

# Sofant Technologies Limited (the "Company")

Registered in Scotland No. SC409777

## Companies Acts

### Written Record of Members' Written Resolution

Circulation Date: 23 FEBRUARY 2017

On the 24<sup>th</sup> day of FEBRUARY 2017, the following RESOLUTIONS IN WRITING (such Resolutions to have effect as Ordinary and Special Resolutions, as indicated) were duly passed by the members of the Company entitled to attend and vote at a general meeting of the Company: -

#### ORDINARY RESOLUTIONS

1. THAT all authorities conferred on the directors prior to the date of passing of this resolution to allot relevant securities in accordance with section 80 of the Companies Act 1985 (as amended or re-enacted from time to time) or to allot shares in the Company or grant rights to subscribe for or to convert any security into shares (under section 551 of the Companies Act 2006 or otherwise) are hereby revoked.
2. THAT, in accordance with section 551 of the Companies Act 2006, the directors of the Company be and are hereby generally and unconditionally authorised to issue and allot up to 194 ordinary shares of £0.01 each in the share capital of the Company to Kelvin Capital Limited (or its nominee) ("**Kelvin**") pursuant to a warrant instrument between the Company and Kelvin (as amended on or around the date hereof) (the "**Kelvin Warrant Instrument**"), subject always to the condition that this authority shall expire, unless sooner revoked or altered by the Company in general meeting, five years after the date hereof, and provided further that the Company may before the expiry of this authority make an offer or agreement in terms of the Kelvin Warrant Instrument which would or might require such shares to be allotted after such expiry and the directors may allot such shares in pursuance of any such offer or agreement as if the authority conferred hereby had not expired.
3. THAT, in accordance with section 551 of the Companies Act 2006, the directors of the Company be and are hereby generally and unconditionally authorised to issue and allot up to 194 ordinary shares of £0.01 each in the share capital of the Company to Scottish Enterprise (or its nominee) ("**SE**") pursuant to a warrant instrument between the Company and SE (as amended on or around the date hereof) (the "**SE Warrant Instrument**"), subject always to the condition that this authority shall expire, unless sooner revoked or altered by the Company in general meeting, five years after the date hereof, and provided further that the Company may before the expiry of this authority make an offer or agreement in terms of the SE Warrant Instrument which would or might require such shares to be allotted after such expiry and the directors may allot

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such shares in pursuance of any such offer or agreement as if the authority conferred hereby had not expired.

4. THAT, in accordance with section 551 of the Companies Act 2006, the directors of the Company be and are hereby generally and unconditionally authorised to issue and allot up to 6,463 ordinary shares of £0.01 each in the share capital of the Company; declaring that this authority shall (unless renewed, varied or revoked by the Company) expire on 31 May 2017.
5. THAT, in accordance with section 551 of the Companies Act 2006, the directors of the Company be and are hereby generally authorised to allot up to 5,821 ordinary shares of £0.01 each in the share capital of the Company pursuant to any share option scheme (comprising any Enterprise Management Incentive share option scheme and/or any unapproved share option scheme) and/or share option agreements established or otherwise entered into by the Company from time to time, subject always to the articles of association of the Company PROVIDED ALWAYS THAT the authorities set out in this resolution (3) shall expire, unless sooner revoked or altered by the Company in general meeting, five years after the date hereof, and provided further that the Company may before the expiry of this authority make an offer or agreement which would or might require relevant securities to be allotted after the expiry of this authority and the directors may allot relevant securities in pursuance of any such offer or agreement as if the authority conferred hereby had not expired.

#### **SPECIAL RESOLUTIONS**

6. THAT all rights of pre-emption whether in terms of the Articles of Association of the Company, the Companies Act 2006 or otherwise be and are hereby waived in respect of any allotment of shares made pursuant to resolution(s) (2), (3), (4) and (5) above.
7. THAT the document attached be adopted as the new Articles of Association of the Company, in place of and to the exclusion of all other previous Articles of Association.



AUTHORISED SIGNATORY  
FOR AND ON BEHALF OF  
Sofant Technologies Limited

24 FEBRUARY 2017

Dated

A handwritten signature in black ink, appearing to read "A. V. El-Ray", with a long horizontal flourish extending to the right.

ARTICLES OF ASSOCIATION

SOFANT TECHNOLOGIES LTD  
(Registered Number SC409777)

(ADOPTED: 24 FEBRUARY 2017)

# ARTICLES OF ASSOCIATION

of

SOFANT TECHNOLOGIES LTD

(Registered Number SC409777)

A PRIVATE LIMITED COMPANY

Incorporated under

THE COMPANIES ACTS

(ADOPTED 24 FEBRUARY 2017)

## 1 DEFINITIONS AND INTERPRETATION

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

|                            |                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| <b>"the Act"</b>           | means the Companies Act 2006;                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>"Acting in Concert"</b> | shall have the meaning given to it in the City Code on Takeovers and Mergers from time to time;                                                                                                                                                                                                                                                                                                                 |
| <b>"Adoption Date"</b>     | means the date of adoption of these Articles;                                                                                                                                                                                                                                                                                                                                                                   |
| <b>"Approved Issue"</b>    | means the (i) the issue of shares which the Company may, having had (a) the consent of an Investor Majority and (b) the unanimous consent of the Board, at any time by Special Resolution declare as such; and/or (ii) the issue of shares to Kelvin Capital and/or Scottish Enterprise pursuant to either of the Warrant Instruments; and/or (iii) the issue of shares pursuant to the Approved Option Scheme; |
| <b>"Approved Option"</b>   | means (i) any option(s) in existence at the Adoption Date; and (ii) any further options under an Approved Option Scheme in respect of the balance of the Option Pool to be granted to employees or Directors but not, for the avoidance of doubt, any party who is a Director at the Adoption Date;                                                                                                             |
| <b>"Approved Scheme"</b>   | means the EMI or other option scheme(s) to be put in place in respect of the Option Pool, the terms of which are to be agreed between the Company                                                                                                                                                                                                                                                               |

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|                             | and the Investor Directors;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>"Articles"</b>           | means these articles of association constituted by the following regulations together with any duly authorised amendments or alterations from time to time, and the term "Article" shall be a reference to a regulation contained in these Articles;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>"Associated Company"</b> | shall have the meaning given to it in the Act;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>"Auditors"</b>           | means the auditors of the Company from time to time; unless auditors are not required pursuant to the Act and have not been appointed, in which case such reference shall instead mean the accountants of the Company from time to time;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>"Bad Leaver"</b>         | <p>means a person who ceases (i) employment with the Company or any Group Member of the Company; or (ii) holding the office of Director or consultant of the Company or any Group Member of the Company and includes a member who is a shareholder, director or employee of a Consultant Company which ceases to provide services to the Company, where such member does not remain acting for the Company or a Group Member in any other such capacities, in any of the following situations:-</p> <ul style="list-style-type: none"> <li>(a) where such cessation occurs in circumstances where the employee, director or consultant is not a Good Leaver;</li> <li>(b) where the employee, Director, consultant or Consultant Company (as the case may be) takes up employment with or undertakes the provision of services to a competitor of the Company within 12 months of such cessation in breach of any applicable restrictive covenants contained in the relevant employment or service contract;</li> <li>(c) where the employee, Director, consultant or Consultant Company (as the case may be) breaches any obligation of confidentiality contained in their relevant employment or service contract or otherwise; or</li> <li>(d) where (i) the employee, Director,</li> </ul> |

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|                                | consultant or Consultant Company commits a material breach of any obligation contained in the Investment Agreements or his relevant service agreement, employment contract or consultancy agreement (as the case may be); and (ii) the Investor Majority determine by notice to the Board that this constitutes "Bad Leaver" status; |
| <b>"Base Date"</b>             | means the Adoption Date or, if later, the date of commencement of employment, appointment or holding office, as applicable;                                                                                                                                                                                                          |
| <b>"Board"</b>                 | means the board of Directors of the Company from time to time;                                                                                                                                                                                                                                                                       |
| <b>"Business Day"</b>          | means any day from Monday to Friday inclusive which is not a local, public or statutory holiday in Scotland;                                                                                                                                                                                                                         |
| <b>"Circulation Date"</b>      | means the earliest date on which a proposed written resolution is communicated in hard copy or electronic form (including without limitation by electronic mail or by publication on a website) to every eligible member who is entitled to receive such communication;                                                              |
| <b>"Companies Acts"</b>        | means the Companies Acts (as defined in section 2 of the Act), in so far as they apply to the relevant company;                                                                                                                                                                                                                      |
| <b>"Company"</b>               | means Sofant Technologies Ltd, a private limited company incorporated under the Act, registered in Scotland under number SC409777 and having its registered office at 5 <sup>th</sup> Floor, 125 Princes Street, Edinburgh, EH2 4AS;                                                                                                 |
| <b>"Compulsory Transferor"</b> | means a member (including any joint holder) required to transfer his shares in accordance with Article 7.1 and "Compulsory Transfer" shall be construed accordingly;                                                                                                                                                                 |
| <b>"Connected Persons"</b>     | shall have the meaning given to it in sections 1122 and 1123 of the Corporation Tax Act 2010;                                                                                                                                                                                                                                        |
| <b>"Consultant Company"</b>    | a company which provides consultancy or other services to the Company of which a member is a director, employee or shareholder;                                                                                                                                                                                                      |

