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ARTICLES OF ASSOCIATION

of

FCSL (HOLDINGS) LIMITED

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De

**MORTON FRASER**   
LAWYERS



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**THE COMPANIES ACTS**  
**COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**

of

**FCSL (HOLDINGS) LIMITED (the Company)**

**INTERPRETATION AND LIMITATION OF LIABILITY**

**1 Defined terms**

1.1 In these articles, unless the context requires otherwise:-

**Act** means the Companies Act 2006.

**business day** means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in Scotland are generally open for business.

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

1.2 Save as otherwise specifically provided in these articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these articles but excluding any statutory modification of them not in force on the date when these articles become binding on the company.

1.3 A reference in these articles to an **article** is a reference to the relevant numbered article of these articles unless expressly provided otherwise.

**2 Application of Model Articles**

2.1 The Model Articles shall apply to the company, except in so far as they are modified or excluded by these articles. In the event of any conflict between the terms of the Model Articles and these articles, the relevant provision of these articles shall prevail.

2.2 Articles 8, 9(1) and (3), 11(2) and (3), 13, 14(1), (2), (3) and (4), 15, 17, 23, 44(2), 52 and 53 of the Model Articles shall not apply to the company.

**DIRECTORS**

**3 Unanimous decisions**

3.1 A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

3.2 Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.

3.3 References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.

- 3.4 A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

#### **4 Calling a directors' meeting**

- 4.1 Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.
- 4.2 Notice of a directors' meeting must be given to each director, but need not be in writing.

#### **5 Quorum for directors' meetings**

- 5.1 The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but, where the company has two or more directors it must never be less than two, and unless otherwise fixed it is two.
- 5.2 Where the company has only a sole director, the quorum is one.
- 5.3 If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision:-
- 5.3.1 to appoint further directors, or
- 5.3.2 to call a general meeting so as to enable the shareholders to appoint further directors.

#### **6 No casting vote**

The chairman of directors' meetings shall not have a casting vote.

#### **7 Transactions or other arrangements with the company**

- 7.1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director who is any way, whether directly or indirectly interested in an existing or proposed transaction or arrangement with the company:-
- 7.1.1 may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company or in which the company is otherwise interested;
- 7.1.2 may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the company or in which the company is otherwise interested;
- 7.1.3 shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested;
- 7.1.4 shall be entitled to vote at a meeting of directors or of a committee of the directors, or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested;
- 7.1.5 may act by himself or his firm in a professional capacity for the company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director; and
- 7.1.6 shall not, save as he may otherwise agree, be accountable to the company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no

such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

7.2 For the purposes of article 7.1:-

7.2.1 references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.

7.2.2 a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified;

7.2.3 an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

7.3 Subject to article 7.4, if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.

7.4 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

**8 Directors' conflicts of interest**

8.1 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**).

8.2 Any authorisation under this article will be effective only if:-

8.2.1 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;

8.2.2 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

8.2.3 the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.

8.3 Any authorisation of a conflict under this article may (whether at the time of giving the authorisation or subsequently):-

8.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;

8.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the directors may determine, and

8.3.3 be terminated or varied by the directors at any time.

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

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

8.4.1 disclose such information to the directors or to any director or other officer or employee of the company, or

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

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

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

8.5.2 is not given any documents or other information relating to the conflict, and

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

- 8.6 Where the directors authorise a conflict:-

8.6.1 the director will be obliged to conduct himself in accordance with any terms imposed by the directors in relation to the conflict, and

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

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

## 9 Minutes of proceedings to be kept

In accordance with section 248 of the Act, the directors must ensure that the company keeps a record, in writing of all proceedings at meetings of the directors for a period of ten years from the date of the meeting.

## 10 Methods of appointing directors

- 10.1 Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:

10.1.1 by ordinary resolution, or

10.1.2 by a decision of the directors.

