or disposal thereof together with the share certificate delivered to a purchaser or allottee thereof shall (subject to the relevant share transfer being made if the same is required) constitute a good title to the share and the person to whom the share is sold, re-allotted or disposed of or any renouncee thereof shall be registered as the Holder of the share and shall not be bound to see to the application of the consideration (if any) nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, re-allotment or disposal of the share.

35. ~~33.~~ Non-payment of sums due on share issues

The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

PART VII - CONVERSION OF SHARES INTO STOCK

36. ~~34.~~ Conversion of shares into stock

The Company may by ordinary resolution convert any paid up shares into stock and reconvert any stock into paid up shares of any denomination.

37. ~~35.~~ Transfer of stock

The Holders of stock may transfer the same or any part thereof, in the same manner, and subject to the same regulations, as and subject to which the shares from which the stock arose might have been transferred before conversion, or as near thereto as circumstances admit; and the Directors may fix from time to time the minimum amount of stock transferable but so that such minimum shall not exceed the nominal amount of each share from which the stock arose.

38. ~~36.~~ Rights of stockholders

- (a) The Holders of stock shall have, according to the amount of stock held by them, the same rights, privileges and advantages in relation to dividends, at meetings of the Company and other matters as if they held the shares from which the stock arose, but no such right, privilege or advantage (except participation in the dividends and profits of the Company and in the assets on winding up) shall be conferred by an amount of stock which, if existing in shares, would not have conferred that right, privilege or advantage.
- (b) Such of these Articles as are applicable to paid up shares shall apply to stock, and the words "share" and "shareholder" or "member" therein shall include "stock" and "stockholder".

PART VIII - TRANSFER OF SHARES

39. ~~37.~~Form of instrument of transfer

Subject to such of the restrictions of these Articles and to such of the conditions of issue as may be applicable, the shares of any member may be transferred by instrument in writing in any usual or common form or any other form which the Directors may approve.

40. ~~38.~~Execution of instrument of transfer

The instrument of transfer of any share shall be executed by or on behalf of the transferor and, in cases where the share is not fully paid, by or on behalf of the transferee. The transferor shall be deemed to remain the Holder of the share until the name of the transferee is entered in the Register in respect thereof.

41. ~~39.~~Refusal to register transfers

- (a) The Directors in their absolute discretion and without assigning any reason therefor may decline to register any transfer, or renunciation of a renounceable letter of allotment, of a share which is not fully paid ~~provided that the Directors shall not refuse to register any transfer or renunciation of partly paid shares which are listed or dealt in on any regulated market (as such term is defined in the EU Markets in Financial Instruments Directive (2004/39/EC)) on the grounds that they are partly paid shares in circumstances where such refusal would prevent dealings in such shares from taking place on an open and proper basis.~~
- (b) The Directors may decline to recognise any instrument of transfer, or renunciation of a renounceable letter of allotment, of any shares unless:
- (i) it is lodged at the Office or at such other place as the Directors may appoint and is accompanied by the certificate of the shares to which it relates (except in the case of a renunciation) and such other evidence as the Directors may reasonably require to prove the title of the transferor or person renouncing and the due execution of the transfer or renunciation by him or, if the transfer or renunciation is executed by some other person on his behalf, the authority of that person to do so;
 - (ii) it is in respect of one class of share only; ~~and~~
 - (iii) it is in favour of not more than four persons jointly~~;~~
 - (iv) a registration statement under the Securities Act of 1933 of the United States of America is in effect with respect to such transfer or such transfer is exempt from registration and, if requested by the Directors, a written opinion from counsel reasonably acceptable to the Directors is obtained to the effect that such transfer is exempt from registration;
 - (v) it is satisfied, acting reasonably, that all applicable consents, authorisations, permissions or approvals of any governmental body or agency in Ireland or any other applicable jurisdiction required to be

obtained under relevant law prior to such transfer have been obtained;
and

- (vi) it is satisfied, acting reasonably, that the transfer would not violate the terms of any agreement to which the Company and the transferor are party or subject, provided always that, for the avoidance of doubt, the Directors shall not refuse to register any transfer of any shares made in compliance with any Right of First Refusal and Co-Sale Agreement entered into by the Company from time to time.

42. ~~40.~~ Procedure on refusal

If the Directors refuse to register a transfer of shares then, within two ~~months~~-weeks after the date on which the transfer was lodged with the Company, they shall send to the transferee notice of the refusal.

43. ~~41.~~ Closing of transfer books

The registration of transfers of shares or of transfers of any class of shares may be suspended at such times and for such periods (not exceeding 30 days in each year) as the Directors may determine.

44. ~~42.~~ Absence of registration fees

No fee shall be charged for the registration of any instrument of transfer or other document relating to or affecting the title to any share and the Directors shall exercise their discretion under Section 95(2)(a) of the Act to this effect.

45. ~~43.~~ Retention of transfer instruments

The Company shall be entitled to retain any instrument of transfer which is registered, but any instrument of transfer which the Directors refuse to register shall be returned to the person lodging it when notice of the refusal is given.

46. ~~44.~~ Renunciation of allotment

Nothing in these Articles shall preclude the Directors from recognising a renunciation of the allotment of any shares by the allottee in favour of some other person at any time after the allotment of the share but before the allottee has been entered into the Register.

PART IX - TRANSMISSION OF SHARES

47. ~~45.~~ Death of member

If a member dies the survivor or survivors where he was a joint Holder, and his personal representatives where he was a sole Holder or the only survivor of joint Holders, shall be the only persons recognised by the Company as having any title to his interest in the shares; but nothing herein contained shall release the estate of a deceased member from any liability in respect of any share which had been jointly held by him.

48. ~~46.~~Transmission on death or bankruptcy

A person becoming entitled to a share in consequence of the death or bankruptcy of a member may elect, upon such evidence being produced as the Directors may properly require, either to become the Holder of the share or to have some person nominated by him registered as the transferee. If he elects to become the Holder he shall give notice to the Company to that effect. If he elects to have another person registered he shall execute an instrument of transfer of the share to that person. All of these Articles relating to the transfer of shares shall apply to the notice or instrument of transfer as if it were an instrument of transfer executed by the member and the death or bankruptcy of the member had not occurred.

49. ~~47.~~Rights before registration

A person becoming entitled to a share by reason of the death or bankruptcy of a member (upon supplying to the Company such evidence as the Directors may reasonably require to show his title to the share) shall have the rights to which he would be entitled if he were the Holder of the share, except that, before being registered as the Holder of the share, he shall not be entitled in respect of it to attend or vote at any meeting of the Company or at any separate meeting of the Holders of any class of shares in the Company, so, however, that the Directors, at any time, may give notice requiring any such person to elect either to be registered himself or to transfer the share and, if the notice is not complied with within 90 days, the Directors thereupon may withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.

PART X - ALTERATION OF SHARE CAPITAL

50. ~~48.~~Increase of capital

- (a) The Company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.
- (b) Except so far as otherwise provided by the conditions of issue or by these Articles, any capital raised by the creation of new shares shall be considered part of the pre-existing ordinary capital and shall be subject to the provisions herein contained with reference to calls and instalments, transfer and transmission, forfeiture, lien and otherwise.

51. ~~49.~~Consolidation, sub-division and cancellation of capital

- (a) The Company may, by ordinary resolution:
 - (i) consolidate and divide all or any of its share capital into shares of larger amount;
 - (ii) subject to the provisions of the Acts, subdivide its shares, or any of them, into shares of smaller amount, so however that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived (and so that

the resolution whereby any share is sub-divided may determine that, as between the Holders of the shares resulting from such sub-division, one or more of the shares may have, as compared with the others, any such preferred, deferred or other rights or be subject to any such restrictions as the Company has power to attach to unissued or new shares); or

- (iii) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and reduce the amount of its authorised share capital by the amount of the shares so cancelled.
- (b) Subject to the provisions of these Articles, whenever as a result of a consolidation or subdivision of shares any members would become entitled to fractions of a share, the Directors may deal with such fractions as they shall determine and in particular they may sell, on behalf of those members, the shares representing the fractions for the best price reasonably obtainable to any person and distribute the proceeds of sale in due proportion among those members (save that the Directors may in such event determine that amounts of €2.50 or less per member shall not be so distributed but shall be retained for the benefit of the Company), and the Directors may authorise some person to execute an instrument of transfer of the shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

52. ~~50.~~Reduction of capital

The Company may, by special resolution, reduce its share capital, any capital redemption reserve fund, any share premium account, any capital conversion reserve fund or any undenominated capital in any manner and with, and subject to, any incident authorised, and consent required, by law.

53. ~~51.~~Purchase of own shares

Subject to the provisions of the Acts and to any rights conferred on the Holders of any class of shares, the Company may purchase all or any of its own shares of any class, including any redeemable shares. ~~The Company shall not exercise any authority granted under section 1074 of the Act to make market purchases of its own shares unless the authority required by such section shall have been granted by a special resolution of the Company.~~ Neither the Company nor the Directors shall be required to select the shares to be purchased rateably or in any other particular manner as between the Holders of shares of the same class or as between them and the Holders of shares of any other class or in accordance with the rights as to dividends or capital conferred by any class of shares. Subject to the provisions of the Acts, the Company may cancel any shares so purchased or may hold them as treasury shares and re-issue any such treasury shares as shares of any class or classes or cancel them.

PART XI - GENERAL MEETINGS

54. ~~52.~~Annual general meetings

The Company shall hold in each year a general meeting as its annual general meeting in addition to any other meeting in that year and shall specify the meeting as such in the notice calling it. Not more than 15 months shall elapse between the date of one annual general meeting and that of the next.

55. ~~53.~~Extraordinary general meetings

All general meetings other than annual general meetings shall be called extraordinary general meetings.

56. ~~54.~~Convening general meetings

The Directors may convene general meetings. Extraordinary general meetings may also be convened on such requisition, or in default may be convened by such requisitionists, and in such manner as may be provided by the Acts.

57. ~~55.~~Notice of general meetings

- (a) Subject to the provisions of the Acts allowing a general meeting to be called by shorter notice, an annual general meeting and an extraordinary general meeting shall be called by at least 21 Clear Days' notice, except that an extraordinary general meeting that is not called for the passing of a special resolution may, subject to compliance with all applicable provisions of the Acts, be called by at least 14 Clear Days' notice.
- (b) Any notice convening a general meeting shall comply with all applicable provisions of the Acts and, without prejudice to that requirement, shall specify the time and place of the meeting and, in the case of special business, the general nature of that business. It shall also give particulars of any Directors who are to retire ~~by rotation or otherwise~~ at the meeting and of any persons who are recommended by the Directors for appointment or re-appointment as Directors at the meeting, or in respect of whom notice has been duly given to the Company of the intention to propose them for appointment or re-appointment as Directors at the meeting. Subject to any restrictions imposed on any shares, the notice shall be given to all the members and to the Directors, the Secretary and the Auditors and any other person entitled to receive notice under the Acts.
- (c) The Directors may determine, in the case of members, that only members whose names are entered on the Register at the close of business on a particular day chosen by the Directors are entitled to receive notice of a general meeting, provided that such day falls not more than 7 days before the day on which notice is given.
- (d) The Directors shall specify in the notice of a general meeting the voting record date. A person shall be entered on the Register at the voting record date in order for that person to exercise the right of a member to participate and vote at the general meeting and any change to an entry on the Register after the

voting record date shall be disregarded in determining the right of any person to attend and vote at the meeting.

- (e) The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at the meeting.
- (f) Where, by any provision contained in the Acts, extended notice is required of a resolution, the resolution shall not be effective (except where the Directors of the Company have resolved to submit it) unless notice of the intention to move it has been given to the Company not less than 28 days (or such shorter period as the Acts permit) before the meeting at which it is moved, and the Company shall give to the members notice of any such resolution as required by and in accordance with the provisions of the Acts.

