


Company No: 5392158

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THE COMPANIES ACT 2006

COMPANY LIMITED BY SHARES

NEW ARTICLES OF ASSOCIATION

of

BRANCASTER CARE HOMES LIMITED

(Adopted by special resolution passed on ~~...11..December~~..... 2023)

1. PRELIMINARY

1.1 In these Articles:

|                         |   |
|-------------------------|---|
| "Act"                   | the Companies Act 2006, including any statutory modification or re-enactment of it for the time being in force;   |
| "Adoption Date"         | means the date of adoption of the Articles as the articles of association of the Company;   |
| "Auditors"              | means the auditors of the Company from time to time;  |
| "Board"                 | means the board of directors of the Company for the time being;   |
| "Call Option Agreement" | means a Call Option Agreement entered into between (1) RAC and (2) Crossman Trust Company Limited (now Odin Fiduciaries Limited) as sole corporate trustee of the Four Seas Trust on or around 25 October 2011; |
| "Civil Partner"         | means a civil partner as defined in the Civil Partnerships Act 2004;  |
| "Consultancy Agreement" | means the consultancy agreement entered into between the Company and Steve Rubery Consultants dated 25 October  |

2011;

**"Family Trust"**

means:

- (a) any trust created by a settlor or a Privileged Relation of that settlor under which no power of control is capable of being exercised over the votes of any shares which are the subject of the trust by any person other than the trustees or the settlor or a Privileged Relation of the settlor, and "settlor" includes a testator or an intestate in relation to a Family Trust arising respectively under a testamentary disposition or an intestacy of a deceased member; and
- (b) the Four Seas Trust;

**"Four Seas Trust"**

means the trust which is a shareholder in the Company and of which RK is the settlor;

**"GDPC"**

Georgina Daphne Palmer Cook;

**"Model Articles"**

means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended;

**"Privileged Relation"**

means a Civil Partner, spouse or widow or widower of the member and the member's children and grandchildren (Including step and adopted children and their issue) and step and adopted children of the member's children;

**"RAC"**

means Richard Alister Cook;

**"RK"**

means Rajendra Kanani;

**"Shares"**

means the ordinary shares of £1 each in the issued capital of the Company;

**"Steve Rubery Consultants"**

means Steve Rubery Consultants S L a company incorporated and registered in Spain under number 04901504 whose registered office is at TP123, C/Morraira 62, 03724 Moraira, Alicante, Spain;

**"Subsidiary"**

in relation to a company wherever incorporated (a holding company) means "subsidiary" as defined in section 1162 of the Act and any other company which is itself a subsidiary (as so defined) of a company which is itself a subsidiary of

such holding company. Unless the context requires otherwise, the application of the definition of Subsidiary to any company at any time shall apply to the company as it is at that time;

**"Trustee"** means Odin Fiduciaries Limited as sole corporate trustee of the Four Seas Trust;

**"VC"** means Victoria Gallimore.

- 1.2 The Model Articles shall apply to the company save insofar as they are modified or excluded by these Articles or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles or regulations set out in any statute or in any statutory instrument or other subordinate legislation. A copy of the Model Articles is set out in the Schedule to these Articles.
- 1.3 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles but excluding any statutory modification of it not in force when these regulations become binding on the Company.
- 1.4 Words importing the singular only shall include the plural and vice versa, words importing the masculine gender shall include the feminine gender and words importing natural persons shall include also corporations.
- 1.5 The headings in these Articles are for convenience only and shall be ignored in construing the language or meaning of the Articles.
- 1.6 Articles 6(2), 11, 12, 14, 16, 17, 21, 27 to 29 (inclusive), 49 and 50, 52 and 53 of the Model Articles shall not apply to the Company.
- 1.7 Article 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors and the secretary)" before the words "properly incur".
- 1.8 Articles 31(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide".
- 1.9 The company is a private company within the meaning of Section 4 of the Act and accordingly no shares in or debentures of the company shall be offered to the public (whether for cash or otherwise) and the company shall not allot or agree to allot (whether for cash or otherwise) any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public.