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| <b>"Controlling Interest"</b>   | means an interest (as defined in Sections 820 to 825 of the Act) in Shares conferring in aggregate the Control Percentage of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue and conferring the right to attend and vote at all general meetings;                                                                                                                                                                                                                                                                                                                                     |
| <b>"Control Percentage"</b>     | means more than 50%;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>"Deemed Transfer Notice"</b> | shall have the meaning given to it in Article 7.1;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>"Director"</b>               | means a director of the Company or any alternate director duly appointed in accordance with these Articles;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>"DWither Management"</b>     | means DWither Management AB a private limited company incorporated in Sweden with registered number 556972-8537 and having its registered office at Muraregatan 9, 216 19 Malmö, Skåne län, Sweden;                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>"Eligible Director"</b>      | means a Director who would be entitled to vote on the matter at a meeting of Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter), as determined in particular in accordance with article 14 of the Model Articles;                                                                                                                                                                                                                                                                                                                                                                           |
| <b>"ETF"</b>                    | means Edinburgh Technology Fund Limited, a company incorporated in Scotland under the Companies Acts (registered number SC092426) and having its registered office at Old College, South Bridge, Edinburgh, EH8 9YL;                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>"Fair Value"</b>             | <p>means the fair value of any shares ("Target Shares") calculated on the basis of the value of the whole Company on a going concern basis as between a willing seller and a willing buyer, with no reduction or other account being taken of the proportion which the Target Shares bear to the total number of shares in issue, or shares of the same class as the Target Shares in issue or any restrictions on the ability to transfer the Target Shares; declaring that:-</p> <p>(a) the Fair Value of each Target Share shall be calculated by dividing the Fair Value of all the Target Shares by the total number of the Target Shares;</p> |

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|                              | <p>(b) where the Target Shares are not subject to a Compulsory Transfer, the Fair Value of such Target Shares shall be determined as at the date of the applicable Transfer Notice; and</p> <p>(c) where the Target Shares are subject to a Compulsory Transfer, the Fair Value of such Target Shares shall be determined as at the date of the applicable Deemed Transfer Notice;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>"Final Determination"</b> | means the decision of a court or tribunal from which either no appeal lies or in respect of which no appeal is made within the prescribed time limit for appeals to be made, and <b>"Finally Determined"</b> shall be construed accordingly;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>"Founder"</b>             | means each of Mr El-Rayis, Mr Haridas and Mr Arslan;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>"Good Leaver"</b>         | <p>means a person who ceases (i) employment with the Company or any Group Member of the Company; or (ii) holding the office of Director or consultant of the Company or any Group Member of the Company, where such member does not remain acting for the Company or a Group Member in any other such capacities, in any of the following situations:-</p> <p>(a) by reason of wrongful dismissal of the employee;</p> <p>(b) by reason of the employee leaving employment for reasons of ill health or disability rendering the person concerned permanently incapable of carrying out his role as an employee, director or consultant as certified to the Board's reasonable satisfaction by an independent doctor or where the death or long term illness or disability (as certified to the Board's reasonable satisfaction by an independent doctor) of a spouse, civil partner, long term partner, parent or child of the employee makes it reasonably necessary for the employee to provide care by himself or herself to that spouse, civil partner, long term partner, parent or child;</p> <p>(c) by reason of the unfair dismissal</p> |

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|                                | <p>(including constructive unfair dismissal) of the employee;</p> <p>(d) by reason of the dismissal of the employee by reason of redundancy;</p> <p>(e) by reason of the death of the employee, consultant or the Director (as the case may be);</p> <p>(f) by reason of the retirement of the employee, Director or consultant at the age of 65 or at state retirement age if older;</p> <p>(g) by reason of the removal of a Director and employee as Director in circumstances where simultaneous dismissal as an employee would fall within the categories in paragraphs (a) or (c) above;</p> <p>(h) where the Termination Date of such employment or appointment is after the date falling 42 months following the date of commencement of employment or holding of office or, if later, (i) in the case of the Founders, the date falling 30 months following the Adoption Date, other than as a Bad Leaver; or (ii) in the case of those other than the Founders, the date falling 42 months following the Adoption Date, other than as a Bad Leaver;</p> <p>(i) the Board (excluding the leaver in question where such leaver is a Director) resolve that a "Good Leaver" reason applies;</p> |
| <b>"Group Member"</b>          | means the Company any holding company, subsidiary company, wholly-owned subsidiary company or a parent company of the Company, in each case as defined in the Act;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>"Investment Agreements"</b> | means (i) the investment agreement amongst the Company, Kelvin Capital and others dated on or around 26 September 2013; (ii) the supplemental investment agreement amongst the Company, Kelvin Capital and others dated on or around 25 March 2015; and (iii) the supplemental investment agreement amongst the Company, Kelvin Capital and others dated on or around the Adoption Date;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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| <b>"Investor Director(s)"</b>  | means such person(s) as Kelvin Capital, Scottish Enterprise or the University Group Shareholders may respectively appoint as director(s) of the Company in accordance with these Articles;                                                                                                                                                                                                                                                                                                                    |
| <b>"Investor Majority"</b>     | means the Investors holding for the time being more than 50% by nominal value of the shares in the Company in issue held by the Investors (whether held through nominees or otherwise), including (i) Kelvin Capital Members holding more than 50% by nominal value of the Shares in issue held by Kelvin Capital Members; (ii) a member of the Scottish Enterprise Group (for so long as any member of the Scottish Enterprise Group holds shares in the Company); and (iii) a University Group Shareholder; |
| <b>"Investors"</b>             | means (a) those members who are Kelvin Capital Members (b) each University Group Member, and (c) Scottish Enterprise, and in each case their respective permitted assignees pursuant to these Articles and "Investor" shall be construed accordingly;                                                                                                                                                                                                                                                         |
| <b>"Issued Amount"</b>         | means £322.93 divided into 32,293 Ordinary Shares of £0.01 each in the Company;                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>"Issue Price"</b>           | means in respect of a Share, the aggregate of the subscription price paid in respect of that Share (including any share premium);                                                                                                                                                                                                                                                                                                                                                                             |
| <b>"Kelvin Capital"</b>        | means Kelvin Capital Limited incorporated under the Act in Scotland with registered number SC354243 and having its registered office at 163 Bath Street, Glasgow G2 4QS;                                                                                                                                                                                                                                                                                                                                      |
| <b>"Kelvin Capital Member"</b> | means any member who is from time to time, or at the time of subscribing for shares in the Company, was a member of Kelvin Capital (and for these purposes, a member means a member of Kelvin Capital as a company limited by guarantee and/or a person who is or was recognised by Kelvin Capital as being a member of its investment syndicate and/or a person described as a "Kelvin Investor" in a relevant investment agreement and includes, for the avoidance of doubt, the LC Members);               |
| <b>"Kelvin Warrant"</b>        | means the warrant instrument entered into by the Company in favour of Kelvin Capital on or around                                                                                                                                                                                                                                                                                                                                                                                                             |

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| <b>Instrument</b>       | 25 March 2015, as amended or varied from time to time;                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>"LC Member"</b>      | means any or all of Hector Cameron, Richard Cameron or Margaret Boyd;                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>"member"</b>         | means a person registered as a member in the register of members of the Company;                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>"Model Articles"</b> | 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 prior to the Adoption Date;                                                                                                                                                                                                                                                                                                |
| <b>"Mr Arslan"</b>      | means Tughrul Arslan, of 12 Relugas Place, Edinburgh, EH9 2PY;                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>"Mr El-Rayis"</b>    | means Ahmed El-Rayis, of 83 Relugas Road, Edinburgh EH9 2PX;                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>"Mr Haridas"</b>     | means Nakul Haridas, of 43 Bowes Place, Edinburgh, EH16 4WL;                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>"Mr Wither"</b>      | means David Wither, of Muraregatan 9, 21619 Malmö, Sweden;                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>"Observers"</b>      | means such person(s) appointed in accordance with Article 17;                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>"OCC"</b>            | means Old College Capital LP, a limited partnership in the United Kingdom with registered number SL009405 and having its registered office at Old College, South Bridge, Edinburgh, United Kingdom, EH8 9YL;                                                                                                                                                                                                                                                                                     |
| <b>"OCC Group"</b>      | means OCC, its limited partners, its managers, the University, any University Group Member or any another fund, company or scheme (or nominee or trustee for another fund) which is managed or advised by the same manager or adviser as OCC or any other entity (howsoever constituted) to which all or part of OCC's activities have been transferred or devolved and the limited or general partners of any of the foregoing; and a "member of the OCC Group" shall be construed accordingly; |
| <b>"Option Holder"</b>  | means a holder of options, warrants or any other right to acquire new shares in the share capital of the Company;                                                                                                                                                                                                                                                                                                                                                                                |

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| <b>"Option Pool"</b>               | means 5,821 Ordinary Shares (including the option over up to 2,000 Ordinary Shares granted to DWither Management) or such number of Ordinary Shares as the Investor Majority may otherwise agree are to be available to satisfy the grant of options pursuant to an Approved Option Scheme;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>"Privileged Relation"</b>       | <p>means in respect of an individual:-</p> <ul style="list-style-type: none"> <li>(i) the spouse, civil partner, surviving civil partner or widow of the relevant person;</li> <li>(ii) the relevant person's issue (including step and adopted issue);</li> <li>(iii) the relevant person's parents and grandparents (including step and adoptive parents);</li> <li>(iv) the relevant person's siblings and their respective issue (including step and adoptive siblings) (the persons referred to in (i) to (iv) being the "family members");</li> <li>(v) any trust (including without limitation any pension fund) established for the benefit of the relevant person or his family members; or</li> <li>(vi) any charitable trust established by the relevant person and/or by his family members;</li> </ul> <p>and in respect of any such family trust referred to in paragraph (v), a beneficiary of such trust;</p> |
| <b>"Qualifying Majority"</b>       | means 75%;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>"Scottish Enterprise"</b>       | means Scottish Enterprise, established by the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>"Scottish Enterprise Group"</b> | means Scottish Enterprise, any subsidiary for the time being of Scottish Enterprise and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of Scottish Enterprise or any subsidiary of such company, corporation or body and any other body to which the statutory functions of Scottish Enterprise have been delegated or a Scottish                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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|                                        | Enterprise Successor;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>"Scottish Enterprise Successor"</b> | any party succeeding in whole or in part to the interests of Scottish Enterprise;                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>"SE Warrant Instrument"</b>         | means the warrant instrument entered into by the Company in favour of Scottish Enterprise on or around 25 March 2015, as amended or varied from time to time;                                                                                                                                                                                                                                                                                                                                                                                |
| <b>"share"</b>                         | means any share forming part of the share capital of the Company;                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>"Summary Dismissal"</b>             | means dismissal without notice by the Company of an employee for reasons of fraud, gross misconduct, dishonesty or some other substantial reason relating to the material adverse conduct of the employee (and in the event that the relevant person to which this definition applies is an officer or consultant of the Company then the foregoing definition shall be construed so that the person's material adverse conduct would have resulted in him being fairly dismissed without notice if he had been an employee of the Company); |
| <b>"Termination Date"</b>              | means the date on which the contract of employment (or appointment, as the case may be) is terminated which in the case where notice is served shall be the date on which such notice expires and in the case where payment in lieu of notice is made shall be the date on which such payment is made and in the case of death shall be the date of death;                                                                                                                                                                                   |
| <b>"Total Transfer Condition"</b>      | shall have the meaning given to it in Article 6.2;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>"University"</b>                    | means The University Court of the University of Edinburgh a charitable body registered in Scotland under the registration number SC005336 and incorporated under the Universities (Scotland) Acts and having its Principal Office at Old College, South Bridge, Edinburgh, EH8 9YL;                                                                                                                                                                                                                                                          |
| <b>"University Group"</b>              | means the University, any University Successor, ETF, any subsidiary of ETF, any holding company of ETF and any subsidiary of such holding company of ETF, OCC and any member of the OCC Group and each entity (howsoever constituted) controlled by the University, ETF or a University Successor from time to time (individually                                                                                                                                                                                                            |