PART XII - PROCEEDINGS AT GENERAL MEETINGS

58. ~~56.~~ Quorum for general meetings

- (a) No business other than the appointment of a chairman shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Two persons ~~entitled to attend and to vote upon the business to be transacted, each being a member or a proxy for a member, shall be~~ (including, for so long as the Preferred Shares are in issue, holders representing at least a majority of the voting rights attaching to the Preferred Shares) present in person or by proxy shall constitute a quorum.
- (b) If such a quorum is not present within half an hour from the time appointed for the meeting, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Directors may determine.

59. ~~57.~~ Special business

All business shall be deemed special that is transacted at an extraordinary general meeting. All business that is transacted at an annual general meeting shall also be deemed special, with the exception of declaring a dividend, the consideration of the Company's statutory financial statements and reports of the Directors and Auditors, the appointment of Directors in the place of those retiring, the appointment or re-appointment of the Auditors (subject to sections 380 and 382 to 385 of the Act) and the fixing of the remuneration of the Auditors.

60. ~~58.~~ Chairman of general meetings

- (a) The chairman (if any) or, in his absence, the deputy chairman (if any) of the board of Directors or, in his absence, some other Director appointed by the Directors for the purpose shall preside as chairman at every general meeting of the Company. If there is no chairman or deputy chairman of the board of Directors and no Director has been so appointed or if none of such persons

shall be present within five minutes after the time appointed for the holding of the meeting and willing to act, the Directors present shall elect one of their number to be chairman of the meeting and, if there is only one Director present and willing to act, he shall be chairman. If at any meeting no Director is present, and willing to act as chairman of the meeting, within 15 minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of the members personally present to be chairman of the meeting.

- (b) The chairman shall take such action as he thinks fit to promote the orderly conduct of general meetings. The decision of the chairman on points of order, matters of procedure or matters arising incidentally out of the business of the meeting shall be final and conclusive, as shall be, subject to his acting in good faith, his determination whether any point or matter is of such a nature. Without prejudice to the generality of the foregoing, if an amendment proposed to any resolution under consideration is in good faith ruled out of order by the chairman, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.

61. ~~59.~~Directors' right to attend general meetings

A Director (and any other person invited by the Chairman to do so) shall be entitled, notwithstanding that he is not a member, to attend and speak at any general meeting and at any separate meeting of the Holders of any class of shares in the Company.

62. ~~60.~~Adjournment of general meetings

- (a) The chairman, with the consent of a general meeting at which a quorum is present, may (and if so directed by the meeting, shall) adjourn the meeting to another time or place or indefinitely. The chairman may at any time without the consent of the meeting adjourn the meeting to another time or place or indefinitely if it appears to the chairman that:-
 - (i) the number of persons present or wishing to attend cannot be conveniently accommodated in the place appointed for the meeting; or
 - (ii) the behaviour of any persons attending the meeting prevents or is likely to prevent the orderly conduct of the business of the meeting; or
 - (iii) an adjournment is otherwise necessary so that the business of the meeting may be properly conducted.

No business shall be transacted at any adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place.

- (b) Where a meeting is adjourned indefinitely, the time and place for the adjourned meeting shall be fixed by the Directors. When a meeting is adjourned for 14 days or more or indefinitely, at least seven Clear Days' notice shall be given specifying the time and place for the adjourned meeting and the general nature of the business to be transacted. Save as aforesaid, it shall not

be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

63. ~~61.~~ Postponement of general meetings

If the Directors consider that it is impracticable or unreasonable to hold a general meeting on the date or at the time or place stated in the notice calling the meeting, it may postpone or move the meeting (or do both). The Directors shall take reasonable steps to ensure that notice of the date, time and place of the rearranged meeting is given to any member trying to attend the meeting at the original time and place. Notice of the date, time and place of the rearranged meeting shall, if practicable, also be placed in at least two leading national daily newspapers published in the State. Notice of the business to be transacted at such rearranged meeting shall not be required. If a meeting is rearranged in this way, appointments of proxy are valid if they are received as required by these Articles not less than forty eight (48) hours before the time appointed for holding the rearranged meeting and for the purpose of calculating this period, the Directors can decide in their absolute discretion, not to take account of any part of a day that is not a working day. The Directors may also postpone or move the rearranged meeting (or do both) under this Article.

PART XIII – VOTING

64. ~~62.~~ Determination of resolutions

If a resolution is put to the vote at a general meeting, it shall be decided on a show of hands unless a poll is duly demanded in accordance with Article ~~63~~65. Unless a poll is so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn before the poll is taken but only with the consent of the chairman, and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.

65. ~~63.~~ Entitlement to demand poll

- (a) Subject to the provisions of the Acts, a poll may be demanded:
 - (i) by the chairman of the meeting;
 - (ii) by at least three members present in person or proxies having the right to vote at the meeting;
 - (iii) by any member or members present (in person or by proxy) representing not less than one-tenth of the total rights of all the members having the right to vote at the meeting; or
 - (iv) by a member or members present (in person or by proxy) holding shares in the Company conferring the right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less

than one-tenth of the total sum paid up on all the shares conferring that right.

- (b) The chairman of the meeting may also demand a poll before a resolution is put to the vote on a show of hands.

66. ~~64.~~ Taking of a poll

- (a) Save as provided in paragraph (b), a poll shall be taken in such manner as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- (b) A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time (not being more than 30 days after the date on which the poll is demanded) and place as the chairman of the meeting may direct. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- (c) No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven Clear Days' notice shall be given specifying the time and place at which the poll is to be taken.

67. ~~65.~~ Votes of members

- (a) Votes may be given either personally or by proxy. Subject to any rights or restrictions for the time being attached to any class or classes of shares and subject to any suspension or abrogation of rights pursuant to these Articles, on a show of hands every member present in person and every proxy shall have one vote, so, however, that no individual shall have more than one vote, and on a poll every member shall have one vote for every share carrying rights of which he is the Holder. On a poll a member entitled to more than one vote need not cast all his votes or cast all the votes he uses in the same way.
- (b) Subject to the Acts and to such requirements and restrictions as the Directors may, in accordance with the Acts, specify, the Company at its discretion may provide for participation and voting in a general meeting by electronic means.
- (c) Subject to the Acts and to such requirements and restrictions as the Directors may, in accordance with the Acts, specify, the Company may at its discretion provide for voting on a poll by correspondence. Where the Company permits votes to be cast on a poll by correspondence, it shall be required to count only those votes cast in advance by correspondence that are received before the date and time specified by the Company for that purpose, provided that such

date and time is not more than 24 hours before the time at which the vote is to be concluded.

68. ~~66.~~Chairman's No casting vote for the Chairman

Where there is an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall not be entitled to a casting vote ~~in addition to any other vote he may have.~~

69. ~~67.~~Voting by joint Holders

Where there are joint Holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, in respect of such share shall be accepted to the exclusion of the votes of the other joint Holders; and for this purpose seniority shall be determined by the order in which the names of the Holders stand in the Register in respect of the share.

70. ~~68.~~Voting by incapacitated Holders

A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction (whether in the State or elsewhere) in matters concerning mental disorder, may vote, whether on a show of hands or on a poll, by his committee, receiver, guardian or other person appointed by that court and any such committee, receiver, guardian or other person may vote by proxy on a show of hands or on a poll provided that evidence to the satisfaction of the Directors of the authority of the person claiming to exercise the right to vote shall be deposited at the Office, or at such other place as is specified in accordance with these Articles for the deposit of instruments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.

71. ~~69.~~Default in payment of calls

Unless the Directors otherwise determine, no member shall be entitled to vote at any general meeting or any separate meeting of the Holders of any class of shares in the Company, either in person or by proxy, or to exercise any privilege as a member in respect of any share held by him unless all moneys then payable by him in respect of that share have been paid.

~~70. — Restriction of voting and other rights~~

~~(a) — If at any time the Directors shall determine that a Specified Event (as defined in paragraph (g)) shall have occurred in relation to any share or shares, they may in their absolute discretion serve a notice to such effect on the Holder or Holders thereof. Upon the expiry of 14 days from the service of any such notice (in these Articles referred to as a "Restriction Notice") and for so long as such Restriction Notice shall remain in force:~~

~~(i) — no Holder or Holders of the share or shares specified in such~~

~~Restriction Notice (in these Articles referred to as "Specified Shares") shall be entitled in respect of the Specified Shares to attend or vote either personally or by proxy at any general meeting of the Company or at any separate general meeting of the Holders of the class of shares concerned or to exercise any other right conferred by membership in relation to any such meeting; and~~

~~(ii) the Directors shall, where the Specified Shares represent not less than 0.25 per cent of the class of shares concerned, be entitled:~~

~~(A) except in a winding up of the Company, to withhold payment of any sum (including shares issuable in lieu of dividends) payable, whether by way of dividend, capital or otherwise, in respect of the Specified Shares, and the Company shall not have any obligation to pay interest on any sum so withheld; and/or~~

~~(B) where the Specified Event concerned is the event described in subparagraph (i) or (iii) of paragraph (g), to refuse to register any transfer (other than an Approved Transfer as defined in paragraph (h)) of the Specified Shares or any renunciation of any allotment of new shares or debentures made in respect of the Specified Shares.~~

~~(b) A Restriction Notice shall be cancelled by the Directors as soon as reasonably practicable, but in any event not later than seven days, after the Holder or Holders concerned or any other relevant person shall have remedied the default by virtue of which the Specified Event shall have occurred. A Restriction Notice shall automatically cease to have effect in respect of any share comprised in an Approved Transfer upon registration thereof.~~

~~(c) The Directors shall cause a notation to be made in the Register against the name of any Holder or Holders in respect of whom a Restriction Notice shall have been served indicating the number of Specified Shares specified in such Restriction Notice and shall cause such notation to be deleted upon cancellation or cesser of such Restriction Notice.~~

~~(d) Every determination of the Directors and every Restriction Notice served by them pursuant to the provisions of this Article shall be conclusive as against the Holder or Holders of any share and the validity of any notice served by the Directors in pursuance of this Article shall not be questioned by any person.~~

~~(e) If, while any Restriction Notice shall remain in force in respect of any~~

~~Specified Shares, any further shares shall be issued in respect thereof pursuant to a capitalisation issue under these Articles, the Restriction Notice shall be deemed also to apply likewise to such Holder or Holders in respect of such further shares which shall as from the date of issue thereof form part of the Specified Shares for all purposes of this Article.~~

~~(f) — On the cancellation of any Restriction Notice, the Company shall pay to the Holder (or, in the case of joint Holders, the first named Holder) on the Register in respect of the Specified Shares as of the record date for any such sum all sums the payment of which shall have been withheld pursuant to the provisions of this Article.~~

~~(g) — For the purpose of these Articles, a "Specified Event" shall be deemed to have occurred in relation to a share if:~~

~~(i) — the Holder or any of the Holders shall fail to pay any call or instalment of a call in respect of such share in the manner and at the time appointed for payment thereof;~~

~~(ii) — the Holder or any of the Holders or any other person shall fail to comply, to the satisfaction of the Directors and within the period prescribed by such notice, in relation to such share with the terms of any Disclosure Notice given to him under Article 11; or~~

~~(iii) — the Holder or any of the Holders or any other person shall fail to comply, to the satisfaction of the Directors and within the period prescribed by such notice, in relation to such share with the terms of any notice given to him pursuant to section 1062 of the Act.~~

~~(h) — For the purposes of this Article:~~

~~(i) — an "Approved Transfer" is a transfer of shares which:~~

~~(A) — is made pursuant to acceptance of a general offer made by or on behalf of the offeror to all Holders (or all such Holders other than the offeror and nominees or subsidiaries of the offeror) of shares of any class; or~~

~~(B) — the Directors are satisfied has been made pursuant to a *bona fide* sale of the whole of the beneficial interest in the shares comprised in the transfer to a person unconnected with the Holder or with any other person appearing to be interested (within the meaning of Article 11) in such shares (and for this purpose it shall be assumed that no such sale has occurred where the relevant share transfer form presented for stamping has been stamped at a~~

~~reduced rate of stamp duty by virtue of the transferor or transferee having claimed to be entitled to such reduced rate on the basis that no beneficial interest passes by the transfer); or~~

~~(C) is made pursuant to any bona fide sale on any stock exchange, unlisted securities market or over the counter market on which shares of that class are, for the time being, normally traded.~~

~~(ii) reference to a person having failed to comply with the terms of a Disclosure Notice given to him under Article 11 or a notice given to him pursuant to section 1062 of the Act includes reference:~~

~~(A) to his having failed or refused to give all or any part of the information required by the notice; or~~

~~(B) to his having given information which he knows to be false in a material particular or having recklessly given information which is false in a material particular.~~

~~(i) The provisions of this Article are in addition to, and shall not limit, any other right or power of the Company or the Directors, including any right or power vested in the Company or the Directors by the Acts.~~

72. [NOT USED]

73. ~~71.~~ Time for objection to voting

No objection shall be raised to the qualification of any voter or to the counting of, or failure to count, any vote except at the meeting or adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any such objection or error shall be referred to the chairman of the meeting and shall vitiate the decision of the meeting on any resolution only if the chairman decides that the same is of sufficient magnitude to vitiate the resolution or may otherwise have affected the decision of the meeting. The decision of the chairman on such matters shall be final and conclusive.