## 2 SHARE CAPITAL

- 2.1 Subject to these Articles, but without prejudice to the rights attached to any existing share, the Company may issue shares with such rights or restrictions as may be determined by ordinary resolution.
- 2.2 The Company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

## 3 CLASS RIGHTS

- 3.1 Subject to this Article 3, whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, only with the consent in writing of the holders of 75% of the issued shares of that class.

## 4 LIEN

- 4.1 The company has a lien (the **company's lien**) over every share, whether or not fully paid, which is registered in the name of any person indebted or under any liability to the company, whether he is the sole registered holder of the share or one of several joint holders, for all monies payable by him (either alone or jointly with any other person) to the company, whether payable immediately or at some time in the future.
- 4.2 The company's lien over a share:
  - 4.2.1 takes priority over any third party's interest in that share; and
  - 4.2.2 extends to any dividend or other money payable by the company in respect of that share and (if the lien is enforced and the share is sold by the company) the proceeds of sale of that share.
- 4.3 The directors may at any time decide that a share which is or would otherwise be subject to enforcement of the company's lien shall not be subject to it, either wholly or in part.

### **Enforcement of the Company's Lien**

- 4.4 Subject to the provisions of this Article, if:
  - 4.4.1 A lien enforcement notice has been given in respect of a share; and
  - 4.4.2 the person to whom the notice was given has failed to comply with it,the company may sell that share in such manner as the directors decide.
- 4.5 A lien enforcement notice:

- 4.5.1 may only be given in respect of a share which is subject to the company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;
  - 4.5.2 must specify the share concerned;
  - 4.5.3 must require payment of the sum within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);
  - 4.5.4 must be addressed either to the holder of the share or to a transmittee of that holder; and
  - 4.5.5 must state the company's intention to sell the share if the notice is not complied with.
- 4.6 Where shares are sold under this Article:
- 4.6.1 the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or to a person nominated by the purchaser; and
  - 4.6.2 the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.
- 4.7 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied:
- 4.7.1 first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice; and
  - 4.7.2 second, to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the company for cancellation, or an indemnity in a form reasonably satisfactory to the directors has been given for any lost certificates, and subject to a lien equivalent to the company's lien for any money payable (whether payable immediately or at some time in the future) as existed upon the shares before the sale in respect of all shares registered in the name of such person (whether as the sole registered holder or as one of several joint holders) after the date of the lien enforcement notice.
- 4.8 A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been sold to satisfy the company's lien on a specified date:
- 4.8.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
  - 4.8.2 subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the share.

## **5 CALLS & FORFEITURE**

5.1 Subject to the Articles and the terms on which shares are allotted, the directors may send a notice (a **call notice**) to a shareholder requiring the shareholder to pay the company a specified sum of money (a **call**) which is payable to the company at the date when the directors decide to send the call notice.

5.2 A call notice:

5.2.1 may not require a shareholder to pay a call which exceeds the total amount of his indebtedness or liability to the company;

5.2.2 must state when and how any call to which it relates is to be paid; and

5.2.3 may permit or require the call to be made in instalments.

5.3 A shareholder must comply with the requirements of a call notice, but no shareholder is obliged to pay any call before 14 clear days (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) have passed since the notice was sent

5.4 Before the company has received any call due under a call notice the directors may

5.4.1 revoke it wholly or in part; or

5.4.2 specify a later time for payment than is specified in the notice,

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

### **Liability to pay Calls**

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

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

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

5.7.1 to pay calls which are not the same; or

5.7.2 to pay calls at different times.

### **When Call Notice need not be issued**

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

5.8.1 on allotment;

5.8.2 on the occurrence of a particular event; or

5.8.3 on a date fixed by or in accordance with the terms of issue,

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

**Failure to comply with Call Notice: Automatic Consequences**

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

5.9.1 the directors may issue a notice of intended forfeiture to that person; and

5.9.2 until the call is paid, that person must pay the company interest on the call from the call payment date at the relevant rate.