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|                                       | <b>"University Group Member");</b>                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>"University Group Shareholder"</b> | means ETF and/or such other University Group Member holding shares from time to time;                                                                                                                                                                                                                                                                                                                                         |
| <b>"University Successor"</b>         | means any entity (howsoever constituted) to which all or part of the University's or ETF's activities or statutory functions have been transferred or devolved or succeeding in whole or in part to the interest of the University or ETF or to which all or a material part of the holding of University Group or ETF in spin-out companies or the University Group's or ETF's unlisted investment portfolio is transferred; |
| <b>"Valuer"</b>                       | means the Auditors unless they decline to act and in such an instance the valuer shall instead be appointed by the President for the time being of the Institute of Chartered Accountants of Scotland; and                                                                                                                                                                                                                    |
| <b>"Warrant Instruments"</b>          | means together the SE Warrant Instrument and the Kelvin Capital Warrant Instrument.                                                                                                                                                                                                                                                                                                                                           |

- 1.2 Words importing the singular include the plural and vice versa.
- 1.3 Words importing a particular gender include any gender.
- 1.4 References to a "person" include any natural person, or any legal person, body or organisation, incorporated or unincorporated.
- 1.5 The headings in these Articles are for convenience only and shall not affect the construction of these Articles.
- 1.6 Words and expressions defined in the Act shall bear the same meanings in these Articles.
- 1.7 Unless provision is made to the contrary, references to any statute or statutory provision includes a reference to:
  - 1.7.1 that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated whether before or after the Adoption Date; and
  - 1.7.2 all statutory instruments or orders made pursuant to it.
- 1.8 References to the phrase "Privileged Relations" shall save for the references in Article 1.1 and Article 5.2 respectively, be deemed to include the phrase "and/or Group Member".

## 2 MODEL ARTICLES

- 2.1 The Model Articles shall apply to the Company except in so far as they are excluded or varied by or are inconsistent with these Articles.

- 2.2 Articles 11(2), 23, 24(2)(d), 24(5)(a), 26(5), 48(3), 49, 52 and 53 of the Model Articles shall not apply to the Company.
- 2.3 The following amendments shall be made to the articles of the Model Articles in so far as they apply to the Company:-
  - 2.3.1 in article 9(1) of the Model Articles, by the insertion of the phrase "not less than five Business Days" in the first sentence between the words "giving" and "notice";
  - 2.3.2 in article 20 of the Model Articles, by the insertion of the phrase "(including alternate directors) and the secretary" in the first sentence between the words "directors" and "properly incur";
  - 2.3.3 in article 22(1) of the Model Articles, by the amendment to the reference to "ordinary resolution" to read "special resolution"; and
  - 2.3.4 in article 31(1) of the Model Articles, by the deletion of all occurrences of the phrase "either in writing or as the directors may otherwise decide" and by the substitution, in its place, of the phrase "in writing".

### 3 SHARE CAPITAL

- 3.1 The issued share capital of the Company on the Adoption Date consists of the Issued Amount. Save in respect of any Approved Issue or save to the extent authorised from time to time by an ordinary resolution of the members and by an Investor Majority, the Directors shall not exercise any power to allot shares or to grant rights to subscribe for, or to convert any security into, any shares in the Company. Section 550 of the Act shall not apply to the Company.
- 3.2 The Company may at its sole discretion recognise and record the holding of a share by a person on trust, or in the names of trustees, but unless specifically recognised by the Company as such a holding, the Company shall not be bound by, or obliged to recognise, any interest in any share except for the absolute rights of the holder named in the register of members.
- 3.3 Subject to the terms of Article 3.6, an Approved Option and the Warrant Instruments, any shares of the Company for the time being unissued and any new shares from time to time to be created shall be offered to existing members in strict proportion to the number of shares held by them at that time. The offer shall be made by notice to each member specifying the number of shares offered and stating a period (not being less than 21 days) within which the offer if not accepted by notice to the Company shall be deemed to be declined. Following expiry of such period or receipt of notice of the acceptance or refusal of every offer made hereunder the Directors may dispose of any shares not accepted by the members in such manner as they think most beneficial to the Company provided that such shares shall not be disposed of on terms which are more favourable to the allottee than the terms on which they were offered to the members hereunder. The provisions of this Article 3.3 shall not apply to any Approved Issue.
- 3.4 Pursuant to the Act, all statutory rights of pre-emption shall be excluded from applying to the Company. In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company. Article 3.3 shall not apply to any shares which the Company may, subject to having obtained the prior consent of the

Investor Majority, at any time by special resolution declare shall not be subject to the provisions of Article 3.3.

3.5 Notwithstanding any other provisions of these Articles:

3.5.1 unless otherwise waived by the University Group Shareholders, the Directors shall be bound to offer any University Group Shareholder such a proportion of any shares which the Directors determine to issue as the aggregate nominal value of shares for the time being held by such University Group Shareholder bears to the total issued equity share capital of the Company immediately prior to the issue of shares and such members shall have not less than 21 days to accept the same. Any shares issued to a University Group Shareholder pursuant to such offer shall be issued upon terms and conditions that are no less beneficial as to payment or otherwise than those made available to other shareholders (or third parties) or such other terms as the University shall agree and so that such shares shall, at the request of the University, be registered in the name or names of any one or more members of the University Group; and

3.5.2 unless otherwise waived by Scottish Enterprise, the Directors shall be bound to offer any member of the Scottish Enterprise Group holding shares in the capital of the Company such a proportion of any shares which the Directors determine to issue as the aggregate nominal value of shares for the time being held by such member of the Scottish Enterprise Group bears to the total issued equity share capital of the Company immediately prior to the issue of shares and such members shall have not less than 21 days to accept the same. Any shares issued to a member of the Scottish Enterprise Group pursuant to such offer shall be issued upon terms and conditions that are no less beneficial as to payment or otherwise than those made available to other shareholders (or third parties) or such other terms as Scottish Enterprise shall agree and so that such shares shall, at the request of Scottish Enterprise, be registered in the name or names of any one or more members of the Scottish Enterprise Group.

3.6 Any shares offered to any member of the Scottish Enterprise Group, the University Group Members, to a Kelvin Capital Member or to an LC Member (whether as a result of a proposed transfer of shares or allotment of shares) shall, at the request of Scottish Enterprise Group, the University Group Members, Kelvin Capital or an LC Member (as appropriate) be registered in the name or names of any one or more members of the Scottish Enterprise Group (in the case of the Scottish Enterprise Group), the University Group (in the case of the University Group Members), any one or more of the Kelvin Capital Members (in the case of a Kelvin Capital Member) and any one or more of the LC Members (in the case of an LC Member) (whether or not they are already a member of the Company).

3.7 Subject to the Act but without prejudice to any other provisions of these Articles, the Company may purchase its own shares in accordance with Chapter 4 of Part 18 of the Act, including (without limitation) out of capital up to any amount in a financial year not exceeding the lower of:

3.7.1 £15,000; and

- 3.7.2 the nominal value of 5% of the Company's fully paid share capital at the beginning of each financial year of the Company.

#### 4 LIEN

- 4.1 The Company shall have a first and paramount lien on every share for all monies, whether presently payable or not, called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares registered in the name of any person, whether solely or jointly with others, for all monies owing to the Company from that person, or that person's estate, either alone or jointly with any other person, whether as a member, or not, and whether such monies are presently payable or not. The Directors may at any time declare any share to be wholly or partly exempt from the provisions of this Article.

#### 5 TRANSFER OF SHARES

- 5.1 The Directors shall refuse to register any transfer of shares made in contravention of the provisions of these Articles.
- 5.2 Subject only to Articles 8 and 9, the Directors shall register a transfer of shares complying with one or more of the following conditions (declaring for the avoidance of doubt that any transfers complying with the conditions set out in Articles 5.2.3 to 5.2.9 may be made without restriction as to price or otherwise):-
- 5.2.1 a transfer of a share made pursuant to Article 6;
  - 5.2.2 a transfer of a share made pursuant to Article 7;
  - 5.2.3 a transfer of a share made with the prior consent in writing or email of the holders of 95% by nominal share value of the shares in the share capital of the Company for the time being (provided that such consent must include the prior consent in writing or email of (a) the Investor Majority (such consent not to be unreasonably delayed) and (b) at least one Founder or executive Director appointed at the relevant time;
  - 5.2.4 a transfer or transmission of a share by any Investor or other shareholder not being a Founder who is an individual to a Privileged Relation;
  - 5.2.5 a transfer or transmission of a share by any Kelvin Capital Member made in favour of any other Kelvin Capital Member;
  - 5.2.6 a transfer or transmission of a share by any LC Member made in favour of any other LC member;
  - 5.2.7 a transfer or transmission of a share by any University Group Member to any other University Group Member;
  - 5.2.8 a transfer or transmission of a share by a Founder to a Privileged Relation provided that in this instance any such transfer is conditional upon the transferor remaining the holder of at least one Ordinary Share thereafter, and provided that if the Privileged Relation ceases to be a Privileged Relation of the Founder they shall, unless an Investor Majority agree otherwise (in writing or by email), within 30 days of so ceasing, transfer the shares held by them to the original shareholder and failing which the

Privileged Relation shall be deemed to have given a Transfer Notice pursuant to Article 7; or

5.2.9 a transfer or transmission of a share by any member of the Scottish Enterprise Group to any other member of the Scottish Enterprise Group.