74. ~~72.~~ Appointment of proxy

(a) Every member entitled to attend and vote at a general meeting may appoint a proxy to attend, speak and vote on his behalf provided, however, that:

(i) a member may appoint more than one proxy provided that each proxy is appointed to exercise the rights attached to shares held in different securities accounts; and

- (ii) a member acting as an intermediary on behalf of a client in relation to shares may appoint that client or any third party designated by that client as a proxy in relation to those shares,

subject to such requirements and restrictions as the Directors may from time to time specify. The instrument appointing a proxy shall be in writing in a form which the Directors may approve (subject to the requirements of the Act) and shall be executed by or on behalf of the appointor. The signature on such instrument need not be witnessed. A body corporate may execute a form of proxy under its common seal or under the hand of a duly authorised officer thereof. A proxy need not be a member of the Company.

- (b) Subject to the Acts, a member shall be entitled to appoint a proxy by electronic means only if the appointment and notification of appointment of proxy is made in such form and manner, and subject to such terms and conditions, as shall have been specified by the Directors from time to time for the appointment of proxies in electronic form. Such appointment shall be delivered to the Company in a manner specified by the Directors. The Directors may require any evidence that they think appropriate to satisfy themselves that the electronic appointment is genuine and may prescribe the method of determining the time at which any such appointment of proxy is to be treated as received by the Company. Any provisions of these Articles which are inconsistent with this method of appointment shall be of no effect in relation to any appointment made pursuant to this Article ~~72(b)~~74(b).
- (c) Without limiting the foregoing, in relation to any shares which are held in uncertificated form, the Directors may from time to time, where permitted by the Regulations, permit appointments of proxy to be made by means of an electronic communication in the form of an Uncertificated Proxy Instruction, (that is, a properly authenticated dematerialised instruction and/or other instruction or notification which is sent by means of the relevant system concerned and received by such participant in that system acting on behalf of the Company as the Directors may prescribe, in such form and subject to such terms and conditions as may from time to time be prescribed by the Directors) subject always to the facilities and the requirements of the relevant system concerned and may in a similar manner permit supplements to, or amendments or revocations of, any such Uncertificated Proxy Instruction to be made by like means. The Directors may in addition prescribe the method of determining the time at which any such properly authenticated dematerialised instruction (and/or other instruction or notification) is to be treated as received by the Company or such participant. The Directors may treat any such Uncertificated Proxy Instruction which purports to be or is expressed to be sent by the holder of a share as sufficient evidence of the authority of the person sending that instruction to send it on behalf of that holder. In this Article ~~72(c)~~74(c), words and expressions shall have the same respective meanings as in the Regulations, unless the context requires otherwise.

75. ~~73.~~ Deposit of proxy instruments

The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is executed, or a copy of such authority certified notarially or in

some other way approved by the Directors, shall be deposited at the Office, or at such other place or one of such other places (if any) as may be specified for that purpose in or by way of note to the notice convening the meeting or any instrument of proxy sent out by the Company in relation to the meeting, not less than 48 hours before the time appointed for the holding of the meeting or adjourned meeting or (in the case of a poll taken on a date after the date of the meeting or adjourned meeting at which the poll was demanded) for the taking of the poll at which the instrument of proxy is to be used, and in default shall not be treated as valid; provided that:

- (a) in the case of a meeting which is adjourned to a date which is after but less than seven days after the date of the meeting which was adjourned or in the case of a poll which is to be taken on a date which is after but less than seven days after the date of the meeting or adjourned meeting at which the poll was demanded, it shall be sufficient if the instrument of proxy and any such authority and certification thereof as aforesaid is lodged with the Secretary at the commencement of the adjourned meeting or (as the case may be) of the taking of the poll; and
- (b) an instrument of proxy relating to more than one meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not require to be delivered again for the purposes of any subsequent meeting to which it relates.

76. ~~74.~~Effect of proxy instruments

Deposit of an instrument of proxy in respect of a meeting shall not preclude a member from attending the meeting or any adjournment thereof. The instrument appointing a proxy shall be valid, unless the contrary is stated therein, as well for any adjournment of the meeting as for the meeting to which it relates.

77. ~~75.~~Effect of revocation of proxy or of authorisation

- (a) A vote given or poll demanded in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal, or the revocation of the instrument of proxy or of the authority under which the instrument of proxy was executed, or the transfer of the share in respect of which the instrument of proxy was given, provided that no notice in writing of such death, insanity, revocation or transfer shall have been received by the Company at the Office or at such other place or one of such other places (if any) at which the instrument of proxy could have been duly delivered in order to be valid for use at the meeting or adjourned meeting (or, in the case of the revocation of a proxy, where the appointment of the proxy was contained in an electronic communication at the address at which such appointment was duly received) before the commencement of the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which the instrument of proxy is to be used.
- (b) The Directors may send, at the expense of the Company, by post, by electronic means or otherwise, to the members instruments of proxy (with or without arrangements for their return prepaid) for use at any general meeting or at any

class meeting, either in blank or nominating any Director or other person and, if thought fit, any other person or persons in the alternative. If for the purposes of any meeting invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the Company, such invitations shall be issued to all (and not to some only) of the members entitled to be sent a notice of the meeting and to vote thereat by proxy, but the accidental omission to issue such invitations to, or the non-receipt of such invitation by, any member, shall not invalidate the proceedings at any such meeting.

78. ~~76.~~Bodies corporate acting by representatives at meetings

Any body corporate which is a member of the Company may by resolution of its Directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of members of the Company and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual member of the Company. The body corporate shall for the purposes of these Articles be deemed to be present in person at any such meeting if a person so authorised is present at it, and all references to attendance and voting in person shall be construed accordingly. A Director, the Secretary or some person authorised for the purpose by the Secretary may require the representative to produce a certified copy of the resolution so authorising him or such other evidence of his authority reasonably satisfactory to them before permitting him to exercise his powers. A vote given or poll demanded by the representative shall be valid notwithstanding that the representative is for any reason no longer authorised to represent the body corporate, provided that no intimation in writing of the fact that the representative is no longer authorised shall have been received by the Company at the place or any of the places and within the time period applicable to notice of revocation of proxies under Article ~~75(a)~~77(a).

PART XIV – DIRECTORS

79. ~~77.~~Number of Directors

- (a) Unless otherwise determined by Company in general meeting, the number of Directors shall not be more than 14 or less than two. Subject to the foregoing and to any other provisions of the Acts, the Board size shall be fixed at five Directors or such higher or lower number as may be determined by the Directors.
- (b) The continuing Directors may act notwithstanding any vacancy in their body, provided that if the number of the Directors is reduced below the number fixed by or pursuant to these Articles as the minimum number of Directors or the quorum of the Directors, the remaining Director or Directors may act only for the purpose of filling vacancies or of summoning a general meeting for the purpose of appointing Directors, but if there be no Director or Directors able or willing to act, then any two members may summon a general meeting for the purpose of appointing Directors. Subject to the provisions of the Acts and of these Articles, any additional Director so appointed shall retire at the annual general meeting of the Company next following such appointment and shall

then be eligible for re-appointment ~~but shall not be taken into account in determining the Directors who are to retire by rotation at the meeting.~~

80. ~~78.~~ Share qualification

A Director shall not require a share qualification.

81. ~~79.~~ Ordinary remuneration of Directors

The ordinary remuneration of the Directors shall not exceed such amount as may be determined from time to time by ~~an ordinary resolution of the Company the~~ Directors and shall be divisible (unless such resolution shall provide otherwise) among the Directors as they may agree, or, failing agreement, equally, except that any Director who shall hold office for part only of the period in respect of which such remuneration is payable shall be entitled only to rank in such division for a proportion of the remuneration related to the period during which he has held office. Any sums payable pursuant to this Article shall be distinct from any salary, remuneration (including share based remuneration) or other amounts payable to a Director pursuant to any other Article and shall accrue from day to day.

82. ~~80.~~ Special remuneration of Directors

Any Director who holds any additional office (including for this purpose the office of chairman or deputy chairman whether or not such office is held in an executive capacity), who serves on any committee or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration by way of salary, commission, participation in profits or otherwise as the Directors may determine.

83. ~~81.~~ Expenses of Directors and use of Company Property

- (a) The Directors may be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of Directors or of committees of Directors or of general meetings or of separate meetings of the Holders of any class of shares or of debentures of the Company or otherwise in connection with the discharge of their duties.
- (b) A Director is expressly permitted (for the purposes of section 228(1)(d) of the Act) to use the Company's property subject to such conditions as may be approved by the Board or such conditions as may have been approved pursuant to such authority as may be delegated by the Board in accordance with these Articles.

PART XV- ALTERNATE DIRECTORS

84. ~~82.~~ Alternate Directors

- (a) (i) Each Director (other than an alternate Director) may, by notice in writing delivered to the Secretary at the Office, or in any other manner approved by the Directors, appoint any other Director, or any person

approved for that purpose by the Directors and willing to act, to be his alternate.

- (ii) No appointment of an alternate Director who is not already a Director shall be effective until his consent to act as a Director in the form prescribed by the Act has been received at the Office.
 - (iii) An alternate Director need not hold a share qualification and shall not be counted in reckoning any maximum or minimum number of Directors allowed by these Articles.
 - (iv) A Director may, by notice in writing delivered to the Secretary at the Office, revoke at any time the appointment of any alternate appointed by him.
- (b) Every alternate Director shall (subject to his giving to the Company an address at which notices may be served on him) be entitled to receive notice of all meetings of the Directors and (subject to the approval of the Directors) of all meetings of committees of the Directors of which his appointor is a member and, in the absence from such meetings of his appointor, to attend and vote at such meetings and to be counted in the quorum and to exercise all the powers, rights, duties and authorities of his appointor. A Director or other person acting as alternate Director shall have a separate vote at such meetings for each Director for whom he acts as alternate Director (which shall, in the case of a Director acting as alternate, be in addition to his own vote as a Director), but he shall count as only one for the purpose of determining whether a quorum is present.
- (c) Every person acting as an alternate Director shall be an officer of the Company, shall alone be responsible to the Company for his own acts and defaults and shall not be deemed to be the agent of the Director appointing him.
- (d) An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements with the Company and to be repaid expenses and to be indemnified to the same extent *mutatis mutandis* as if he were a Director. However, he shall not be entitled to receive from the Company any fees for his services as alternate, except only such part (if any) of the fee payable to his appointor as such appointor may by notice in writing to the Company direct. Subject to this paragraph, the Company shall pay to an alternate Director such expenses as might properly have been paid to him if he had been a Director.
- (e) An alternate Director shall cease to be an alternate Director:
- (i) if his appointor revokes his appointment; or
 - (ii) if his appointor ceases for any reason to be a Director, provided that if any Director retires at an annual general meeting but is re-appointed or deemed to be re-appointed at the same meeting, any valid appointment

of an alternate Director which was in force immediately before his retirement shall remain in force; or

- (iii) if any event happens in relation to him which, if he were a Director otherwise appointed, would cause him to vacate office.