5.10 For the purposes of this Article:

5.10.1 the "call payment date" is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "call payment date" is that later date, and

5.10.2 the "relevant rate" is:

(a) the rate fixed by the terms on which the share in respect of which the call is due was allotted;

(b) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors; or

(c) if no rate is fixed in either of these ways, 5 per cent per annum.

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

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

**Notice of intended Forfeiture**

5.13 A notice of intended forfeiture:

5.13.1 may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;

5.13.2 must be sent to the holder of that share (or all the joint holders of that share) or to a

transmittee of that holder;

5.13.3 must require payment of the call and any accrued interest and all expenses that may have been incurred by the company by reason of such non-payment by a date which is not less than 14 clear days after the date of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);

5.13.4 must state how the payment is to be made, and

5.13.5 must state that if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited.

#### **Directors' Power to Forfeit shares**

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

#### **Effect of Forfeiture**

5.15 Subject to the Articles, the forfeiture of a share extinguishes:

5.15.1 all interests in that share, and all claims and demands against the company in respect of it; and

5.15.2 all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the company.

5.16 Any share which is forfeited in accordance with the Articles:

5.16.1 is deemed to have been forfeited when the directors decide that it is forfeited;

5.16.2 Is deemed to be the property of the company; and

5.16.3 may be sold, re-allotted or otherwise disposed of as the directors think fit.

5.17 If a person's shares have been forfeited:

5.17.1 the company must send that person notice that forfeiture has occurred and record it in the register of shareholders;

5.17.2 that person ceases to be a shareholder in respect of those shares;

5.17.3 that person must surrender the certificate for the shares forfeited to the company for cancellation;

5.17.4 that person remains liable to the company for all sums payable by that person under the



Articles at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture); and

5.17.5 the directors may wave payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.

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

#### **Procedure following forfeiture**

5.19 If a forfeited share is to be disposed of by being transferred, the company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer.

5.20 A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been forfeited on a specified date:

5.20.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and

5.20.2 subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the share.

5.21 A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share.

5.22 If the company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the company the proceeds of such sale, net of any commission, and excluding any amount which:

5.22.1 was, or would have become, payable, and

5.22.2 had not, when that share was forfeited, been paid by that person in respect of that share,

5.22.3 but no interest is payable to such a person in respect of such proceeds and the company is not required to account for any money earned on them.

#### **Surrender of shares**

5.23 A shareholder may surrender any share:

5.23.1 in respect of which the directors may issue a notice of intended forfeiture;

5.23.2 which the directors may forfeit; or

5.23.3 which has been forfeited.

5.24 The directors may accept the surrender of any such share.

5.25 The effect of surrender on a share is the same as the effect of forfeiture on that share.

5.26 A share which has been surrendered may be dealt with in the same way as a share which has been forfeited.

5.27 The company's lien shall not be subject to it, either wholly or in part.

## **6 ISSUES OF SHARES: PRE-EMPTION RIGHTS**

6.1 In accordance with section 567(1) of CA 2006, sections 561 and 562 of CA 2006 shall not apply to an allotment of equity securities (as defined in section 560(1) of CA 2006) made by the Company.

6.2 Unless otherwise agreed by special resolution, if the Company proposes to allot any equity securities, those equity securities shall not be allotted to any person unless the Company has first offered them to all Shareholders on the date of the offer on the same terms, and at the same price, as those equity securities are being offered to such other person on a pari passu basis and pro rata to the nominal value of shares held by those Shareholders (as nearly as possible without involving fractions).

6.3 The offer

6.3.1 shall be in writing, shall be open for acceptance for a period of not less than fourteen working days from the date of the offer and shall give details of the number and subscription price of the relevant equity securities, and

6.3.2 may stipulate that any shareholder who wishes to subscribe for a number of equity securities in excess of the proportion to which he is entitled shall, in his acceptance, state the number of excess equity securities (Excess Securities) for which he wishes to subscribe.