## 6 PRE-EMPTION RIGHTS ON TRANSFER

- 6.1 Except in the case of a transfer expressly authorised by Article 5.2, no person shall be entitled to dispose of any interest in any shares without first offering such shares for transfer to the holders of other shares in the Company.
- 6.2 The offer shall be made by the proposing transferor(s) (the "**Transferor**") by notice in writing to the Company (a "**Transfer Notice**") and may be in respect of all or some only of the shares held by the Transferor (the "**Offer Shares**") provided that a Deemed Transfer Notice must be in respect of all shares held by the Transferor and his Privileged Relations. The Transfer Notice shall specify the Offer Shares and the price at which they are offered for sale (the "**Suggested Price**") and shall constitute the Directors as the agents of the Transferor and his Privileged Relations if appropriate for the sale of the Offer Shares in accordance with these Articles. A Transfer Notice may contain a provision that unless all the Offer Shares are sold under this Article, none shall be sold (a "**Total Transfer Condition**"). A Transfer Notice other than a Deemed Transfer Notice may not be revoked unless (i) it contains a Total Transfer Condition; or (ii) all the members of the Company (other than the Transferor) agree in writing that it may be revoked; or (iii) permitted in terms of Article 6.5. This Article 6.2, together with Articles 6.3 and 6.4, shall not apply to any Compulsory Transfer, and instead Articles 7.1 to 7.6 shall apply.
- 6.3 Within 7 days after a Transfer Notice (other than a Deemed Transfer Notice) is received by the Company, the Directors shall give notice to all the holders of shares in the Company (other than the Transferor and his Privileged Relations) of the number and description of the Offer Shares and the Suggested Price, inviting each such holder to notify the Company within 21 days (a) if he requires the Offer Shares to be valued (such notification being a "**Valuation Notice**") and (b) if he does not so require whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Suggested Price.
- 6.4 If on or before the expiry of the 21 day period referred to in Article 6.3 the Directors shall receive a Valuation Notice requesting a valuation then the Directors shall instruct the Valuer to determine the Fair Value of the Offer Shares, acting as an expert and not an arbiter, and to produce a certificate stating such value (a "**Certificate of Fair Value**") within 14 days of being instructed to do so. If the Directors do not receive a Valuation Notice within the relevant period, then the Suggested Price of the Offer Shares shall be the "**Purchase Price**", and Article 6.8 shall apply accordingly.
- 6.5 Within 7 days of receipt by the Directors of the Certificate of Fair Value (whether pursuant to Article 6.4 or 7.6), the Directors shall send a copy thereof to the Transferor; declaring that the Transferor (other than a Compulsory Transferor) shall be entitled to revoke the Transfer Notice by notice in writing to the Directors within 7 days from the date of service upon the Transferor of such copy. Where the Transferor is a Compulsory Transferor, the Compulsory Transferor shall be entitled within 7 days from the date of service upon the Compulsory Transferor of such copy

to notify the Company that the Compulsory Transferor objects to the calculation of the Fair Value whereupon the Company shall immediately refer the matter to the President for the time being of the Institute of Chartered Accountants of Scotland with a request to nominate forthwith an independent valuer to calculate the Fair Value within 30 days of being instructed to do so. The decision of such independently nominated valuer shall be final and binding on all parties concerned and the price determined by the independently nominated valuer shall be the Purchase Price for the purposes of this Article 6. The costs of the said valuer shall be borne by the Compulsory Transferor alone.

- 6.6 The cost of obtaining a Certificate of Fair Value shall be borne by the Company, unless (i) the Transferor revokes the Transfer Notice in accordance with Article 6.5 in which case the Transferor shall bear such cost; or (ii) the Compulsory Transferor notifies the Company that the Compulsory Transferor objects to the calculation of the Fair Value in accordance with Article 6.5 in which case the Compulsory Transferor shall bear such cost.
- 6.7 If the Transfer Notice is not revoked by the Transferor or, in the case of a Deemed Transfer Notice, once the Purchase Price has been determined in accordance with Article 6.5 or 7.5 (as the case may be) the Directors shall give notice to all the holders of shares in the Company (other than the Transferor) confirming the Purchase Price (which shall in the case of a Transfer Notice other than a Deemed Transfer Notice be the lower of (i) the Suggested Price; and (ii) the Fair Value as determined by the Valuer), and in each case the number and description of the Offer Shares, inviting each such holder to notify the Company within 14 days whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Purchase Price. In the case of a Deemed Transfer Notice, as soon as reasonably practicable, the Directors shall give notice to all the holders of shares in the Company (other than the Compulsory Transferor) of the Transfer Price calculated in accordance with Article 7.5 (if necessary, following any decision by an independently nominated valuer appointed in accordance with Article 6.5) , and in each case the number and description of the Offer Shares, inviting each such holder to notify the Company within 14 days whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Purchase Price.
- 6.8 On the expiry of the 21 day period referred to in Article 6.3 or, if a Certificate of Fair Value has been obtained, the expiry of the 14 day period referred to in Article 6.7, the Directors shall allocate the Offer Shares to those members who have applied to purchase the Offer Shares, and in the event of competition amongst members such allocation shall be in accordance with Article 6.9. If the Transfer Notice contains a Total Transfer Condition, no allocation of the Offer Shares shall be made under this Article 6.8 or Article 6.9 unless as a result of such allocation combined with the purchase of Offer Shares by the Company pursuant to Article 6.13 (if any), all the Offer Shares will be sold.
- 6.9 The Board shall allocate the Offer Shares in the following manner:
  - 6.9.1 if the total number of Offer Shares applied for is equal to or less than the available number of Offer Shares the Company shall, subject to any Total Transfer Condition, allocate the number applied for in accordance with the applications; or

- 6.9.2 if the total number of Offer Shares applied for is more than the available number of Offer Shares, each member shall be allocated Offer Shares in proportion to the nominal amount of shares held by each of those members ("**Proportionate Entitlement**") (or such lesser number of Sale Shares for which he may have applied) and applications for Offer Shares in excess of a members Proportionate Entitlement shall be allocated in accordance with such applications or, in the event of competition, as nearly as may be to the proportion which Shares held by a shareholder bear to the total number of Shares held by all shareholders applying for Offer Shares in excess of their proportionate entitlement provided that any shareholder shall not be allocated more Offer Shares than he/it shall have stated himself willing to take;
- 6.10 On the allocation being made, the Directors shall give details of the allocation in writing to the Transferor and to each member who has stated his willingness to purchase and, on the seventh day after such details are given, the members to whom the allocation has been made shall be bound to pay the Purchase Price for, and to accept a transfer of, the Offer Shares allocated to them respectively and the Transferor shall be bound, on payment of the Purchase Price, to transfer the Offer Shares to the respective purchasers.
- 6.11 If in any case a Transferor, after having become bound to transfer any shares to a purchaser, shall make default in transferring the Offer Shares, the Directors may authorise any Director to execute on behalf of and as attorney for the Transferor any necessary transfer documentation and may receive the Purchase Price and shall thereupon cause the name of the purchaser to be entered in the register as the holder of the Offer Shares and hold the Purchase Price in trust for the Transferor. The receipt by the Directors of the Purchase Price shall be a good discharge to the purchaser and after the name of the purchaser has been entered in the register of members of the Company the validity of the transfer to the purchaser may not be questioned by the Transferor.
- 6.12 Where more than one member has stated his willingness to purchase Offer Shares and through no default of the Transferor such purchase is not duly completed, the Directors shall forthwith notify all the other members who have stated their willingness to purchase Offer Shares and if, within 7 days of such notice being given, those other members shall not between them duly complete the purchase of the Offer Shares in respect of which there has been default in completion, the provisions of Article 6.13 shall apply.
- 6.13 Following the expiry of the latest applicable of (i) the 21 day period referred to in Article 6.3; or (ii) if a Certificate of Fair Value has been obtained, the 14 day period referred to in Article 6.7; or (iii) the 7 day period referred to in Article 6.12 (in all cases the "**Relevant Expiry Date**"), if any of the Offer Shares have not been allocated:-
- 6.13.1 The Directors may within 7 days of the Relevant Expiry Date determine that the Company shall, if it is permitted to do so under the Act, attempt to purchase some or all of the Offer Shares itself at the Purchase Price (the "**Determination**").