PART XVI - POWERS OF DIRECTORS

85. ~~83.~~Directors' powers

Subject to the provisions of the Acts, the memorandum of association of the Company and these Articles and to any directions given by the members by special resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the memorandum of association of the Company or of these Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Directors by these Articles and a meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.

86. ~~84.~~Delegation to a Director

The Directors may entrust to and confer upon a Director any of the powers, authorities and discretions exercisable by them (with power to sub-delegate) upon such terms and subject to such conditions and with such restrictions as they think fit, and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers.

87. ~~85.~~Delegation to committees

- (a) The Directors may delegate any of their powers, authorities and discretions (with power to sub-delegate) for such time, upon such terms and subject to such conditions and with such restrictions as they think fit to any committee consisting of one or more Directors and (if thought fit) one or more other persons. For so long as any Director is considered to be a Preferred Share Director for the purposes of these Articles, each of those Preferred Share Directors shall have a right, but not the obligation, to be appointed to each such committee.
- (b) The Directors may confer such powers either collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Directors in that respect and may from time to time revoke, withdraw, alter or vary any of such powers and discharge any such committee in whole or in part. Insofar as any power, authority or discretion is so delegated, any reference in these Articles to the exercise by the Directors of such power, authority or discretion shall be construed as if it were a reference to the exercise of such power, authority or discretion by such committee. For the avoidance of doubt, a committee shall not have any power or authority that is not held by the Board and the powers and activities of each committee shall be subject to all the restrictions and limitations applicable to the Board.

88. ~~86.~~ Appointment of attorneys

The Directors may, from time to time and at any time by power of attorney under seal, appoint any company, firm or person or fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit. Any such power of attorney may contain such provisions for the protection of persons dealing with any such attorney as the Directors may think fit and may authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him.

89. ~~87.~~ Local management

The Directors may establish any local or divisional boards or agencies for managing any of the affairs of the Company in any specified locality, either in the State or elsewhere, and may appoint any persons to be members of any such local or divisional board or agency and may fix their remuneration and may delegate to any local or divisional board or agent any of the powers, authorities and discretions vested in the Directors with power to sub-delegate and any such appointment or delegation may be made upon such terms and subject to such conditions as the Directors may think fit, and the Directors may remove any person so appointed, and may annul or vary any such delegation, but no person dealing in good faith with any such committee, local board or agency, without notice of any such removal, annulment or variation, shall be affected thereby. The Directors may confer such powers either collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Directors in that respect and may from time to time revoke, withdraw, alter or vary all or any of such powers. Subject to any terms and conditions expressly imposed by the Directors, the proceedings of any local or divisional board or agency with two or more members shall be governed by such of these Articles as regulate the proceedings of the Directors, so far as they are capable of applying. For the avoidance of doubt, any such local or divisional board or agency shall not have any power or authority that is not held by the Board and the powers and activities of such local or divisional board or agency shall be subject to all the restrictions and limitations applicable to the Board.

90. ~~88.~~ Use of designation "director"

The Directors may from time to time appoint any person to any office or employment having a designation or title including the word "director" or attach to any existing office or employment with the Company such a designation or title and may at any time determine any such appointment or the use of any such designation or title. The inclusion of the word "director" in the designation or title of any such office or employment with the Company shall not imply that the holder thereof is a Director of the Company nor shall such holder thereby be empowered in any respect to act as a Director of the Company or to be deemed to be a Director for any of the purposes of the Articles.

91. ~~89.~~Borrowing powers

The Directors may exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property, assets, and uncalled capital or any part thereof and, subject to Act, to issue debentures, debenture stock and other securities whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party, without any limitation as to amount.

92. ~~90.~~Execution of negotiable instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person or persons and in such manner as the Directors shall determine from time to time by resolution.

PART XVII - APPOINTMENT AND RETIREMENT OF DIRECTORS

93. ~~91.~~Retirement at annual general meetings

~~(a) At the every annual general meeting in every year of the Company, all of the Directors shall retire from office but shall be eligible to stand for re-election.~~

~~(i) every Director (if any) who was last appointed or re-appointed a Director at or before the annual general meeting held in the third calendar year before the year in question shall retire by rotation; and~~

~~(ii) such additional Directors (if any) shall retire by rotation as shall increase the total number of Directors retiring by rotation at such meeting to one third (or, if their number is not a multiple of three, the number nearest to one third) of the number of Directors who are subject to retirement by rotation.~~

~~(b) With respect to every annual general meeting, all of the Directors shall be deemed to be subject to retirement by rotation, excepting only any Director who, in accordance with Article 77(b) or Article 95(b), is not to be taken into account in determining the Directors who are to retire by rotation at such meeting.~~

~~(c) The Directors to retire by rotation at each annual general meeting in accordance with paragraph (a)(ii) shall, so far as necessary to obtain the number required, be, first, any Director who, being subject to retirement by rotation, wishes to retire and not to offer himself for re-appointment and, second, those of the remaining Directors subject to retirement by rotation who have been longest in office since their last appointment or re-appointment, but as between persons who became or were last appointed or re-appointed Directors on the same day those to retire shall be determined by the Directors. Subject to any Directors~~

~~who wish to retire as stated above, the Directors to retire at each annual general meeting (both as to number and identity) shall be determined by the composition of the Directors seven (7) days before the date of the notice of such meeting, and no Director shall be required to retire or be relieved from retiring by reason of any change in the number or identity of the Directors after the date of the notice but before the close of the meeting.~~

~~(d) A Director shall also retire at any annual general meeting if he has agreed to do so (whether in accordance with the terms of his appointment or otherwise) and, unless the Directors have agreed otherwise, he shall not be eligible for re-appointment.~~

94. ~~92.~~ Re-appointment of retiring Director

The Company at the meeting at which a Director retires under any provision of these Articles may by ordinary resolution fill the office being vacated by appointing thereto the retiring Director (if eligible for re-appointment) or some other person eligible for appointment. In the absence of such a resolution, the retiring Director shall nevertheless be deemed to have been re-appointed except in any of the following cases:

- (a) where at such meeting a resolution for the re-appointment of such Director is put to the meeting and lost, or it is expressly resolved not to fill the office being vacated;
- (b) where such Director is ineligible for re-appointment or has given notice in writing to the Company that he is unwilling to be re-appointed; or
- (c) where a resolution to elect such Director is void by reason of contravention of Article ~~96~~98.

95. ~~93.~~ Position of retiring Director

A Director who retires at an annual general meeting and is not re-appointed (or deemed to have been re-appointed pursuant to these Articles) shall retain office until the end of the meeting except where a resolution is passed to elect another person in his place or a resolution for his re-appointment is put to the meeting and lost. Accordingly, a retiring Director who is re-appointed (or deemed to have been re-appointed) will continue in office without a break.

96. ~~94.~~ Eligibility for appointment

No person other than a Director retiring at the meeting shall be appointed or re-appointed a Director at any general meeting unless he is recommended by the Directors or, not less than ~~seven~~ 42 days nor more than ~~42~~ 70 days before the date appointed for the meeting, notice executed by a member qualified to vote at the meeting has been given to the Company of the intention to propose that person for appointment stating whether the person is proposed as an additional Director or to replace a Director who is retiring or being removed and the particulars which would

be required, if he were so appointed, to be included in the Company's register of Directors, together with notice executed by that person of his willingness to be appointed.

97. ~~95.~~ Appointment of additional Directors

- (a) Subject as aforesaid, the Company by ordinary resolution may appoint a person to be a Director either to fill a vacancy or as an additional Director provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with these Articles as the maximum number of Directors.
- (b) The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with these Articles as the maximum number of Directors. Subject to the provisions of the Acts and of these Articles, a Director so appointed shall retire at the next following annual general meeting and shall then be eligible for re-appointment ~~but shall not be taken into account in determining the Directors who are to retire by rotation at the meeting.~~

98. ~~96.~~ Resolution for appointment

A resolution for the appointment of two or more persons as Directors by a single resolution shall not be moved at any general meeting unless a resolution that it shall be so moved has first been passed by the meeting without any vote being given against it; and any resolution moved in contravention of this provision shall be void.

PART XVIII - DISQUALIFICATION AND REMOVAL OF DIRECTORS

99. ~~97.~~ Disqualification of Directors

- (a) The office of a Director shall be vacated automatically if:
 - (i) he ceases to be a Director by virtue of any provision of the Acts or he becomes prohibited by law from being a Director or a declaration in respect of him is made by the court pursuant to Part 14 of the Act; or
 - (ii) if he is adjudicated bankrupt, or any event equivalent or analogous thereto occurs, in the State or any other jurisdiction or he makes any arrangement or composition with his creditors generally; or
 - (iii) in the opinion of a majority of his co-Directors, he becomes incapable by reason of mental disorder of discharging his duties as a Director; or
 - (iv) (without committing a breach of any contract between him and the Company) he resigns his office by notice to the Company; or
 - (v) he is convicted of an indictable offence, unless the Directors otherwise determine; or

- (vi) he shall have been absent for more than six consecutive months without permission of the Directors from meetings of the Directors held during that period and his alternate Director (if any) shall not have attended any such meeting in his place during such period, and the Directors pass a resolution that by reason of such absence he has vacated office; or
 - (vii) he is required in writing by all his co-Directors to resign.
- (b) A Director shall not be required to retire at any time on account of age.

100. ~~98.~~Removal of Directors

The Company may, by ordinary resolution of which notice has been given in accordance with the provisions of the Acts, remove any Director before the expiry of his period of office notwithstanding anything in these Articles or in any agreement between the Company and such Director and may, if thought fit, by ordinary resolution appoint another Director in his stead. Any person so appointed shall be subject to retirement at the same time as if he had been appointed a Director on the date on which and in the manner in which the Director in whose place he is appointed was last appointed or re-appointed a Director. Nothing in this Article shall be taken as depriving a person removed hereunder of compensation or damages payable to him in respect of the termination of his appointment as Director or of any other appointment terminating with his appointment as Director.

PART XIX - DIRECTORS' OFFICES AND INTERESTS

101. ~~99.~~Executive offices

- (a) The Directors may appoint one or more of their body to the office of managing director or joint managing director or to any other executive office under the Company (including, where considered appropriate, the office of chairman or deputy chairman) on such terms and for such period as they may determine and, without prejudice to the terms of any contract entered into in any particular case, may revoke any such appointment at any time.
- (b) A Director holding any such executive office shall receive such remuneration, whether in addition to or in substitution for his ordinary remuneration as a Director and whether by way of salary, commission, participation in profits or otherwise or partly in one way and partly in another, as the Directors may determine (including, for so long as any Director is considered to be a Preferred Share Director for the purposes of these Articles, the approval of at least one Preferred Share Director).
- (c) The appointment of any Director to the office of chairman, deputy chairman, managing director or joint managing director shall determine automatically if he ceases to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- (d) The appointment of any Director to any other executive office shall not determine automatically if he ceases from any cause to be a Director unless

the contract or resolution under which he holds office shall expressly state otherwise, in which event such determination shall be without prejudice to any claim for damages for breach of any contract of service between him and the Company.