6.4 Any equity securities not accepted by members pursuant to the offer made to them in accordance with Articles 6.2 and 6.3 shall be used for satisfying any requests for Excess Securities made pursuant to Article 6.3.2. If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants as nearly as practicable in the proportion that the number of Excess Securities each shareholder indicated he would accept bears to the total number of Excess Securities applied for (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any shareholder beyond that applied for by him). After that allotment, any Excess Securities remaining shall be offered to any other person as the directors may determine, at the same price and on the same terms as the

offer to the shareholders.

## **7 TRANSFER OF SHARES**

- 7.1 The Board shall refuse to register any transfer of shares made in contravention of the provisions of these Articles but shall not otherwise be entitled to refuse to register any transfer of shares. For the purpose of ensuring that a particular transfer of shares is permitted under the provisions of these Articles, the directors may request the transferor, or the person named as transferee in any transfer lodged for registration, to furnish the Company with such information and evidence as the directors may reasonably think necessary or relevant. Failing such information or evidence being furnished to the satisfaction of the directors within a period of 28 days after such request the directors shall be entitled to refuse to register the transfer in question.
- 7.2 A reference in these Articles to a transfer of shares shall include a transfer of any interest in shares (whether legal, beneficial or otherwise) and these Articles shall take effect accordingly.

## **8 PERMITTED TRANSFERS**

### **8.1 Permitted transfers to Privileged Relations and Family Trusts**

Notwithstanding any other provision in these Articles RAC may at any time during his lifetime transfer all or any shares held by him to a Privileged Relation or to trustees to be held upon a Family Trust of which he or any of his Privileged Relations are the settlor.

### **8.2 Permitted transfers by Family Trusts**

Where any shares are held by trustees upon a Family Trust:

- 8.2.1 on any change of trustees such shares may be transferred to the new trustees of that Family Trust; and
- 8.2.2 such shares may be transferred at any time to the settlor or to another Family Trust of which he is the settlor or to any Privileged Relation of the settlor.

### **8.3 Permitted Transfers by Personal Representatives**

The personal representatives of a deceased member may transfer any of the shares registered in his name as sole holder or as sole surviving joint holder to the trustees of any Family Trust of the deceased member or a Privileged Relation or any person who is entitled to those shares under the deceased member's will or on his intestacy.

### **8.4 Transfers to the Company**

Any holder of shares may with the consent of all the other members at any time transfer shares to the Company in accordance with the Act and these Articles.

## 9 MANDATORY TRANSFERS

### 9.1 Mandatory transfer if trust ceases to be a "Family Trust"

9.1.1 If and whenever any shares held by trustees upon a Family Trust cease to be so held upon a Family Trust (otherwise than in consequence of a transfer to the settlor or to any Privileged Relation of the settlor) or there cease to be any beneficiaries of the Family Trust other than a charity or charities, a Transfer Notice (as hereinafter defined) shall be deemed to have been given in respect of the relevant shares (as hereinafter defined) by the holders thereof and such shares may not otherwise be transferred.

9.1.2 For so long as RK or the Trustee holds any Shares, RK shall be entitled (at his sole discretion) within a period of 6 months from the date of death of the survivor of RAC, VG and GDPC, by serving notice in writing on the trustees of any Family Trust to which RAC and/or VG has transferred Shares and/or the relevant personal representatives of RAC, VG and GDPC and the Board, to resolve, determine and instruct the Board (who shall accept and act in accordance with such instructions):

- (a) that a Transfer Notice (as hereinafter defined) shall be deemed to have been given in respect of the relevant shares (as hereinafter defined) held by the trustees of the Family Trust and the relevant shares shall be offered for sale by the Company in accordance with Article 10 provided that such offer for sale shall be made to the Trustee or RK as RK shall specify in the notice, and such shares may not otherwise be transferred; or
- (b) to market the whole of the Company for sale to a willing buyer, and the trustees of the Family Trust, and/or the relevant personal representatives of RAC, VG and GDPC (on the one part) and the remaining Shareholder(s) (on the second part) shall use all reasonable endeavours, acting in good faith, to cooperate and provide such assistance as is required by RK to market and procure the sale of the Company. This shall include appointing appropriate professional advisors who are specialised in the sale of nursing and care homes.