- 6.13.2 The Directors shall have a period of 60 days from the date of any such Determination to (i) obtain from the Transferor any necessary consents and authorities including any required under the Act for any such purchase by the Company; and (ii) to complete any such purchase.
- 6.13.3 In the event that a Transferor either (i) refuses to sign any document necessary to enable the purchase of some or all of the Offer Shares by the Company; or (ii) fails to respond to the Directors within 14 days of any such request (in accordance with Article 6.13.2), the Directors may authorise any Director to execute on behalf of and as attorney for the Transferor any such document and may receive the Purchase Price and hold the Purchase Price in trust for the Transferor; provided that if the Transfer Notice contains a Total Transfer Condition the Directors may only so authorise any Director if all the Offer Shares will as a result be sold.
- 6.13.4 The receipt by the Directors of the Purchase Price shall be a good discharge to the Company and after the Offer Shares purchased by the Company have been cancelled, the Transferor may not question the validity of the purchase.
- 6.14 If either (i) the Directors do not by the close of business on the last day of the 7 day period referred to in Article 6.13.1, make a Determination; or (ii) having made such a Determination, the Company shall not complete a purchase of the Offer Shares by the close of business on the last day of the 60 day period referred to in Article 6.13.2 (in each case a "Buy-Back Expiry Date"), then the Transferor may at any time within a period of 30 days from the occurrence of the relevant Buy-Back Expiry Date, transfer the Offer Shares not allocated to other members of the Company to any person at the Suggested Price provided that (a) if the Transfer Notice contains a Total Transfer Condition the Transferor shall be entitled to transfer all but not some only of the Offer Shares and (b) in the case of a Compulsory Transfer, any such transfer of the Offer Shares shall be subject to the approval of the Board (including at least one Investor Director if any are appointed).

## 7 COMPULSORY TRANSFERS

- 7.1 Where any of the following events occurs after the Adoption Date in relation to a member (a "Compulsory Transferor"), the member in question shall be deemed to have immediately given a provisional notice of transfer (a "Deemed Transfer Notice") in respect of all the shares as then registered in the name of such member and all of the shares as then beneficially owned or controlled by that member including any shares which may have previously transferred to any of his Privileged Relations (the "Offer Shares");-
- 7.1.1 in relation to a member being an individual:
- 7.1.1.1 such member is adjudicated bankrupt; or
  - 7.1.1.2 such member is suffering from a mental disorder as referred to in articles 18(d) or 18(e) of the Model Articles; or
  - 7.1.1.3 such member ceases to be a director and/or employee and/or consultant of the Company or of any Group Member of the Company where such member does not remain acting in any other of such

capacities in relation to the Company or any such Group Member (as an employee, Director or consultant); or

7.1.1.4 such member is a Privileged Relation of a person who ceases to be a director and/or employee and/or consultant of the Company or of any Group Member of the Company (where neither (i) such Privileged Relation; nor (ii) the relevant person ceasing to be a director, employee or consultant, remains acting in any other of such capacities in relation to the Company or any such Group Member of the Company);

7.1.1.5 provided that Articles 7.1.1.3 and 7.1.1.4 above shall also apply to a member (or a Privileged Relation of a member) who is a shareholder, director or employee of a Consultant Company and that Consultant Company ceases to provide services to the Company or any Group Company;

7.1.2 In relation to a member being a body corporate:-

7.1.2.1 a receiver, manager or administrative receiver is appointed in respect of such member or over all or any part of its undertaking or its assets; or

7.1.2.2 such member enters into liquidation (other than a voluntary liquidation for the purposes of a bona fide scheme of solvent amalgamation or reconstruction); or

7.1.2.3 in the case of the events set out in Articles 7.1.2.1 or 7.1.2.2, any competent person taking any analogous step in any jurisdiction other than Scotland; or

7.1.2.4 such member ceases to be controlled (as defined by Sections 450-451 of the Corporation Tax Act 2010) by the person(s) who controlled such member on the date on which it became the member of the Company or the Adoption Date (whichever is later); or

7.1.2.5 such member is controlled by a member being an individual who suffers any of the events set out in Article 7.1.1;

7.1.3 In relation to a member being a trust or charitable trust, such member is a Privileged Relation of a person who ceases to be a director and/or employee and/or consultant of the Company or of any Group Member of the Company (where neither (i) such Privileged Relation; nor (ii) the relevant person ceasing to be a director, employee or consultant remains acting in any other of such capacities in relation to the Company or any such Group Member of the Company).

7.2 The Deemed Transfer Notice shall be deemed to constitute the Directors as the agents of the Compulsory Transferor for the sale of the Offer Shares in accordance with these Articles and it shall confer upon the Directors the authority to implement a Compulsory Transfer of the Offer Shares, subject to the passing of a Board resolution or otherwise in accordance with Article 7.3. A Deemed Transfer Notice cannot contain a Total Transfer Condition and may not be revoked by the Compulsory Transferor.

- 7.3 The Deemed Transfer Notice may be enforced by the Directors, if the Directors pass a resolution to that effect, by written notice to the Compulsory Transferor (and his Privileged Relations, as appropriate) at any time within a period of eighteen months from the date of the event which results in a Deemed Transfer Notice. After expiry of this period, the Deemed Transfer Notice may not be enforced, but the provisions of Article 7.14 continue to apply. The Directors must enforce a Deemed Transfer Notice at the written request of 50% of the holders of shares in the Company (excluding the member(s) whose shares are subject of a Deemed Transfer Notice) or upon the written request of an Investor Majority without the need for any further resolution of the Directors. Immediately upon written notice having been served upon the Compulsory Transferor, the provisions of Articles 7.4 to 7.14 shall apply and the provisions of Article 6 shall apply to any Deemed Transfer Notice as if it were a Transfer Notice, subject always to the overriding effect of Articles 7.4 to 7.14.
- 7.4 In the event that a Compulsory Transferor makes an application to an employment tribunal within any applicable time period for the making of such application, the Deemed Transfer Notice shall continue to apply but the application of the remaining provisions of Article 7 shall be suspended until the application has been Finally Determined.
- 7.5 The Deemed Transfer Notice shall be deemed to specify the price at which the Offer Shares are offered for sale (the "Transfer Price"), which price shall be calculated as follows:-

**Bad Leavers**

- 7.5.1 where the Deemed Transfer Notice relates to (i) a Compulsory Transferor pursuant to Article 7.1.1.3 and the Compulsory Transferor is a Bad Leaver; or (ii) a Compulsory Transferor pursuant to Article 7.1.1.4 or 7.1.3 who is a Privileged Relation of a Bad Leaver or a Compulsory Transferor pursuant to Article 7.1.2.5, the Suggested Price shall be the lower of (i) par value of the shares; and (ii) the Fair Value; and
- 7.5.2 where the Deemed Transfer Notice relates to (i) a Compulsory Transferor (pursuant to Article 7.1.1.3) who is a Good Leaver; or (ii) a Compulsory Transferor pursuant to Article 7.1.1.4 or 7.1.3) who is the Privileged Relation of a person who is a Good Leaver, the Suggested Price shall be the price agreed by the Compulsory Transferor and the Directors, or if the Compulsory Transferor and the Directors are unable to agree in writing a price within 21 days of the Directors giving notice pursuant to Article 7.3, the Suggested Price shall be the Fair Value; and
- 7.5.3 in all other circumstances, the Suggested Price shall be the Fair Value.
- 7.6 In the event that a valuation of the Offer Shares is required in terms of Article 7.5, the Directors shall instruct the Valuer, acting as an expert and not as an arbiter, (i) to determine the Fair Value of the Offer Shares as at the date of the event giving rise to the Deemed Transfer Notice, whereby in the case of a Deemed Transfer Notice arising under Articles 7.1.1.3, 7.1.1.4 or 7.1.3 (other than on account of death), account shall be taken in assessing the Fair Value of the effect of the relevant person ceasing to be an employee, Director or consultant; and (ii) to

produce a certificate stating such value (a "Certificate of Fair Value") within 30 days of being instructed to do so.

- 7.7 Where a former employee, consultant, Director or officer of the Company (or a Group Member of the Company) (a "Former Worker") or any body corporate controlled by a Former Worker or any of his Privileged Relations acquires shares after cessation of such employment, consultancy or appointment by exercising an option or warrant which was granted to such Former Worker (or any body corporate controlled by such Former Worker or any of his Privileged Relations) while he was an employee, consultant, Director or officer of the Company (or a Group Member of the Company, as appropriate), or where a personal representative or executor of a Former Worker acquires shares in such manner, then this Article 7.7 shall apply such that:-
- 7.7.1 the Former Worker (or his personal representative or executor) or body corporate in question shall be deemed to have given a Deemed Transfer Notice in respect of such shares on the date of issue of such shares; and
- 7.7.2 where the Former Worker was a Bad Leaver or Good Leaver, the Suggested Price shall be determined in accordance with the provisions of Article 7.5; and
- 7.7.3 in all other instances the Suggested Price shall be Fair Value on the date of issue of the shares.
- 7.8 In the event that prior to the transfer of his Shares, but after ceasing to be a director, employee or consultant of the Company (or, if applicable, after the Consultant Company of which the Transferor is a director, shareholder or employee has ceased to provide services to the Company) a Transferor (or the Consultant Company of which the Transferor is a director, shareholder or employee) is in breach of his or its restrictive covenants or obligations of confidentiality contained in his/its service agreement, employment contract or consultancy agreement such that the Transferor is a Bad Leaver, the Purchase Price for any of his Offer Shares shall automatically be the lower of Fair Value and the Issue Price.
- 7.9 If in respect of a former member whose Shares were the subject of a Deemed Transfer Notice by virtue of him being a Good Leaver the former member or the Consultant Company of which the former member is a director, employee or member is found, within 12 months after the transfer of his Shares, to have breached his or its restrictive covenant or obligations of confidentiality contained in his/its service agreement, employment contract or consultancy agreement such that the shareholder becomes a Bad Leaver, such former member shall be deemed instead to have always been a Bad Leaver and accordingly the Sale Price for the Shares formerly held by such member shall be retrospectively adjusted to the lower of the Fair Value and the Issue Price in respect of his Sale Shares. In such circumstances, the former member shall pay the Company on demand such sum as represents the difference between the amount paid to him in respect of his former Shares as a Good Leaver and the amount which would have been paid to him as a Bad Leaver. Where the Company has not been the transferee of the former members' Shares, it shall act as agent for, and reimburse (upon receipt from the former member) to, the transferee member, the difference in the price paid by such transferee member to the former member in respect of the Offer Shares as appropriate.