102. ~~100.~~ Directors may have interests

(a) Subject to the provisions of the Acts (except as qualified by Article ~~100(b)~~102(b)) and provided that he has complied with Articles ~~102-104~~ and ~~103~~105, a Director, notwithstanding his office:

- (i) may be a party to, or otherwise interested in, any contract, arrangement, transaction or proposal with the Company or any subsidiary or associated company thereof or in which the Company or any subsidiary or associated company thereof is otherwise interested;
- (ii) may hold any other office or place of profit under the Company (except that of auditor or of auditor of a subsidiary of the Company) in conjunction with his office of Director, and may act by himself or through his firm in a professional capacity for the Company, and in any such case on such terms as to remuneration and otherwise as the Directors shall arrange;
- (iii) may be a director or other officer of, or employed by, or a party to any contract, arrangement, transaction or proposal with, or otherwise interested in, any body corporate promoted by the Company or in which the Company or any subsidiary or associated company of the Company is otherwise interested; and
- (iv) shall not be accountable, by reason of his office, to the Company for any profit, remuneration or other benefit which he derives from any such contract, arrangement, transaction, proposal, office, place of profit or employment or from any interest in any such body corporate;

and no such contract, arrangement, transaction or proposal entered into by or on behalf of the Company in which any Director is in any way interested shall be liable to be avoided on account of such interest.

(b) Nothing in section 228(1)(e) of the Act shall restrict a director from entering into any commitment which has been approved by the Board or has been approved pursuant to such authority as may be delegated by the Board in accordance with these Articles. It shall be the duty of each Director to obtain the prior approval of the Board, before entering into any commitment permitted by sections 228(1)(e)(ii) and 228(2) of the Act.

103. ~~101.~~ Disclosure of interests by Directors

(a) A Director who is in any way, whether directly or indirectly, interested in any contract, arrangement, transaction or proposal with the Company shall declare the nature of his interest at the meeting of the Directors at which the question of entering into the contract, arrangement, transaction or proposal is first

considered, or, if the Director was not at the date of that meeting interested therein, at the next meeting of the Directors held after he became so interested, and, in a case where the Director becomes interested in a contract, arrangement, transaction or proposal after it is made, at the first meeting of the Directors held after he becomes so interested.

- (b) A copy of every declaration made and notice given under this Article shall be entered within three days after the making or giving thereof in a book kept for this purpose. Such book shall be open for inspection without charge by any Director, Secretary, Auditor or member of the Company at the Office and shall be produced at every general meeting of the Company and at any meeting of the Directors if any Director so requests in sufficient time to enable the book to be available at the meeting.
- (c) For the purposes of this Article:
 - (i) a general notice given 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 contract, arrangement, transaction or proposal 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 contract, arrangement, transaction or proposal of the nature and extent so specified;
 - (ii) and an interest of which a Director has no knowledge and of which it would be unreasonable to expect him to have knowledge shall not be treated as an interest of his.

104. ~~102.~~ Interested Director not to vote or count for quorum

- (a) Save as otherwise provided by these Articles, a Director shall not vote at a meeting of the Directors or a committee of Directors on any resolution concerning a matter in which he has an interest which (together with any interest of any person connected with him within the meaning of subparagraph (e)(i)) is to his knowledge material (otherwise than by virtue of his interests in shares or debentures or other securities of or otherwise in or through the Company). A Director shall not be counted in the quorum present at a meeting in relation to any such resolution on which he is not entitled to vote.
- (b) A Director shall be entitled (in the absence of any other material interest than is indicated below) to vote (and to be counted in the quorum) in respect of any resolution concerning any of the following matters, namely:
 - (i) the giving of any security, guarantee or indemnity to him in respect of money lent or obligations incurred by him or any other person at the request of or for the benefit of the Company or any of its subsidiaries;
 - (ii) the giving of any security, guarantee or indemnity in respect of a debt or obligation of the Company or any of its subsidiaries for which he

- himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security;
- (iii) any proposal concerning any offer of shares or debentures or other securities of or by the Company or any of its subsidiaries in which offer he is or may be entitled to participate as a holder of securities or in the underwriting or sub-underwriting of which he is to participate;
 - (iv) any proposal concerning any other company in which he (together with any persons connected with him within the meaning of paragraph (e) (i)) does not to his knowledge have an interest (as that term is used in Chapter 4 of Part 17 of the Act) in one per cent or more of either any class of the equity share capital of, or the voting rights in, such company;
 - (v) any proposal relating to any arrangement for the benefit of employees of the Company or any of its subsidiaries which does not award him any privilege or benefit not generally awarded to the employees to which such arrangement relates; or
 - (vi) any proposal concerning the giving of any indemnity to the Directors or any of them pursuant to Article ~~148~~ 150 or the discharge of the cost of any insurance which the Company proposes to maintain or purchase for the benefit of the Directors or any of them or for the benefit of persons who include the Directors or any of them.
- (c) Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the Company or any company in which the Company is interested, such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not debarred from voting under sub-paragraph (b)(iv)) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.
- (d) If any question shall arise at any meeting of the Directors as to the materiality of the interest of a Director (other than the chairman of the meeting) or as to the entitlement of any Director (other than such chairman) to vote or be counted in the quorum, and such question is not resolved by his voluntarily agreeing to abstain from or not to be counted in the quorum, such question shall be referred to the chairman of the meeting and his ruling in relation to such other Director shall be final and conclusive except in a case where the nature or extent of the interest of the Director concerned as known to such Director has not been fully disclosed to the Directors. If any question as aforesaid shall arise in respect of the chairman of the meeting such question shall be decided by resolution of the Directors (for which purpose such chairman shall be counted in the quorum but shall not vote thereon) and such resolution shall be final and conclusive except in a case where the nature or extent of the interest of such chairman as known to such chairman has not been fully disclosed to the Directors.

- (e) For the purposes of this Article:
 - (i) section 220 of the Act shall apply for the purposes of determining whether a person is connected with a Director except that in paragraph (b) a person who is a child (not being a minor child), parent, brother or sister of a Director shall not by virtue only of that relationship be deemed to be connected with the Director; and
 - (ii) in relation to an alternate Director, an interest of his appointor shall be treated as an interest of the alternate Director.
- (f) Subject to the Acts, the Company may by ordinary resolution suspend or relax the provisions of this Article to any extent or ratify any transaction not duly authorised by reason of a contravention of this Article.

105. ~~103.~~Exercise of rights in other companies

Subject to the provisions of these Articles and the Acts, the Directors may exercise or procure the exercise of the rights conferred by the shares in any other company held or owned by the Company, and may exercise any rights to which they are entitled as directors of such other company, in such manner as they shall in their absolute discretion think fit, including the exercise thereof in favour of any resolution appointing themselves or any of them as directors, officers or servants of such other company, and fixing their remuneration as such, and may vote as directors of the Company in connection with any of the matters aforesaid.

106. ~~104.~~Entitlement to grant pensions

The Directors may provide benefits, whether by way of pensions, gratuities or otherwise, for any Director, former Director or other officer or former officer of the Company or to any person who holds or has held any employment with the Company or with any body corporate which is or has been a subsidiary or associated company of the Company or a predecessor in business of the Company or of any such subsidiary or associated company and to any member of his family or any person who is or was dependent on him and may set up, establish, support, alter, maintain and continue any scheme or arrangement for providing all or any such benefits and for such purposes any Director accordingly may be, become or remain a member of, or rejoin, any scheme or arrangement and receive or retain for his own benefit all benefits to which he may be or become entitled thereunder. The Directors may pay out of the funds of the Company any premiums, contributions or sums payable by the Company under the provisions of any such scheme or arrangement in respect of any of the persons or class of persons above referred to who are or may be or become members thereof.

PART XX - PROCEEDINGS OF DIRECTORS

107. ~~105.~~Convening and regulation of Directors' meetings

Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. Any Director may waive notice of any

meeting and any such waiver may be retrospective. Notice of a meeting of the Directors shall be deemed to be duly given to a Director if it is given to him personally or by word of mouth or sent in writing by delivery, post, facsimile, electronic mail or any other means of communication approved by the Directors to him at his last known address or any other address given by him to the Company for this purpose. The Directors may make regulations for the giving of notice of a meeting of the Directors in such circumstances and subject to such conditions and requirements as they think fit. A Director absent or intending to be absent from the State may request the Directors in writing that notices of meetings of the Directors shall during his absence be sent in writing to him at his last known address or any other address given by him to the Company for this purpose, ~~but in the absence of any such request or in the case where oral notice only is given of a meeting of the Directors, it shall not be necessary to give notice of a meeting of the Directors to any Director who is for the time being absent from the State.~~ Nothing in this Article enables a person, other than a Director, to object to the notice given for any meeting of the Directors.

108. ~~106.~~ Quorum for Directors' meetings

The quorum for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be ~~two~~ a majority of the Directors, which must include (for so long as any Director is considered to be a Preferred Share Director for the purposes of these Articles) the two Preferred Share Directors. If within one hour from the time appointed for a meeting of the Directors a quorum is not present, the meeting shall stand adjourned until the time that is two hours from the time appointed for such meeting, at the same place, or to such other day and at such other time and place as a majority of the Directors may determine, and at the adjourned meeting the quorum shall be a majority of Directors. Any Director who ceases to be a Director at a meeting of the Directors may continue to be present and to act as a Director and be counted in the quorum until the termination of that meeting if no other Director objects and if otherwise a quorum would not be present.

109. ~~107.~~ Voting at Directors' meetings

- (a) Questions arising at any meeting of Directors shall be decided by a majority of votes. Where there is an equality of votes, the chairman of the meeting shall not have a second or casting vote.
- (b) Subject as hereinafter provided, each Director present shall have one vote and in addition to his own vote shall be entitled to one vote in respect of each other Director not present at the meeting who shall have authorised him in respect of such meeting to vote for such other Director in his absence. Any such authority may relate generally to all meetings of the Directors or to any specified meeting or meetings and shall be in writing and may be sent by delivery, post, facsimile, electronic mail or any other means of communication approved by the Directors and may bear a printed or facsimile signature of the Director giving such authority. The authority must be delivered to the Secretary for filing prior to, or shall be produced at, the first meeting at which a vote is to be cast pursuant thereto provided that no Director shall be entitled

to any vote at a meeting on behalf of another Director pursuant to this paragraph if the other Director shall have appointed an alternate Director and that alternate Director is present at the meeting at which the Director proposes to vote pursuant to this paragraph.

110. ~~108.~~Electronic Communication meetings

- (a) For the purpose of these Articles, the contemporaneous linking together by telephone or other means of electronic communication of a number of Directors not less than the quorum shall be deemed to constitute a meeting of the Directors and all the provisions in these Articles as to meetings of the Directors shall apply to such a meeting, provided that each of the Directors taking part in such a meeting is able to hear, and speak to, each of the other Directors taking part.
- (b) A Director may not cease to take part in such a meeting by disconnecting his telephone or other means of communication unless he has previously obtained the express consent of the chairman of the meeting, and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he has previously obtained the express consent of the chairman of the meeting to leave the meeting.
- (c) Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or if there is no such group, where the chairman of the meeting is present and if neither applies, in such location as the meeting itself decides.
- (d) A minute of the proceedings at such meeting by telephone or other means of communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairman of the meeting.
- (e) The provisions of this Article shall apply, mutatis mutandis, to meetings of committees of the Directors.