9.1.3 For the purposes of sub-Articles 9.1.1 and 9.1.2 the expression "**relevant shares**" means and includes the shares originally subscribed for by or transferred to the trustees and any additional shares issued or transferred to the trustees by virtue of the holding of the relevant shares or any of them.

### 9.2 Mandatory transfers

Transfers under this sub-Article are in these Articles referred to as Compulsory Transfers. A member the subject of a Compulsory Transfer shall be treated as a Vendor (as hereinafter defined) for those purposes:

9.2.1 In this Article 9 a "Transfer Event" occurs:

- (a) In relation to RAC, if he

- (i) is adjudicated bankrupt or becomes of unsound mind and within the following twelve months the Board shall resolve that such event is a Transfer Event for the purposes of this sub-Article; or
  - (ii) he makes any voluntary arrangement or composition with his creditors or and within the following six months the Board shall resolve that such event is a Transfer Event for the purposes of this sub-Article,
- (b) **In relation to VG, if:**
  - (i) RAC and VG separate or cease to be spouses or Civil Partners and within the following six months the Board shall resolve that such event is a Transfer Event for the purposes of this sub-Article. For the avoidance of doubt:
    - (1) RAC shall decide, in his entire discretion, whether RAC and VG have separated for the purposes of this Article;
    - (2) the death of either RAC or VG does not constitute a separation or end of the marriage or civil partnership for the purposes of this Article; and
    - (3) such a Transfer Event will not affect any shares then held by RAC and no Transfer Notice shall be deemed in relation to any shares then held by him; or
  - (ii) She is adjudicated bankrupt or becomes of unsound mind and within the following twelve months the Board shall resolve that such event is a Transfer Event for the purposes of this sub-Article; or
  - (iii) she makes any voluntary arrangement or composition with her creditors or and within the following six months the Board shall resolve that such event is a Transfer Event for the purposes of this sub-Article; and
- (c) **In relation to the Trustee, and subject always to Article 10.13, if:**
  - (i) RK dies, is adjudicated bankrupt or becomes of unsound mind and within the following twelve months the Board shall resolve that such event is a Transfer Event for the purposes of this sub-Article; or
  - (ii) RK makes any voluntary arrangement or composition with his creditors or and within the following six months the Board shall resolve that such event is a Transfer Event for the purposes of this sub-Article; or
  - (iii) Steve Rubery Consultants ceases to be a consultant of the Company or any of its Group Companies and does not continue in that capacity in relation to any of them for any reason; or

- (iv) Steve Rubery Consultants commit any serious or repeated breach or non-observance of any of the provisions of the Consultancy Agreement or refuse or neglect to comply with any reasonable and lawful directions of the Company; or
  - (v) the Company terminates the Consultancy Agreement in accordance with clause 10 therein; or
  - (vi) a receiver, manager, administrative receiver or administrator is appointed of it or over all or any part of its undertaking or assets or it enters into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) and within the following six months the Board shall resolve that such event is a Transfer Event for the purposes of this sub-Article.
- 9.2.2 For the purposes of Article 9.2.1, a member becomes of unsound mind if he is or may be suffering from mental disorder and either he is admitted to hospital as a result of an application for admission for treatment under the Mental Health Act 1983 or, In Scotland, an application for admission under the Mental Health (Scotland) Act 1960 or an order is made by a court of competent judication in matters of mental health for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs.
- 9.2.3 Upon the making of a notification or resolution under Article 9.2.1 that the same is a Transfer Event, Transfer Notices shall be deemed to have been served immediately in respect of all shares then held by the relevant member; and all shares then held by the relevant member's Privileged Relations and/or Family Trusts (other than shares which the directors are satisfied were not acquired by such holders either (i) directly or indirectly from the relevant member or (ii) by reason of their connection with the relevant member, and the decision of the Board in this respect will be final). For the avoidance of doubt any Transfer Notice deemed to have been served on VG shall not extend to any shares then held by RAC.
- 9.2.4 Notwithstanding any other provision of these Articles any shares which are the subject to a Deemed Transfer Notice shall, until transferred, not entitle the transferor of such shares to receive notice of, attend or vote at any general meeting of the Company or meeting of the holders of shares of the same class and such shares shall not be counted in determining the total number of votes which may be cast at any such meeting or for the purposes of a written resolution of any member or class of members and there shall be no time limit within which the shares must be offered for sale.