- 7.10 In the event of a dispute as to whether a Leaver is a Good Leaver or a Bad Leaver, such dispute shall not affect the validity of a Deemed Transfer Notice but any person who acquires Offer Shares (the "Purchaser") pursuant to a Deemed Transfer Notice while such a dispute is ongoing shall pay to the Seller (the "Seller") a sum equal to their Issue Price (or Fair Value, if lower) and, at the discretion of the Board, shall pay such amount representing the difference between the Fair Value of the Shares as determined pursuant to Article 7.5 and the Issue Price in respect of such Shares to the Company. The Company shall hold that amount in a separate bank deposit account as trustee to pay it, and all interest earned thereon, until final determination of the dispute as to whether or not the relevant shareholder is a Good Leaver or a Bad Leaver as follows:-
- 7.10.1 to the Purchaser in the case of the relevant shareholder being a Bad Leaver; and
- 7.10.2 to the Transferor in the case of the relevant shareholder being a Good Leaver.
- subject always to the Transferor and the Purchaser agreeing otherwise prior to the determination of whether the Transferor is a Good Leaver or a Bad Leaver being finalised.
- 7.11 Any obligation to transfer a share under the provisions of this Article 7 shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such share free from any lien, charge or other encumbrance.
- 7.12 Articles 7.1 to 7.8 (inclusive) shall not apply to:
- 7.12.1 any Kelvin Capital Member;
- 7.12.2 Scottish Enterprise or any member of the Scottish Enterprise Group;
- 7.12.3 the University or any University Group Member; or
- 7.12.4 any transferees pursuant to Articles 5.2.4, 5.2.5, 5.2.7 or 5.2.9; or
- 7.12.5 to Mr Wither and/or DWither Management in respect of the 249 shares to be issued and allotted to DWither Management on or around the Adoption Date; or
- 7.12.6 to Mr Wither and/or DWither Management in respect of any shares issued and allotted to Mr Wither and/or DWither Management pursuant to a share option agreement dated on or around 24 May 2016; or
- 7.12.7 to Edward Granville in respect of the 498 shares to be issued and allotted to him on or around the Adoption Date; or
- 7.12.8 to Elizabeth Kennedy in respect of 263 shares already held by her prior to the Adoption Date and in respect of 249 shares to be issued and allotted to her on or around the Adoption Date.
- 7.13 The provisions of this Article 7 (but not those of Article 7.9) may be waived in whole or in part in any particular case with the prior written consent of 75% of the holders of shares in the Company (excluding the member(s) whose shares are subject of a Deemed Transfer Notice but including the Investor Majority), and in particular:-

7.13.1 the application of this Article 7 to all or some of the relevant Offer Shares may be waived;

7.13.2 at the request of the Directors, an alternative arrangement in respect of any Offer Shares held by a Compulsory Transferor may be approved;

7.13.3 the Compulsory Transferor may be declared a "Good Leaver";

provided that any waiver shall not result in the Compulsory Transferor being more adversely treated than had such waiver not been made.

7.14 The holders of any shares which are the subject of a Deemed Transfer Notice or Compulsory Transfer:-

7.14.1 shall, in relation to such shares, be entitled to receive notice of and to attend general meetings of the Company;

7.14.2 shall, in relation to such shares, have no right to vote thereat or sign any written resolutions; and

7.14.3 shall, in relation to such shares, (i) have no right to participate in any other offer round of shares (pursuant to Articles 6 or 7) and (ii) be deemed to waive any rights of pre-emption accordingly;

Declaring that all voting rights attached to such shares which are the subject of a Deemed Transfer Notice shall be suspended forthwith (with effect from the sooner to occur of the Deemed Transfer Notice or Compulsory Transfer) until such time as (i) the transfer of those shares is completed (being, for the avoidance of doubt, the registration of the transferee's name in the register of members in respect of those shares) in accordance with these Articles, or (ii) the provisions of Article 7 are waived in respect of such Deemed Transfer Notice in accordance with Article 7.13.

## 8 LIMITATION ON CHANGE OF CONTROL - TAG ALONG RIGHTS

8.1 Notwithstanding any other Article, no sale or transfer (other than a sale or transfer permitted by Articles 5.2.3, 5.2.4, 5.2.5, 5.2.7 or 5.2.9 (provided that there is no change in the Controlling Interest)) of the legal or beneficial interest in any shares in the Company (the "Specified Shares") in one or a series of related transactions may be made or validly registered if as a result of a sale or transfer of the legal and or beneficial interest in any such shares in the Company either:-

8.1.1 a Controlling Interest would be obtained in the Company by any person or group of persons Acting in Concert; or

8.1.2 50% or more of the shares held collectively by the Founders or their Privileged Relations or Connected Persons would be transferred

unless the proposed transferee or transferees or his or their nominees has or have offered to purchase all the shares for the time being in issue at the Specified Price (as defined below) (the "Tag Along Offer"), such offer to be made by notice in writing to all Recipients (as defined below) and such offer stipulated to be open for acceptance for at least 21 days.

8.2 A Tag Along Offer shall expire 21 days (or such longer period of acceptance stipulated within the Tag Along Offer) after the date of the Tag Along Offer. Any Recipient who wishes to accept the Tag Along Offer must notify the proposed transferee(s) in writing of its acceptance of such offer. Any Recipient who fails to

accept the Tag Along Offer within the period limited for acceptance shall be deemed to have rejected it. In the event that an Option Holder wishes to accept a Tag Along Offer, such person must also notify the Company in writing no less than seven days prior to expiry of the period of acceptance of the Tag Along Offer of its intention to exercise the relevant option or other right to acquire shares, and any failure to do so or any inability under the terms of the relevant option agreement to exercise such option or right to acquire shares within 30 days of notification shall be deemed a rejection of the Tag Along Offer.

- 8.3 The Specified Price in respect of a particular share shall take into account any differences in class rights between it and any other share including, without limitation, any Specified Share.
- 8.4 If any part of the Specified Price is to be paid other than in cash then each Recipient may, at its option, elect to take a price per share of such cash sum as may be agreed by it and the proposed transferee having regard to the transaction as a whole.
- 8.5 In the event of a disagreement, the calculation of the Specified Price (including a determination of the Fair Value) shall be referred to an independent expert (acting as an expert and not as an arbiter and whose decision shall be final and binding) nominated by the President for the time being of the Institute of Chartered Accountants of Scotland and acting at the expense of the proposed transferee(s) or his or their nominees (as appropriate).
- 8.6 For the purposes of this Article 8:-

**"Recipients"** means all members of the Company and all Option Holders (and **"Recipient"** means any one of them); and

**"Specified Price"** means a price per share being not less than the Fair Value and at least equal to the value of the consideration (in cash or otherwise) offered or paid or payable by the proposed transferee(s) or his or their nominees for the Specified Shares being acquired including without limitation (i) the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified Shares which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable per share and including any increase in salary, any bonus or termination payment and (ii) all arrears and accruals of the dividends on such shares calculated down to the date of the sale or transfer. In the event of disagreement the calculation of the Specified Price shall be referred to an expert (acting as an expert and not as an arbiter and whose decision shall be final and binding) nominated by and acting at the expense of all the members of the Company (in proportion to their respective shareholdings) or (in the event of disagreement as to nomination) appointed by the President for the time being of the Institute of Chartered Accountants of Scotland; provided that such expert may only be the Auditors, or a partner, director, consultant, or employee of the Auditors, unless either (i) the Auditors, or a partner, director, consultant, or employee of the Auditors (as the case may be) declines to act or (ii) at least 75% by nominal value of the members of the Company so agree in writing.

## 9 SALE BY QUALIFYING MAJORITY - DRAG ALONG RIGHTS

- 9.1 Notwithstanding any other Article but subject to Article 9.3, where any person or persons (an "Offeror") makes a Qualifying Offer (as hereinafter defined) and this is to be accepted by the Majority Members (as hereinafter defined), the Majority Members may by notice in writing (a "Drag Along Notice") to the other members of the Company (the "Minority Members") require the Minority Members to (i) forthwith accept such Qualifying Offer, and (ii) transfer all of their shares free from all charges, liens, encumbrances and other third party rights to the Offeror at the same time as the Majority Members transfer all of their own shares to the Offeror. The Majority Members shall also serve the Drag Along Notice on all Option Holders of the Company.
- 9.2 A Drag Along Notice is irrevocable but the Drag Along Notice and all obligations thereunder shall lapse if for any reason the sale of the shares of the Majority Members pursuant to Article 9.1 does not complete within 60 days after the date of the Drag Along Notice.
- 9.3 Upon any person, following the issue of a Drag Along Notice, becoming a member of the Company pursuant to the exercise of a pre-existing option to acquire shares in the Company or otherwise (a "New Member"), a Drag Along Notice shall be deemed to have been served upon the New Member on the same terms as the previous Drag Along Notice and the New Member shall thereupon be bound to sell and transfer all such shares acquired by him to the Offeror and the provisions of this Article 9 shall apply to the New Member (and the New Member shall be deemed to be a "Minority Member" for the purposes of this Article 9).
- 9.4 In the event that any Minority Member fails to accept such Qualifying Offer or having accepted such Qualifying Offer fails to execute and deliver any of the documents required to effect any transfer of shares pursuant thereto, such Minority Member shall be deemed to have irrevocably appointed any of the Directors to be his agents and attorneys for the purposes of accepting such Qualifying Offer and/or transferring all of that Minority Member's shares (as the case may) and executing and delivering any such documents. The provisions of Article 6.11 shall have effect as if such Minority Member was the Transferor and the Offeror was the purchaser.
- 9.5 For the purposes of this Article 9:-
- "Majority Members"** means members holding shares conferring in aggregate more than the Qualifying Majority of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue and conferring the right to attend and vote at all general meetings of the members of the Company and including an Investor Majority;
- "Qualifying Offer"** means an offer which:
- (i) is made on identical or substantially similar terms to all members (and Option Holders in the event that they become New Members); and
  - (ii) specifies a price which is not less than the Fair Value of each share; and

- (iii) is certified as complying with conditions (i) and (ii) above by an independent expert (acting as expert and not as arbiter and whose decision shall be final and binding) acting at the expense of all the members of the Company (in proportion to their respective shareholdings) and nominated by the Majority Members or (in the event of disagreement as to nomination) appointed by the President for the time being of the Institute of Chartered Accountants of Scotland.