111. ~~109.~~Chairman of meetings of Directors

If no chairman is appointed under Article ~~99~~101, the Directors may appoint one of their number to be chairman, and if no deputy chairman is appointed under that Article the Directors may appoint one of their number to be deputy chairman; and they may remove from office at any time any chairman or deputy chairman appointed under the foregoing provisions of this Article. The chairman of the meetings of the Directors shall be the chairman, if any, appointed under Article ~~99~~101 or the foregoing provisions of this Article and in his absence the deputy chairman, if any, so appointed. If neither chairman nor deputy chairman is appointed under Article ~~99~~101 and neither chairman nor deputy chairman is elected under the foregoing provisions of this Article, or no such person is present at any meeting of the Directors within five minutes after the time appointed for holding such meeting, the Directors present may choose one of their number to be chairman of the meeting. References in this Article to "deputy chairman" shall be construed as including, in the absence of an appointment of someone with that specific title, a person appointed to an office

known by another title which, at or before the time of his appointment or election as such, is designated by the Directors as being equivalent to the office of deputy chairman.

112. ~~110.~~Proceedings of committees

The meetings and proceedings of any committee or sub-committee of the Directors consisting of two or more members shall be governed *mutatis mutandis* by the provisions of these Articles regulating the meetings and proceedings of the Directors so far as the same are not superseded by any regulations made by the Directors. Any committee or sub-committee so formed shall in the exercise of the powers or discretions so delegated conform to any regulations which may from time to time be imposed by the Directors.

113. ~~111.~~Validity of acts of Directors

All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director, alternate Director or member of a committee shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any person or persons acting as aforesaid, or that they or any of them were disqualified from holding office or were not entitled to vote or had vacated office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.

114. ~~112.~~Directors' resolutions in writing

- (a) A resolution in writing signed by all the Directors entitled to receive notice of a meeting of Directors or of a committee of Directors shall be as valid as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held and may consist of several documents in the like form each signed by one or more Directors, and such resolution when duly signed may be delivered or transmitted (unless the Directors shall otherwise determine either generally or in any specific case) by electronic means, facsimile transmission or some other similar means of transmitting the contents of documents. A resolution signed by an alternate Director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.
- (b) Subject to Article ~~112~~(e114(c)), where one or more of the Directors (other than a majority of them) would not, by reason of:
 - (i) the Act or any other enactment;
 - (ii) these Articles; or
 - (iii) a rule of law,

be permitted to vote on a resolution such as is referred to in Article ~~112~~(a114(a)), if it were sought to pass the resolution at a meeting of the Directors duly convened and held, then such a resolution, notwithstanding

anything in subsection Article ~~112(a)~~114(a), shall be valid for the purposes of that subsection if the resolution is signed by those of the Directors who would have been permitted to vote on it had it been sought to pass it at such a meeting.

- (c) In a case falling within Article ~~112(b)~~114(b), the resolution shall state the name of each Director who did not sign it and the basis on which he or she did not sign it.
- (d) For the avoidance of doubt, nothing in the preceding Articles ~~112(b)~~114(b) to (c) dealing with a resolution that is signed by other than all of the Directors shall be read as making available, in the case of an equality of votes, a second or casting vote to the one of their number who would, or might have been, if a meeting had been held to transact the business concerned, chairman of that meeting.

PART XXI - SECRETARY

115. ~~113.~~Appointment of Secretary

Subject to the provisions of the Acts, the Secretary shall be appointed by the Directors 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, but without prejudice to any claim for damages for breach of any contract of service between him and the Company. If thought fit, two or more persons may be appointed joint secretaries. Anything required or authorised by the Acts or these Articles to be done by or to the Secretary may be done, if the office is vacant or there is for any other reason no Secretary readily available and capable of acting, by or to any assistant or acting Secretary appointed by the Directors or, if there is no assistant or acting secretary readily available and capable of acting, by or to any officer of the Company authorised generally or specially in that behalf by the Directors.

116. ~~114.~~Person acting as Director and Secretary

Any provision of the Acts or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as a Director and as, or in the place of, the Secretary.

PART XXII - SEAL

117. ~~115.~~Use of Seal

The Directors shall ensure that the Seal (including any official securities seal kept pursuant to the Acts) shall be used only by the authority of the Directors or of a duly authorised committee of the Directors.

118. ~~116.~~Signature of sealed instruments

Every instrument to which the Seal (including any such official securities seal) shall be affixed shall be signed by a Director or the Secretary or by some other person appointed for the purpose by the Directors or a duly authorised committee of the

Directors, save that as regards any certificates for shares or debentures or other securities of the Company as the Directors or such a committee may determine by resolution either generally or in any particular case (and subject to such restrictions as the Directors may determine) that such signature shall be dispensed with, or be printed thereon or affixed thereto by some method or system of mechanical signature.

119. ~~117.~~ Official seal for use abroad

The Company may exercise the powers conferred by the Acts with regard to having an official seal for use abroad and such powers shall be vested in the Directors.

120. ~~118.~~ Safe custody

The Directors shall provide for the safe custody of the Seal and of every other seal of the Company.

PART XXIII - DIVIDENDS AND RESERVES

121. ~~119.~~ Declaration of dividends

Subject to the provisions of the Acts, the Company may by ordinary resolution declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the Directors.

122. ~~120.~~ Interim and fixed dividends

Subject to the provisions of the Acts, the Directors may declare and pay such interim dividends as appear to them to be justified by the profits of the Company available for distribution. If the share capital is divided into different classes, the Directors may declare and pay interim dividends on shares which confer deferred or non-preferred rights with regard to dividend as well as on shares which confer preferential rights with regard to dividend, but subject always to any restrictions for the time being in force (whether under these Articles, under the terms of issue of any shares or under any agreement to which the Company is a party, or otherwise) relating to the application, or the priority of application, of the Company's profits available for distribution or to the declaration or (as the case may be) the payment of dividends by the Company. Subject as aforesaid, the Directors may also pay at intervals settled by them any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment. If the Directors act in good faith they shall not incur any liability to the Holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim or fixed dividend on any shares having deferred or non-preferred rights.

123. ~~121.~~ Payment of dividends

Except as otherwise provided by the rights attached to shares by the terms of issue thereof or by these Articles, all dividends shall be declared and paid according to the amounts paid on the shares on which the dividend is paid. Subject as aforesaid, all dividends shall be apportioned and paid proportionately to the amounts paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but, if any share is issued on terms providing that it shall rank for dividend as from a particular date, such share shall rank for dividend accordingly.

124. ~~122.~~ Deductions from dividends

The Directors may deduct from any dividend or other moneys payable to any member in respect of a share all sums of moneys (if any) presently payable by him to the Company in relation to shares of the Company.

125. ~~123.~~ Dividends in specie

Any general meeting declaring a dividend or bonus may direct, upon the recommendation of the Directors, that it shall be satisfied wholly or partly by the distribution of assets (and, in particular, of paid up shares, debentures or debenture stock of any other company or in any one or more of such ways) and the Directors shall give effect to such resolution. Where any difficulty arises in regard to the distribution, the Directors may settle the same as they think expedient and in particular may issue fractional certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all the parties and may vest any such specific assets in trustees upon trust for the persons entitled to the dividend as the Directors think expedient, and generally may make such arrangements for the allotment, acceptance and sale of such specified assets or fractional certificates, or any part thereof, and otherwise as they think fit.

126. ~~124.~~ Mode of payment of dividends or other moneys

- (a) The Company may pay any dividend, interest or other moneys payable in cash in respect of shares by cheque, warrant, direct debit, bank transfer, or any other method (including electronic media) as the Directors may consider appropriate or (if so authorised by the holders of shares in uncertificated form) using the facilities of a relevant system (subject to the facilities and requirements of the relevant system) and may remit the same by post or other delivery service to the registered address of the Holder or person entitled thereto or, in the case of joint Holders, to the registered address of the joint Holder whose name stands first in the Register, or, in the case of two or more persons being entitled to a dividend, interest or other money in consequence of the death or bankruptcy of the Holder, to any one of such persons, or to such person and to such address as the Holder or joint Holders of such other persons may in writing direct. In the case of a Holder who is also an employee of the Company or any of its subsidiaries, the Company may remit any dividend, interest or other moneys as aforesaid to such Holder through the Company's internal postal arrangements. Every cheque, warrant or other form of payment is sent or made at the risk of the person entitled to the moneys represented by it. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent, or to such person as the Holder or joint Holders or other person entitled thereto may in writing direct, and the payment of such cheque or warrant shall be a good discharge to the Company. Where the Company pays any dividend, interest or other moneys as aforesaid by any method other than cheque or warrant, the debiting of the Company's account in respect of the appropriate amount shall be deemed a good discharge of the Company's obligation to pay such dividend, interest or other moneys. Any one of two or more joint Holders or persons entitled to a dividend, interest or other moneys in consequence of the death or bankruptcy of the Holder may

give effective receipts for any dividends, interest or other moneys payable in respect of the share held by him as joint Holder or to which he is jointly entitled as aforesaid.

- (b) The Directors may, at their discretion, make arrangements to enable a Depository or any such other member or members as the Directors shall from time to time determine to receive duly declared dividends in any currency or currencies other than the currency in which such dividends are declared. For the purposes of the calculation of the amount receivable in respect of any dividend, the rate of exchange to be used to determine the equivalent in any such other currency of any sum payable as a dividend shall be such rate or rates, and the payment thereof shall be on such terms and conditions, as the Directors may in their absolute discretion determine.

127. ~~125.~~Dividends not to bear interest

No dividend or other moneys payable in respect of a share shall bear interest against the Company unless otherwise provided by the rights attached to the share.

~~126. — Shares in lieu of cash dividend~~

~~If ordinary shares in the Company are listed and traded on any market operated by a recognised stock exchange, the Directors may from time to time at their discretion, with or subject to the sanction of an ordinary resolution of the Company, offer to the Holders of ordinary shares in the Company (in this Article "Shareholders") the right to elect to receive an allotment of additional ordinary shares, credited as fully paid, instead of cash in respect of all or part of any cash dividend or dividends specified by such resolution or such part of such dividend or dividends as the Directors may determine. In any such case, the following provisions shall apply:~~

- ~~(a) — Any such resolution may specify a particular dividend or dividends or may specify all or any dividends falling to be declared or paid during a specified period being a period expiring not later than the conclusion of the annual general meeting held in the fifth year after the year in which the resolution is passed.~~
- ~~(b) — The basis of the allotment shall be determined by the Directors so that, as nearly as may be considered convenient in the Directors' absolute discretion but subject to section 71 of the Act, the value of the additional ordinary shares (in this Article "New Ordinary Shares") (excluding any fractional entitlement) to be allotted instead of any cash amount (disregarding any tax credit) of dividend shall equal such amount.~~
- ~~(c) — The Directors shall after determining the basis of allotment give notice in writing to Shareholders of the right of election offered to them and shall send with or following such notice forms of election and specify the procedure to be followed and the place at which and the latest date~~

and time by which duly completed forms of election must be lodged in order to be effective.