## 10 PRE-EMPTION RIGHTS

### 10.1 Transfer notices

Save as otherwise provided in these Articles every member who desires to transfer any shares shall give to the Company notice in writing of such desire ("**Transfer Notice**") which expression shall be deemed to include any Transfer Notice which under these Articles is deemed to have been given) Transfer Notices shall constitute the Company the agent of the member who desires to transfer the shares or the member the subject of the Deemed Transfer Notice (in either case the "**Vendor**") for the sale of the shares specified therein (the "**Sale Shares**") in one or more lots at the discretion of the directors at the Sale Price.

### 10.2 Calculation of the Sale Price

10.3 The price for the shares being transferred (the "**Sale Price**") shall be the price agreed by the Vendor and the directors. If the Vendor and the directors are unable to agree a price within 28 days of the Transfer Notice being given or being deemed to have been given the Sale Price will instead be the price which the Auditors shall certify to be in their opinion a fair value thereof. The fair value of the Option Shares shall be calculated (either by the parties or by the Auditors) on the following assumptions:

10.3.1 valuing the Sale Shares as on an arm's length sale between a willing vendor and a willing purchaser;

10.3.2 that the Company is then carrying on business as a going concern and will continue to carry on business as a going concern;

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

10.3.4 valuing the Sale Shares as a rateable proportion of the total share capital, which value shall not be discounted or enhanced by reference to the number or amount thereof.

If any difficulty shall arise in applying any of those assumptions then such difficulty shall be solved by the Auditors in such manner as they shall in their absolute discretion think fit. The Auditors shall, in determining the fair value of the Sale Shares, appoint an independent surveyor to value any freehold/leasehold properties of the Company. The decision of the Auditors as to the Sale Price shall be final and binding.

### 10.4 Right of Vendor to reject partial sales

A Transfer Notice (but not a Transfer Notice deemed served hereunder) may contain a condition (a "**Total Transfer Condition**") that unless all the shares comprised therein are sold by the Company pursuant to this Article none shall be sold. Any such provision shall be binding on the Company.

#### 10.5 Certification of the Sale Price and right of Vendor to cancel

If the Auditors are asked to certify the fair value their certificate shall be delivered to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Vendor. The Vendor shall be entitled by notice in writing given to the Company within ten days of the service upon him of the copy certificate to cancel the Company's authority to sell the Sale Shares unless the shares are to be sold pursuant to a Deemed Transfer Notice. The cost of obtaining the certificate shall be paid by the Company unless the Vendor cancels it in which case the Vendor shall bear the cost.

#### 10.6 Pre-emptive offers-general

Once the Sale Price has been determined then unless the Vendor gives a valid notice of cancellation the Sale Shares shall be offered for sale as set out below. All offers made by the Company shall give details of the number and Sale Price of the Sale Shares.

#### 10.7 First Offer

10.7.1 As soon as Sale Shares become available they shall be forthwith offered for sale by the Company to:

- (a) the Trustee, where the Vendor is RAC; and
- (b) RAC, where the Vendor is VG or the Trustee,

10.7.2 Subject to Article 10.13, any offer made by the Company under this sub-Article will invite the relevant members to state in writing the maximum number of the shares offered to them that they wish to purchase and will remain open for twenty one days (the "**First Offer Period**").

#### 10.8 Second Offer

10.8.1 If at the end of the First Offer Period there are any Sale Shares offered which have not been allocated the Company shall offer such shares to:

- (a) the Trustee, where the Vendor is VG; and
- (b) VG, where the Vendor is RAC or the Trustee,

10.8.2 Any offer made by the Company under this sub-Article will invite the relevant members to state in writing the maximum number of the shares offered to them that they wish to purchase and will remain open for twenty one days. This offer will remain open for a further period of twenty one days (the "**Second Offer Period**").