9.6 In determining whether an offer satisfies condition (i) of Article 9.5 above such independent expert shall take into account:

9.6.1 any differences in class rights between shares; and

9.6.2 any consideration (in cash or otherwise) received or receivable by any member which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable to that member including, without limitation, any increase in salary, any bonus or termination payment.

9.7 The determination of the Fair Value pursuant to condition (ii) of Article 9.5 may be referred by the Company to an independent expert (acting as an expert and not as an arbiter and whose decision shall be final and binding) nominated by the President for the time being of the Institute of Chartered Accountants of Scotland and acting at the expense of the Company.

9.8 For the avoidance of doubt, the provisions of Article 6 do not apply in the event of any acquisition of shares pursuant to this Article 9.

## 10 PROCEEDINGS AT GENERAL MEETINGS

10.1 No business shall be transacted at any general meeting unless a quorum of shareholders is present, such quorum to include a representative of at least one of Scottish Enterprise, OCC or Kelvin Capital (acting on behalf of the Kelvin Capital Members) present in person, by proxy or by a duly authorised representative.

10.2 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, and such meeting was convened on the requisition of members, then the chairman of the meeting must dissolve the meeting.

10.3 If the persons attending an adjourned general meeting within half an hour of the time at which the adjourned meeting was due to start do not constitute a quorum, then the members present shall be a quorum.

10.4 On a show of hands or on a poll, votes may be given either personally or by proxy, or if a corporation, by its duly authorised representative.

## 11 WRITTEN RESOLUTIONS

11.1 Where a resolution is to be proposed as a written resolution and such written resolution is accepted by or on behalf of:-

11.1.1 in the case of an ordinary resolution, over 50%; and

11.1.2 in the case of a special resolution, 75% or more

of the members who would be entitled to receive notice of and to attend and vote at a general meeting at which such resolution was to be proposed shall, subject always to the provisions of the Act from time to time, be valid, effectual and binding on all of the members of the Company. Any such written resolution may consist of several documents in materially the same form, each accepted by or on behalf of the requisite number of members. Acceptance of a written resolution shall be in terms of the procedure set out in section 296 of the Act. In the case of a corporation which is a member of the Company, acceptance (following section 296 of the Act) by a director or its secretary or by a duly appointed and authorised attorney or representative shall be sufficient.

- 11.2 A proposed written resolution circulated to the members shall lapse if it is not passed by the requisite number of members before the expiration of three months from the Circulation Date stated on the proposed written resolution.

**12 NUMBER OF DIRECTORS**

- 12.1 Unless otherwise determined by ordinary resolution of the Company, the number of Directors shall not be subject to any maximum and the minimum number of directors shall be one.
- 12.2 A Director shall not be required to hold any share in the Company in order to qualify for office as a Director. A Director, whether or not the Director holds any share in the Company, shall be entitled to attend and speak at any general meeting, or any meeting of any class, of the members of the Company.

**13 ALTERNATE DIRECTORS**

- 13.1 Any Director (the "Appointor") may appoint as an alternate any other Director, or any other person approved by resolution of the Directors, to exercise that Director's powers and carry out that Director's responsibilities, in relation to the taking of decisions by the Directors in the absence of the alternate's Appointor.
- 13.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the Directors.
- 13.3 Any notice relating to an alternate must identify the proposed alternate and, in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice.
- 13.4 An alternate Director may act as alternate Director to more than one Director and has the same rights in relation to any decision of the Directors as the alternate's Appointor.
- 13.5 Except as the Articles specify otherwise, alternate Directors are deemed for all purposes to be Directors, are liable for their own acts and omissions, are subject to the same restrictions as their Appointors, are not deemed to be agents of their Appointors and, in particular (without limitation), each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his Appointor is a member.
- 13.6 A person who is an alternate Director but not a Director:-

- 13.6.1 may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's Appointor is not participating);
  - 13.6.2 may participate in a unanimous decision of the Directors (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate); and
  - 13.6.3 shall not be counted as more than one Director for the purposes of Articles 13.6.1 and 13.6.2.
- 13.7 A Director who is also an alternate Director is entitled, in the absence of his Appointor, to a separate vote on behalf of his Appointor, in addition to his own vote on any decision of the Directors (provided that his Appointor is an Eligible Director in relation to that decision), but shall not count as more than one Director for the purposes of determining whether a quorum is present.
  - 13.8 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the alternate's Appointor's remuneration as the Appointor may direct by notice in writing made to the Company.
  - 13.9 An alternate Director's appointment as an alternate terminates:-
    - 13.9.1 when the alternate's Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
    - 13.9.2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a Director;
    - 13.9.3 on the death of the alternate's Appointor; or
    - 13.9.4 when the alternate's Appointor's appointment as a Director terminates.
- 14 APPOINTMENT, RETIREMENT AND REMOVAL OF DIRECTORS**
- 14.1 This Article 14 shall be deemed to modify Model Article 17.1.
  - 14.2 The Company may by ordinary resolution appoint a person who is willing to act as a Director, either to fill a vacancy or as an additional Director.
  - 14.3 The Directors may appoint any person who is willing to act as a Director, either to fill a casual vacancy or as an additional Director.
  - 14.4 Kelvin Capital acting on behalf of those shareholders who are Kelvin Capital Members and while and for so long as any Kelvin Capital Members hold shares in the capital of the Company, and Scottish Enterprise while and for so long as a member of the Scottish Enterprise Group holds shares in the capital of the Company, shall each be entitled at any time to appoint one person as Director of the Company (and in their absolute discretion as a Director of any other Group Member and/or as a member of each and any committee of the Company or any Group Member). The Directors so appointed shall each be designated as 'Investor Director' for the purposes of these Articles. The removal of any Investor Director so appointed shall be made by notice in writing from Scottish Enterprise or Kelvin Capital (as the case may be) to the Company and the party removing the Investor Director appointed by them from office shall indemnify the Company in respect of all and any losses, liabilities, claims or expenses (reasonably and properly incurred and including legal

fees) in relation to any claim made by or on behalf of the relevant Investor Director in relation to such removal.

14.5 While and for so long as University Group Shareholders hold shares in the capital of the Company, the University Group Shareholders shall (acting together) have the right from time to time to (a) appoint one person between them to be a Director of the Company and (b) remove and replace or substitute any such Director appointed by the University Group Shareholders at any time. Any Director appointed pursuant to this Article 14.5 shall also be an 'Investor Director' for the purposes of these Articles and shall be entitled to receive notice of meetings of the Directors together with a complete agenda for the meeting and all Board papers at the same time as the Directors but shall not be entitled to any remuneration or expense payments unless agreed by the Company. Any University Group Shareholder removing the Investors' Director appointed by the University Group Shareholders from office shall indemnify the Company in respect of all and any losses, liabilities claims or expenses (reasonably and properly incurred and including legal fees) in relation to any claim made by or on behalf of the Investor Director in relation to such removal.

14.6 In the absence of any Investor Directors holding office at the relevant time, any provision in these Articles requiring the prior consent, approval or agreement of the Investor Director(s) shall be deemed instead to refer to an Investor Majority.

14.7 An Investor Director may only be removed upon the determination of the appointing Shareholder(s) pursuant to Article 14.4 or 14.5.

14.8 The office of Director shall be vacated if:

14.8.1 he shall, for whatever reason, cease to be employed by the Company or any Group Company or the Consultant Company of which he is a director, shareholder or employee ceases to be engaged by or provide services to the Company or any Group Company (provided that this Article 14.8.1 shall not apply to any Investor Directors);

14.8.2 other than in the case of any Investor Director(s), he shall on more than six consecutive months have been absent without permission of the Directors from meetings of the Directors held during that period and the remaining Directors resolve that his office be vacated;

14.8.3 other than in the case of any Investor Director(s), the other Directors acting by three quarters' majority for this purpose provided at least one Founder or executive Director is included in such majority, determine that such Director shall be removed from the Board; or

14.8.4 in any of the circumstances listed in Model Article 18.

## 15 PROCEEDINGS OF DIRECTORS

15.1 A sole Director shall have and may exercise all the powers of, and the full authority conferred on, the Directors in terms of these Articles, and all references to the Directors in the Articles and Model Articles shall be construed accordingly.

- 15.2 The quorum for the transaction of business of the Directors shall be two Directors, of which at least one must be an Investor Director or his alternate. In a situation where no Investor Directors (if appointed) are able to attend a Board Meeting, the Board Meeting shall nevertheless be quorate if each Investor Director has confirmed in writing (which may be by e-mail) that the Board Meeting can be considered quorate without him or any other Investor Director being present. In the absence of any person holding the office of Investor Director, the quorum shall be two, except in the case of a sole Director, when the quorum shall be one. A person who holds office only as an alternate Director shall, if the appointing Director is not present, be counted in the quorum.
- 15.3 Any Director, including an alternate Director, may participate in a meeting of the Directors or a committee of Directors by means of a conference telephone or other conference communication facility by which all persons participating in the meeting can hear and speak with each other. Participation in a meeting in this manner shall be deemed to constitute the presence of a Director in person at such meeting, entitling him to be counted in the quorum and to vote accordingly. A telephone conference meeting shall be deemed to be held at the place where the largest number of Directors is present, or, where there is no such gathering, where the chairman is present.
- 15.4 Subject to such disclosure as is required by the Model Articles, or the Act, a Director shall be entitled to vote at, and be counted in the quorum of, a meeting of Directors or of a committee of Directors on any resolution concerning a matter in which the Director has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the Company. The Directors may authorise any matter proposed to it which would, if not so authorised, result in a Director infringing his duty under section 175 of the Act to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts or possibly may conflict with the interests of the Company.
- 15.5 The Investor Majority shall be entitled from time to time to appoint the Chairman of the Board (and any committee of the Board) and remove from office any such person so appointed.
- 15.6 Model Articles 5.1 to 5.3 inclusive and 6.2 shall be modified by the insertion of the words "acting with the consent of the Investor Majority" following each reference to the Directors in such Articles.