- 10.2 In any case where, as a result of death or bankruptcy, the company has no shareholders and no directors, the transmittee(s) of the last shareholder to have died or to have a bankruptcy

order made against him (as the case may be) have the right, by notice in writing, to appoint a person to be a director.

- 10.3 For the purposes of article 10.2, where two or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

## **COMPANY SECRETARY**

### **11 Company not required to have secretary**

In accordance with the Act, the company shall not be required to have a secretary.

### **12 Appointment and removal of secretary**

The company may resolve to appoint a secretary, or remove any secretary so appointed:-

- 12.1 by ordinary resolution, or
- 12.2 by a decision of the directors.

### **13 Resignation of secretary**

A person ceases to be secretary as soon as notification in writing is received by the company from the secretary that the secretary is resigning from office, and such resignation has taken effect in accordance with its terms.

## **SHARES**

### **14 Disapplication of statutory pre-emption rights**

In accordance with Section 567 of the Act, Sections 561 and 562 of the Act shall be excluded from applying to the company, and the directors shall be entitled to allot equity securities in accordance with Sections 569 and 570 of the Act.

### **15 Powers to issue different classes of share**

The directors are generally and unconditionally authorised pursuant to section 551 of the Act to allot shares or grant rights up to an aggregate nominal value of £10,000,000 of share capital of the company for a period (unless previously renewed, varied or revoked by the company in general meeting) expiring five years after the date of adoption of these articles. Before the expiry of the authority granted by this article, the company may make an offer or agreement which would or might require relevant securities to be allotted after that expiry. The foregoing authority shall not be deemed to restrict the general authority of the directors to allot shares in the company in accordance with section 550 of the Act at any time when the company has a single class of shares.

### **16 Trusts may be recognised**

Except as required by law, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it. The company shall however be entitled to register trustees as such in respect of any shares.

## **DECISION-MAKING BY SHAREHOLDERS**

### **17 Poll votes**

- 17.1 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 17.2 Article 44(3) of the Model Articles shall be amended by the insertion of the words A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made as a new paragraph at the end of that article.
- 18 **Proxies**
  - 18.1 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words is delivered to the company in accordance with the articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate.
  - 18.2 Article 45(1) of the Model Articles shall be amended by the insertion of the words and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting as a new paragraph at the end of that article.

## **ADMINISTRATIVE ARRANGEMENTS**

### **19 Means of communication to be used**

- 19.1 Subject to these articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which section 1144 and Schedules 4 and 5 of the Act provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.
- 19.2 Subject to these 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.

### **20 Deemed delivery of documents and information**

- 20.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
  - 20.1.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);
  - 20.1.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;
  - 20.1.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
  - 20.1.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.
- 20.2 For the purposes of this article, no account shall be taken of any part of a day that is not a business day.



- 20.3 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.

## 21 **Company seals**

Unless and until the directors resolve otherwise, the company shall not have a common seal.

## **DIRECTORS' INDEMNITY AND INSURANCE**

### 22 **Indemnity**

- 22.1 Subject to article 22.2, and without prejudice to any indemnity to which a relevant director is otherwise entitled, a relevant director of the company or an associated company may be indemnified out of the company's assets against:-

- 22.1.1 any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,
- 22.1.2 any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Act),
- 22.1.3 any other liability incurred by that director as an officer of the company or an associated company.

- 22.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

- 22.3 In this article and article 23:-

- 22.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
- 22.3.2 a **relevant director** means any director or former director of the company or an associated company.

### 23 **Insurance**

- 23.1 The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.
- 23.2 In this article a **relevant loss** means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and

### 24 **Borrowing powers**

- 24.1 The directors may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the company or of any third party.
- 24.2 Any debentures, bonds or other instruments or securities may be issued at a discount premium or otherwise and with any special privileges as to redemption, surrender, drawings, allotment of shares or otherwise as the directors may from time to time determine.

**25 Governing law**

These articles shall be governed by and construed in accordance with Scots Law and the company, its officers and members from time to time submit to the non-exclusive jurisdiction of the Scottish Courts.