- ~~(d) — The dividend (or that part of the dividend in respect of which a right of election has been offered) shall not be payable on ordinary shares in respect of which the said right of election has been duly exercised under this Article (in this Article the "Elected Ordinary Shares") and instead thereof New Ordinary Shares shall be allotted to the Holders of the Elected Ordinary Shares on the basis of allotment determined under this Article. For such purpose the Directors shall capitalise, out of such of the sums standing to the credit of any of the reserves of the Company (including any share premium account, capital redemption reserve and undenominated capital) or profit and loss account as the Directors may determine, a sum equal to the aggregate nominal amount of the New Ordinary Shares to be allotted on such basis and apply the same in paying up in full the appropriate number of unissued ordinary shares for allotment and distribution to and amongst the Holders of the Elected Ordinary Shares on such basis.~~
- ~~(e) — The Directors may do all acts and things which they consider necessary or expedient to give effect to any such capitalisation, and they shall have power to make such provisions as they think fit where New Ordinary Shares would otherwise have been distributable in fractions, including provisions whereby such fractional entitlements, in whole or in part, are disregarded and the benefit thereof accrues to the Company rather than to the Shareholders concerned. The Directors may authorise any person on behalf of the Shareholders concerned to enter into an agreement with the Company relating to such capitalisation and matters incidental thereto and an agreement made under such authority shall be effective and binding on all persons concerned.~~
- ~~(f) — The Directors may also from time to time establish or vary a procedure for election mandates under which a Shareholder may elect to receive New Ordinary Shares credited as fully paid instead of cash in respect of all future rights that may be offered to that Shareholder under this Article until the election mandate is revoked or deemed to be revoked in accordance with the procedure.~~
- ~~(g) — The Directors may undertake and do such acts and things as they may consider necessary or expedient for the purpose of giving effect to the provisions of this Article.~~
- ~~(h) — The New Ordinary Shares allotted pursuant to the provisions of this Article shall rank pari passu in all respects with the fully paid ordinary shares then in issue save only as regards participation in the relevant dividend (or share election in lieu).~~

- ~~(i) — The Directors shall not proceed with any offer of a right of election unless the Company has sufficient unissued ordinary shares authorised for issue and sufficient reserves or funds that may be capitalised to give effect to it.~~
- ~~(j) — Notwithstanding anything to the contrary in this Article, the Directors may at any time prior to issue of the New Ordinary Shares, if it appears to them desirable to do so because of a change in circumstances, determine that the relevant dividend shall be payable wholly in cash and if they so determine then all elections made in respect of that dividend shall be disregarded. The relevant dividend shall also be payable wholly in cash if the ordinary shares cease to be listed on the market of the relevant recognised stock exchange at any time prior to the due date of issue of the New Ordinary Shares or if such listing is suspended at any time prior to that due date and is not reinstated by the date immediately preceding that due date.~~
- ~~(k) — Notwithstanding anything to the contrary in this Article, the Directors may exclude such Shareholders from any offer of a right of election as they may think fit in the light of any legal or practical problems or considerations arising under the laws of, or the requirements of any regulatory or stock exchange authority in, any territory or jurisdiction.~~
- ~~(l) Where a resolution sanctioning the offer to Shareholders of the right to receive an allotment of additional ordinary shares instead of a cash dividend is passed at a general meeting and that resolution relates in whole or in part to a dividend declared at that meeting, then the resolution declaring that dividend shall be deemed not to take effect until the end of the meeting.~~

128. [\[NOT USED\]](#)

129. ~~127.~~ Unclaimed dividends

All dividends, interest or other sums payable which remains unclaimed for one year after having been declared may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed. If the Directors so resolve, all dividends or interest which have remained unclaimed for 12 years after having been declared shall be forfeited and cease to remain owing by the Company. The retention by the Company, or payment into a separate account, of any unclaimed dividend, interest or other moneys payable by the Company in respect of a share in lieu shall not constitute the Company a trustee in respect thereof.

130. ~~128.~~ Reserves

Subject to the Acts, before recommending any dividend, whether preferential or otherwise, the Directors may carry to reserve out of the profits of the Company such sums as they think proper. All sums standing to reserve may be applied from time to time in the discretion of the Directors for any purpose to which the profits of the

Company may be properly applied and at the like discretion may be either employed in the business of the Company or invested in such investments as the Directors may lawfully determine. The Directors may divide the reserve into such special funds as they think fit and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided as they may lawfully determine. Any sum which the Directors may carry to reserve out of the unrealised profits of the Company shall not be mixed with any reserve to which profits available for distribution have been carried. The Directors may also carry forward, without placing the same to reserve, any profits which they may think it prudent not to divide.

131. ~~129.~~Record dates

Notwithstanding any other provision of these Articles but without prejudice to the rights attached to any shares and subject always to the Acts, the Company or the Directors may by resolution specify any date (the "record date") as the date at the close of business (or such other time as the Directors may determine) on which persons registered as the holders of shares or other securities shall be entitled to receipt of any dividend, distribution, interest, allotment, issue, notice, information, document or circular and such record date may be on or at any time before the date on which the same is paid, made, given or served or (in the case of any dividend, distribution, interest, allotment or issue) at any time after the same is recommended, resolved, declared or announced but without prejudice to the rights inter se in respect of the same of transferors and transferees of any such shares or other securities. No change in the register of such holders after the record date shall invalidate the same.

132. ~~130.~~Retention of dividends

The Directors may retain the dividends payable upon shares in respect of which any person is under the provisions as to the transmission of shares hereinbefore contained entitled to become a member, or which any person is under those provisions entitled to transfer, until such person shall become a member in respect of such shares or shall transfer the same.

133. ~~131.~~Waiver of dividend

The waiver in whole or in part of any dividend on any share shall be effective only if such waiver is in writing (whether or not executed as a deed) signed by the member (or the person entitled to the share in consequence of the death or bankruptcy of the holder or otherwise by operation of law) and delivered to the Company and if or to the extent that the same is accepted as such or acted upon by the Company.

PART XXIV – ACCOUNTS

134. ~~132.~~Accounts

- (a) The Directors shall cause adequate accounting records to be kept in accordance with the Acts.
- (b) The accounting records shall be kept at the Office or, subject to the provisions of the Acts, at such other place as the Directors think fit and shall be open at all reasonable times to the inspection of the Directors.

- (c) The Directors shall determine from time to time whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Company or any of them shall be open to the inspection of members, not being Directors. No member (not being a Director) shall have any right of inspecting any accounting record or other financial statement of the Company except as conferred by the Acts or authorised by the Directors or by the Company in general meeting.
- (d) In accordance with the provisions of the Acts, the Directors shall cause to be prepared and to be laid before the annual general meeting of the Company from time to time such statutory financial statements of the Company as are required by the Acts to be prepared and laid before such meeting.
- (e) A copy of the statutory financial statements of the Company (including every document required by law to be annexed thereto) which is to be laid before the annual general meeting of the Company together with a copy of the Directors' report and Auditors' report or, summary financial statements prepared in accordance with Section 1119 of the Act, shall be sent, not less than 21 Clear Days before the date of the annual general meeting, to every member, and every holder of debentures, of the Company and to every other person who is entitled to receive notices of general meetings from the Company under the provisions of the Acts or these Articles; provided that this paragraph shall not require a copy of such documents to be sent to more than one of joint Holders or to any person who under the provisions of the Acts or these Articles is not entitled to receive notices of general meetings from the Company or of whose address the Company is not aware, but any member or holder of debentures to whom a copy of such documents has not been sent shall be entitled to receive a copy free of charge on application at the Office and provided further that where the Directors elect to send summary financial statements to the members, any member may request that he be sent a copy of the statutory financial statements of the Company. No accidental non-compliance with the provisions of this paragraph shall invalidate the proceedings at the meeting.

135. ~~133.~~Auditors

- (a) Auditors shall be appointed and their duties regulated in accordance with the Acts.
- (b) The Auditors shall be entitled to attend any general meeting and to receive all notices of and other communications relating to any general meeting which any member is entitled to receive and shall be entitled to be heard at any general meeting on any part of the business of the meeting which concerns them as auditors.
- (c) Subject to the provisions of the Acts, all acts done by any persons acting as the Auditors shall, as regards all persons dealing in good faith with the Company, be valid, notwithstanding that there was some defect in their appointment or that they were at the time of their appointment not qualified for appointment or subsequently became disqualified.

PART XXV - CAPITALISATION OF PROFITS OR RESERVES

136. ~~134.~~ Capitalisation of profits and reserves

The Directors may with the authority of an ordinary resolution of the Company passed upon the recommendation of the Directors:

- (a) subject as hereinafter provided, resolve to capitalise any undivided profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of any reserve or fund of the Company which is available for distribution or standing to the credit of share premium account, capital redemption reserve, capital conversion reserve fund or undenominated capital, or any other undistributable reserve of the Company or any merger reserve;
- (b) appropriate the sum resolved to be capitalised to the Holders of ~~ordinary~~ shares or any class of shares in proportion to the nominal amounts of the shares (whether or not fully paid) held by them respectively which would entitle them to participate in a distribution of that sum if the shares were fully paid and the sum were then distributable and were distributed by way of dividend and apply such sum on their behalf either in or towards paying up the amounts, if any, for the time being unpaid on any shares held by them respectively, or in paying up in full unissued shares or debentures of the Company of a nominal amount equal to that sum, and allot the shares or debentures credited as fully paid to those Holders of ~~ordinary shares or any~~ class of shares or as they may direct, in those proportions, or partly in one way and partly in the other, provided that:
 - (i) the share premium account, the capital redemption reserve, the capital conversion reserve fund, any undenominated capital or any merger reserve and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued shares (excluding, in the case of the share premium account, the capital redemption reserve, the capital conversion reserve fund and any undenominated capital, redeemable shares) to be issued to Holders of ~~ordinary shares or any class of~~ shares credited as fully paid; and
 - (ii) in a case where any sum is applied in paying amounts for the time being unpaid on any shares of the Company or in paying up in full debentures of the Company, the amount of the net assets of the Company at that time is not less than the aggregate of the called up share capital of the Company and its undistributable reserves as shown in the latest audited accounts of the Company or such other accounts as may be relevant and would not be reduced below that aggregate by the payment thereof;
- (c) resolve that any shares so allotted to any Holder in respect of a holding by him of any partly paid shares shall, so long as such shares remain partly paid, rank for dividend only to the extent that the latter shares rank for dividend;
- (d) make such provision by the issue of fractional certificates (or by ignoring fractions or by accruing the benefit thereof to the Company rather than to the Holders of ~~ordinary shares or any class of~~ shares concerned) or by payment

in cash or otherwise as they may determine in the case of shares or debentures becoming distributable in fractions;

- (e) authorise any person to enter on behalf of all the Holders of ~~ordinary shares~~ or any class of shares concerned into an agreement with the Company providing for either:
 - (i) the allotment to them respectively, credited as fully paid, of any further shares to which they are entitled upon such capitalisation; or
 - (ii) the payment up by the Company on behalf of such Holders, by the application thereto of their respective proportions of the reserves or profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares;(any agreement made under such authority being binding on all such Holders); and
- (f) generally do all acts and things required to give effect to such resolution.

PART XXVI - COMMUNICATIONS

137. ~~135.~~ Communications to the Company

- (a) Subject to the Acts and except where otherwise expressly provided in these Articles, any notice, document or information to be given, served or delivered to the Company pursuant to these Articles shall be in writing in a paper copy or, subject to paragraph (b) below, in electronic form.
- (b) Subject to the Acts and except where otherwise expressly provided in these Articles, a notice, document or information may be given, served or delivered to the Company in electronic form only if this is done in such form and manner as may have been specified by the Directors from time to time for the giving, service or delivery of notices, documents or information in electronic form. The Directors may prescribe such procedures as they think fit for verifying the authenticity or integrity of any such notice, document or information given, served or delivered to it in electronic form.

138. ~~136.~~ Communications by the Company

- (a) Subject to the Acts and except where otherwise expressly provided in these Articles, any notice, document or information to be given, served or delivered by the Company pursuant to these Articles shall be in writing in paper copy or electronic form.
- (b) Subject to the Acts and except where otherwise expressly provided in these Articles, any notice, document or information to be given, served or delivered in pursuance of these Articles may be given to, served on or delivered to any member by the Company:
 - (i) by handing same to him or his authorised agent;

- (ii) by leaving the same at his registered address;
- (iii) by sending the same by the post or other delivery service in a pre-paid cover addressed to him at his registered address; or
- (iv) by sending the notice, the document (other than a share certificate) or the information in electronic form to such electronic address as may from time to time be authorised by the member or by making it available on a website.

A member shall be deemed to have agreed that the Company may give, serve or deliver a notice, document or information by means of a website if the conditions set out in the applicable legislation have been satisfied or where Article ~~136(j)~~138(j) applies.