## 16 DIRECTORS' CONFLICT OF INTEREST

- 16.1 The Directors may, in accordance with the requirements set out in this Article, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director breaching his duty under Section 175 of the Act to avoid conflicts of interest (a "Conflict").
- 16.2 Any authorisation under this Article will be effective only if:-
- 16.2.1 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;

- 16.2.2 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
- 16.2.3 the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.
- 16.3 Any authorisation of a Conflict under this Article may (whether at the time of giving the authorisation or subsequently):-
  - 16.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
  - 16.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the Directors may determine; and
  - 16.3.3 be terminated or varied by the Directors at any time.
- 16.4 This will not affect anything done by the Director prior to such termination or variation in accordance with the terms of the authorisation.
- 16.5 In authorising a Conflict the Directors may decide (whether at the time of giving the authorisation or subsequently) that if a Director has obtained any information through his involvement in the Conflict otherwise than as a Director of the Company and in respect of which he owes a duty of confidentiality to another person, the Director is under no obligation to:-
  - 16.5.1 disclose such information to the Directors or to any Director or other officer or employee of the Company; or
  - 16.5.2 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.
- 16.6 Where the Directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the Director:-
  - 16.6.1 is excluded from discussions (whether at meetings of Directors or otherwise) related to the Conflict;
  - 16.6.2 is not given any documents or other information relating to the Conflict; and
  - 16.6.3 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.
- 16.7 Where the Directors authorise a Conflict:-
  - 16.7.1 the Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict; and
  - 16.7.2 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.
- 16.8 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.

## 17 OBSERVER

- 17.1 Where the University Group Shareholders have not appointed an Investor Director pursuant to Article 14.5, the University Group Shareholders shall be entitled from time to time to appoint a person to attend all meetings of the Directors and all meetings of any committee of the Directors as an observer and any person so appointed shall be given (at the same time as the Directors) notice of all meetings of the Directors and all agendas, minutes and other papers pertaining to such meetings and to speak and place items on the agenda for discussion but not to vote; provided always that at least 48 hours' notice of the appointment of such observer has been given to Kelvin Capital. Any University Group Shareholder removing the Observer appointed by them from office shall indemnify the Company in respect of all and any losses, liabilities claims or expenses (reasonably and properly incurred and including legal fees) in relation to any such removal of the Observer.
- 17.2 Kelvin Capital (on behalf of those shareholders who are Kelvin Capital Members), Scottish Enterprise and the LC Members shall each be entitled to have one person attend as an observer all meetings of the Board. Such observer shall be entitled to speak, but not to vote, at such meetings of the Board. The party removing any Observer appointed by them from office shall indemnify the Company in respect of all and any losses, liabilities claims or expenses (reasonably and properly incurred and including legal fees) in relation to any claim made by or on behalf of the Observer in relation to such removal.

## 18 UNIVERSITY GROUP SHAREHOLDER RIGHTS

- 18.1 Notwithstanding any other provision in these Articles, any rights granted to the University Group Shareholders pursuant to these Articles (including without limitation Articles 5.2.3, 14.5, 17.1 and 17.2) shall apply only for so long as a University Group Shareholder holds shares in the Company.
- 18.2 Save with the prior written consent of the holders of at least 75% of the shares of the Company held collectively by the University Group Shareholders, the following provisions of the Articles shall not be removed, altered or varied:
- 18.2.1 the provisions of Articles 5.2.3 or 5.2.7 or any of the related defined terms;
  - 18.2.2 the provisions of Article 7.12 insofar as relating to the University Group Shareholders or transferees under Article 5.2.7; and
  - 18.2.3 the provisions of Article 8 in a manner that would adversely prejudice the University Group Shareholders' ability to sell any of its shares on the conditions set out therein and at a price payable of no less than the Specified Price.

## 19 VOTING RIGHTS OF SCOTTISH ENTERPRISE

- 19.1 Subject to Article 19.3, in the event that as a result of the buyback, redemption, conversion, cancellation, forfeiture of any shares or the disenfranchisement of

voting rights of any part of the share capital of the Company (or any other event having similar effect), the rights attributable to Scottish Enterprise (and/or the Scottish Enterprise Group) pursuant to these Articles would otherwise operate in such a manner as to give Scottish Enterprise (and/or the Scottish Enterprise Group) control of the exercise of 30% or more of the votes at a General Meeting of the Company (a "Trigger Event"), the voting rights of Scottish Enterprise (and/or any member of the Scottish Enterprise Group) applicable to their shareholding on any resolution proposed at a General Meeting shall be deemed to be restricted to 29.99% of the votes cast on any poll and the votes cast by any other holder of voting shares shall be deemed to be proportionately increased such that the aggregate voting rights of all other holders of voting shares for the purpose of any vote shall equal 70.01%.

- 19.2 The Company shall give notice to Scottish Enterprise immediately upon becoming aware of the occurrence or anticipated occurrence of any event which could reasonably be expected to constitute a Trigger Event.
- 19.3 The operation of Article 19.1 may be cancelled or suspended at any time or times either prior to the occurrence of any Trigger Event or subsequent to such provisions taking effect by Scottish Enterprise (and/or the Scottish Enterprise Group) in its sole discretion providing written notice to the Company of its intention to cancel or suspend the operation of Article 19.1. Immediately upon receipt of such notice, the provisions of Article 19.1 shall be suspended or cancelled accordingly. Votes taken by the Company during the period of operation of any suspension or cancellation under Article 19.1 shall not be affected by any such suspension or cancellation.
- 19.4 Notice given by Scottish Enterprise (and/or the Scottish Enterprise Group) in terms of Article 19.3 shall be given by the Company to all shareholders whose rights to vote are affected by the operation of such Article.

## 20 THE SEAL

The Company shall not have a seal.

## 21 INDEMNITY

- 21.1 Without prejudice to any indemnity to which any person referred to in this Article 21 may otherwise be entitled, every present and former Director, alternate Director, secretary or other officer of the Company (excluding any present or former Auditors) (an "Indemnified Person") shall be indemnified by the Company against all liabilities, costs, charges and expenses incurred by him in the execution and discharge of his duties to the Company and any Associated Company, including any liability incurred by any Indemnified Person in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to be done or omitted by him as an officer or employee of the Company or an Associated Company provided that such indemnity shall not extend to any liability arising out of the fraud or dishonesty of the relevant Indemnified Person (or the obtaining of any personal profit or advantage to which the relevant Indemnified Person was not entitled) and no Indemnified Person shall be entitled to be indemnified for:

21.1.1 any liability incurred by him to the Company or any Associated Company of the Company as above defined;

21.1.2 any fine imposed in any criminal proceedings;

- 21.1.3 any sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature howsoever arising;
- 21.1.4 any amount for which he has become liable in defending any criminal proceedings in which he is convicted and such conviction has become final;
- 21.1.5 any amount for which he has become liable in defending any civil proceedings brought by the Company or any Associated Company in which a final judgment has been given against him;
- 21.1.6 any amount for which he has become liable in connection with any application under sections 661(3) or (4) or 1157 of the Act in which the court refuses to grant him relief and such refusal has become final; and
- 21.1.7 any liability incurred by a Director or other officer of the Company pursuant to the Investment Agreements or any future investment or subscription agreement.

## 22 INSURANCE

- 22.1 The Company shall have power to purchase and maintain for (i) any Indemnified Person (as defined in Article 21); (ii) any director, secretary or other officer (other than any present or former auditors) or employee of an Associated Company; and (iii) any persons who are or were at any time trustees of any pension fund or employees' share scheme in which employees of any Associated Company are interested, insurance against any liability incurred by him in connection with any negligence, default, breach of duty or breach of trust (actual or purported) by him in relation to the Company or any Associated Company or any such pension fund or employees' share scheme or otherwise in connection with his duties, powers or office.

## 23 NOTICES

- 23.1 Subject to Article 23.2, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company.
- 23.2 Subject to the provisions below, any notice required or permitted to be given by the Company to a member shall be sufficiently given to that member if sent in a legible form by facsimile transmission ("fax"), first class or express registered post ("post"), or airmail, or by personal delivery, including courier delivery, to the registered address of the member, or by electronic mail ("e-mail") to the e-mail address of the member notified to the Company. A notice shall be deemed to have been received: (i) in the case of fax, when a successful transmission report is generated during that or the next Business Day; (ii) in the case of post, thirty-six hours from midnight (00.00 hrs) on the date of posting, postage prepaid, evidenced by the relevant proof of posting; (iii) in the case of airmail, on the seventh Business Day following mailing, if mailed by airmail, postage prepaid, evidenced by the relevant proof of posting; (iv) in the case of personal delivery, thirty minutes after the time of delivery, evidenced, where appropriate, by the courier's receipt duly counter-signed for or on behalf of the addressee and (v) in the case of e-mail, when a successful delivery receipt is generated during that or the next Business Day. Where the deemed day of receipt of a notice is not a Business Day or where

deemed receipt occurs at the place of delivery on a Business Day but after 1800hrs, that notice shall be deemed to have been received at 0930hrs on the next Business Day. In the case of a notice or other communication being sent or delivered to Scottish Enterprise it must be marked for the attention of "The Head of the Transactions Team" and copied to "The Head of the Portfolio Team" and must not be sent by fax and any such notice or other demand sent by fax shall be invalid.

- 23.3 Subject to the Articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being.
- 23.4 A Director may agree with the Company that notices or documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than as expressly required in these Articles.

## 24 GOVERNING LAW

These Articles shall be governed by, and construed in accordance with, the Law of Scotland and the Company, its officers and its members, from time to time, prorogate the non-exclusive jurisdiction of the Scottish Courts.