#### 10.9 Third Offer

If at the end of the Second Offer Period there are any Sale Shares which have not been allocated



the Company shall have the right (but not the obligation) to buy all or part of the Sale Shares. This offer will remain open for a further period of twenty one days (the "Third Offer Period").

#### **10.10 Transfer procedure for pre-emptive offers**

If the Company finds a purchaser for all or any of the Sale Shares under the terms of this Article the Vendor shall be bound upon receipt of the Sale Price to transfer the Sale Shares (or such of the same for which the Company shall have found a purchaser or purchasers) to such persons. If the Vendor defaults in transferring Sale Shares the Company shall if so required by the person or persons willing to purchase such Sale Shares receive and give a good discharge for the purchase money on behalf of the Vendor and shall authorise some person to execute transfers of the Sale Shares in favour of the purchasers and shall enter the names of the purchasers in the Register of Members as the holder of such of the Sale Shares as shall have been transferred to them as aforesaid.

#### **10.11 Transfers free of pre-emption**

Subject to Article 10.13, if the Company does not find purchasers for all of the Sale Shares under the terms of this Article the Vendor shall at any time within six months after the end of the Third Offer Period be free to sell and transfer such of the Sale Shares as have not been so sold to any person at a price which is no less than the Sale Price, provided that if the Sale Shares were the subject of a Total Transfer Condition such a sale may only be made of all the Sale Shares and not part only.

#### **10.12 Effect of non-compliance**

Any purported transfer of shares otherwise than in accordance with the foregoing provisions of these Articles shall be void and have no effect.

#### **10.13 Call Option Agreement**

In the event of any conflict between the terms of these Articles and the Call Option Agreement (in particular in relation to any time periods or offer periods), then the Call Option Agreement shall prevail as between the Trustee and RAC.

### **11 PROCEEDINGS AT GENERAL MEETINGS**

- 11.1 The quorum at any general meeting of the Company, or adjourned general meeting, shall be one, who must be RAC (for so long as he holds shares in the Company).
- 11.2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.
- 11.3 If a quorum is not present within half an hour from the time appointed for a general meeting the general 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 and

if at the adjourned general meeting a quorum is not present within half an hour from the time appointed therefor those present shall constitute a quorum.

#### **Votes**

- 11.4 On a show of hands every Shareholder who (being an individual) is present in person or (being a corporation) is present by a representative not being himself a member, shall have one vote, and on a poll every Shareholder who is present in person or by proxy or (being a corporation) is present by a representative or by proxy shall (except as hereinafter provided) have one vote for every Share in the capital of the Company of which he is the holder.
- 11.5 A poll may be demanded at any general meeting by a qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 11.6 Article 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that article.

#### **Proxies**

- 11.7 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "Is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of general meeting (or adjourned meeting) to which they relate".
- 11.8 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid" as a new paragraph at the end of that article.

### **12 APPOINTMENT AND REMOVAL OF DIRECTORS**

- 12.1 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.
- 12.2 Unless and until the Company in general meeting shall otherwise determine, there shall not be any limitation as to the number of Directors. If and so long as there is a sole Director he may exercise all the powers and authorities vested in the Directors by these Articles.
- 12.3 A director shall not be removed from office (without his consent) unless he shall have committed any serious breach or (after warning) any repeated or continued breach of his fiduciary duties or he shall have been guilty of gross misconduct or conduct tending to bring himself or the Company into disrepute or he shall have committed any criminal offence (other than a minor motoring offence not leading to the imposition of a custodial sentence).