- (c) Where a notice, document or information is given, served or delivered pursuant to sub-paragraph (b)(i) or (ii), the giving, service or delivery thereof shall be deemed to have been effected at the time the same was handed to the member or his authorised agent, or left at his registered address (as the case may be).
- (d) Where a notice, document or information is given, served or delivered pursuant to sub-paragraph (b)(iii), the giving, service or delivery thereof shall be deemed to have been effected at the expiration of 24 hours after the cover containing it in paper copy form was posted or given to delivery agents (as the case may be). In proving such giving, service or delivery, it shall be sufficient to prove that such cover was properly addressed, pre-paid and posted or given to delivery agents.
- (e) Where a notice, document or information is given, served or delivered pursuant to sub-paragraph (b)(iv), the giving, service or delivery thereof shall be deemed to have been effected:
 - (i) if sent in electronic form to an electronic address, at the expiration of 24 hours after the time it was sent; or
 - (ii) if made available on a website, at the expiration of 24 hours after the time when it was first made available on the website.
- (f) If the Company receives a delivery failure notification following the sending of a notice, document or other information in electronic form to an electronic address in accordance with sub-paragraph (b)(iv) above, the Company shall give, serve or deliver the notice, document or information in paper copy or electronic form (but not by electronic means) to the member either personally or by post addressed to the member at his registered address or (as applicable) by leaving it at that address. This shall not affect when the notice, document or information was deemed to be received in accordance with paragraph (e) above.
- (g) Every legal personal representative, committee, receiver, curator bonis or other legal curator, assignee in bankruptcy or liquidator of a member shall be

bound by a notice given as aforesaid if sent to the last registered address of such member (or otherwise given, served or delivered to such member in accordance with this Article ~~136~~138), notwithstanding that the Company may have notice of the death, lunacy, bankruptcy, liquidation or disability of such member.

- (h) Without prejudice to the provisions of sub-paragraphs (b)(i) and (ii), if at any time by reason of the suspension or curtailment of postal services within the State, the Company is unable effectively to convene a general meeting by notices sent through the post, a general meeting may be convened by a notice advertised on the same day in at least two leading national daily newspapers published in the State and such notice shall be deemed to have been duly served on all members entitled thereto at noon on the day on which the last of such advertisements shall appear. In any such case, the Company shall send confirmatory copies of the notice by electronic means to those members to whom the Company is entitled, in accordance with the Acts, to give notice by electronic means and through the post to those other members whose registered addresses are outside the State (if or to the extent that in the opinion of the Directors it is practicable so to do) or are in areas of the State unaffected by such suspension or curtailment of postal services, and if at least 120 hours prior to the time appointed for the holding of the meeting the posting of notices to members in the State, or any part thereof which was previously affected, has become practicable in the opinion of the Directors, the Directors shall send forthwith confirmatory copies of the notice by post to such members. The accidental omission to give any such confirmatory copy of a notice of a meeting to, or the non-receipt of any such confirmatory copy by, any person entitled to receive the same shall not invalidate the proceedings at the meeting.
- (i) Notwithstanding anything contained in this Article, the Company shall not be obliged to take account of or make any investigation as to the existence of any suspension or curtailment of postal services within or in relation to all or any part of any jurisdiction or other area other than the State.
- (j) Where a member has previously consented to receipt of any notice or document by an electronic communication or using electronic means in respect of its holding of ordinary shares in Mainstay Medical International plc such consent shall be deemed to apply in relation to the Company for the purpose of these Articles and no further consent will be required to be obtained by the Company for such purpose.

139. ~~137.~~Service on joint Holders

A notice may be given by the Company to the joint Holders of a share by giving the notice to the joint Holder whose name stands first in the Register in respect of the share and notice so given shall be sufficient notice to all the joint Holders.

140. ~~138.~~Service on transfer or transmission of shares

- (a) Every person who, by operation of law, transfer or otherwise, becomes entitled to a share shall be bound by any notice in respect of that share which, before

his name is entered in the Register in respect of the share, has been duly given to a person from whom he derives his title.

- (b) Without prejudice to the provisions of these Articles allowing a meeting to be convened by newspaper advertisement, a notice may be given by the Company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending or delivering it, in any manner authorised by these Articles for the giving of notice to a member, addressed to such persons at the address, if any, supplied by them for that purpose. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

141. ~~139.~~Signature to notices

The signature to any notice to be given by the Company may be written or printed.

142. ~~140.~~Deemed receipt of notices

A member present, either in person or by proxy, at any meeting of the Company or of the Holders of any class of shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

PART XXVII - WINDING UP

143. ~~141.~~Distribution on winding up

If the Company shall be wound up and the assets available for distribution among the members as such shall be insufficient to repay the whole of the paid up share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the members in proportion to the capital paid up at the commencement of the winding up on the shares held by them respectively; and if in a winding up the assets available for distribution among the members shall be more than sufficient to repay the whole of the share capital paid up at the commencement of the winding up, the excess shall be distributed among the members in proportion to the capital at the commencement of the winding up paid up on the shares held by them respectively; provided, however, that this Article shall not affect the rights of the Holders of shares issued upon special terms and conditions.

144. ~~142.~~Distribution in specie

If the Company shall be wound up, the liquidator may, with the sanction of a special resolution of the Company and any other sanction required by the Acts, divide among the members in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and, for such purpose, may value any assets and determine how the division shall be carried out as between the members or different classes of members. The liquidator, with the like sanction, may vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as, with the like sanction, he determines, but so that no member shall be compelled to accept any assets upon which there is a liability.

PART XXVIII - MISCELLANEOUS

145. ~~143.~~ Minutes of meetings

The Directors shall cause minutes to be made of the following matters, namely:

- (a) of all appointments of officers and committees made by the Directors and of their salary or remuneration;
- (b) of the names of all Directors present at each meeting of the Directors and of the names of all members thereof present at each meeting of every committee appointed by the Directors; and
- (c) of all resolutions and proceedings of all meetings of the Company, of the Holders of any class of shares in the Company, of the Directors and of committees appointed by the Directors.

Any such minute as aforesaid, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in such minute without any further proof.

146. ~~144.~~ Authentication of documents

Any Director or the Secretary or any person appointed by the Directors for the purpose shall have power to authenticate any documents affecting the constitution of the Company (including the memorandum and articles of association) and any resolutions passed by the Company or the Directors or any committee, and any books, records, documents and accounts relating to the business of the Company, and to certify copies thereof or extracts therefrom as true copies or extracts. A document purporting to be a copy of a resolution, or an extract from the minutes of a meeting, of the Company, the Directors, or any committee, or any local or divisional board which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that such extract is a true and accurate record of proceedings at a duly constituted meeting.

147. ~~145.~~ Secrecy

Without prejudice to the provisions of Article ~~132(e)~~[134\(c\)](#), no member shall be entitled to require discovery of or any information respecting any detail of the Company's trading, or any matter which is or may be in the nature of a trade secret, mystery of trade, or secret process which may relate to the conduct of the business of the Company and which in the opinion of the Directors it would be inexpedient in the interests of the members of the Company to communicate to the public.

148. ~~146.~~ Destruction of records

- (a) The Company shall be entitled to destroy:
- (i) all instruments of transfer which have been registered, at any time after the expiration of six years from the date of registration thereof;
 - (ii) all dividend mandates and all variations or cancellations thereof and all notifications of change of name or address, at any time after the expiration of two years from the date of recording thereof;
 - (iii) all share certificates which have been cancelled, at any time after the expiration of one year from the date of such cancellation; and
 - (iv) all other documents on the basis of which any entry in the Register is made, at any time after the expiry of six years from the date on which an entry in the Register was first made in respect of it.

Provided that the Company may destroy any such type of document at a date earlier than that authorised by this Article if a copy of such document is retained on microfilm or by other similar means and such copy is retained until the expiration of the period applicable to the destruction of the original of such document.

- (b) It shall be presumed conclusively in favour of the Company that every entry in the Register purporting to have been made on the basis of a document so destroyed was duly and properly made, that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered, that every share certificate so destroyed was a valid and effective document and was duly and properly cancelled and that every other document so destroyed had been properly dealt with in accordance with its terms and was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the Company; provided always that:
- (i) this Article shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
 - (ii) nothing in this Article shall be construed as imposing upon the Company any liability in respect of the destruction of any document otherwise than as provided for in this Article which would not attach to the Company in the absence of this Article; and
 - (iii) references in this Article to the destruction of any document include references to the disposal thereof in any manner.

149. ~~147.~~ Untraced shareholders

- (a) The Company shall be entitled to sell to any person whosoever (including, without limitation, the Company acting in accordance with the provisions of the Acts and these Articles) at the best price reasonably obtainable any share

of a Holder or any share to which a person is entitled by transmission if and provided that:

- (i) during the period of 12 years prior to the date of the publication of the advertisements referred to in subparagraph (ii) (or, if published on different dates, the later one) no cheque or warrant sent by the Company through the post in a pre-paid letter addressed to the Holder or to the person entitled by transmission to the share at his address on the Register or at the last known address given by the Holder or the person entitled by transmission as that to which cheques and warrants are to be sent shall have been cashed and no communication in respect of such share shall have been received by the Company from the Holder or the person entitled by transmission (provided that during such 12 year period at least three dividends shall have become payable in respect of such share);
 - (ii) the Company shall have given notice of its intention to sell such share by advertisement in a leading daily newspaper with a national circulation in the State and in a newspaper circulating in the area in which the address referred to in subparagraph (i) is located (which advertisements, if not published on the same day, shall have been published within 30 days of each other); and
 - (iii) during the further period of three months after the date of the advertisements (or, if published on different dates, the later one) and prior to the exercise of the power of sale, the Company shall not have received any communication in respect of such share from the Holder or person entitled by transmission.
- (b) To give effect to any such sale the Company may appoint any person to execute as transferor an instrument of transfer of such share and such instrument of transfer shall be as effective as if it had been executed by the Holder or the person entitled by the transmission to such share. The transferee shall be entered in the Register as the Holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase moneys nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- (c) If during the period of 12 years referred to in sub-paragraph (a)(i), or during any period ending on the date when all the requirements of sub-paragraph (a)(i) to (iv) have been satisfied, any additional shares have been issued in respect of those held by the Holder or person entitled by transmission at the beginning of, or previously so issued during, any such period and all the requirements of paragraph (a) and (b) have been satisfied in regard to such additional shares, the Company shall also be entitled to sell the additional shares.
- (d) The Company shall account to the Holder or other person entitled to such share for the net proceeds of such sale by carrying all moneys in respect thereof to a separate account which shall be a permanent debt of the Company and the Company shall be deemed to be a debtor and not a trustee in respect

thereof for such Holder or other person. Moneys carried to such separate account may be either employed in the business of the Company or invested in such investments as the Directors may from time to time think fit. No interest shall be payable to such Holder or other person in respect of such moneys and the Company shall not be required to account for any money earned on them.

150. ~~148.~~Indemnity

Subject to the provisions of and so far as may be admitted by the Acts but without prejudice to any indemnity to which the person concerned may otherwise be entitled, every Director, Managing Director, Auditor, Secretary or other officer of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution or discharge of his duties or in relation thereto including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted to be done or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court.

151. ~~149.~~Insurance

To the extent permitted by law, the Directors shall have the power to purchase and maintain insurance for the benefit of any person who is or was at any time a Director or other officer or employee or auditor of the Company or of any holding company of the Company or of any subsidiary of the Company or of such holding company, or who is or was at any time a trustee of any pension or retirement benefit scheme for the benefit of any employees or ex-employees of the Company or of any such other company or undertaking as aforesaid, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by any such person in respect of any act or omission in the actual or purported execution or discharge of his duties or in the exercise or purported exercise of his powers or otherwise in connection with his duties, powers or offices in relation to the Company or any such other company or undertaking as aforesaid or any such pension or retirement benefit scheme.