### 13 PROCEEDINGS OF DIRECTORS

- 13.1 Notice of every meeting of the directors shall be given to each director at any address supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such meeting that notice was not given to him. Meetings of the directors may be held by conference telephone or similar equipment as long as the participants can all hear each other.
- 13.2 The quorum for the transaction of the business of the directors shall be two save if the Company only has one director in which case the quorum shall be one. A person who holds office only as an alternate director shall, if his appointer is not present, be counted in the quorum.
- 13.3 If no quorum is present within fifteen minutes from the time appointed for the meeting and provided notice of adjournment is given to any Chairman in office the meeting shall be adjourned and re-convened for the same time and place not less than seven days later, when that Director or those directors present shall constitute a quorum.

### 14 DIRECTORS' CONFLICTS OF INTERESTS

- 14.1 The directors may, in accordance with the requirements set out in this Article 14, authorise any matter proposed to them by any director which would, if not authorised, involve a director breaching his duty under section 175 of the Act to avoid conflicts of interest ("Conflict").
- 14.2 Any authorisation under this Article 14 will be effective only if:
- 14.2.1 the matter in question shall have been proposed by any director for consideration at a meeting of directors in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
  - 14.2.2 any requirement as to the quorum at the meeting of the directors at which the matter is considered is met without counting the director in question; and
  - 14.2.3 the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.
- 14.3 Any authorisation of a matter under this Article may (whether at the time of giving the authority or subsequently):
- 14.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
  - 14.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the directors may determine;
  - 14.3.3 be terminated or varied by the directors at any time.

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

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

14.4.1 disclose such information to the directors or to any director or other officer or employee of the company;

14.4.2 use or apply any such information in performing his duties as a director, where to do so would amount to a breach of that confidence.

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

14.5.1 is excluded from discussions (whether at meetings of directors or otherwise) related to the Conflict;

14.5.2 is not given any documents or other information relating to the Conflict;

14.5.3 may or may not vote (or may or may not be counted in the quorum) at any future meeting of directors in relation to any resolution relating to the Conflict.

- 14.6 Where the directors authorise a Conflict:

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

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

- 14.7 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

## 15 DIRECTORS' INTERESTS

- 15.1 A director who is in any way, whether directly or indirectly interested in a proposed transaction or arrangement with the Company shall declare the nature and extent of his interest to the other directors before the Company enters into the transaction or arrangement in accordance with the Act.

- 15.2 A director who is in any way, whether directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company shall declare the nature and extent of his interest to the other directors as soon as is reasonably practicable in accordance with the Act, unless the interest has already been declared under Article 15.1.
- 15.3 Subject, where applicable, to the disclosures required under Article 15.1 and Article 15.2, and to any terms and conditions imposed by the directors in accordance with Article 14.3, a director shall be entitled to vote in respect of any proposed or existing transaction or arrangement with the Company in which he is interested and if he shall do so his vote shall be counted and he shall be taken into account in ascertaining whether a quorum is present Article 14 of the Model Articles shall not apply.
- 15.4 A director need not declare an interest under Article 15.1 and Article 15.2 as the case may be:
- 15.4.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
  - 15.4.2 of which the director is not aware, although for this purpose a director is treated as being aware of matters of which he ought reasonably to be aware;
  - 15.4.3 if, or to the extent that, the other directors are already aware of it, and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware; or
  - 15.4.4 if, or to the extent that, it concerns the terms of his service contract that have been, or are to be, considered at a board meeting.

## **16 BORROWING POWERS**

The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company and, subject to the Acts, to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

## **17 INDEMNITY & INSURANCE**

- 17.1 Subject to Article 17.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:
- 17.1.1 each relevant officer shall be indemnified out of the company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer
    - (a) in the actual or purported execution and/or discharge of his duties, or in relation to them; and
    - (b) in relation to the company's (or any associated company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

- 17.1.2 Including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the company's (or any associated company's) affairs; and
- 17.1.3 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in Article 17.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 17.2 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.
- 17.3 The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer in respect of any relevant loss.
- 17.4 In this Article:
- 17.4.1 a "**relevant officer**" means any director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor);
- 17.4.2 a "**relevant loss**" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company; and
- 17.4.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

## 18 CHANGE OF NAME

- 18.1 The directors may resolve in accordance with Article 7 of the Model Articles to change the Company's name.