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**Wednesday 07 September, 2016**

**Origo Partners PLC**

## Posting of Circular and Restoration of Trading

RNS Number : 1209J  
Origo Partners PLC  
07 September 2016

7 September 2016

**Origo Partners PLC**

("Origo" or the "Company")

### Posting of Circular, Proposed Restructuring, Notice of Meetings and Restoration of Trading

On 19 August 2016 the Company announced that, following extensive discussions with its key shareholders and further to the proposed restructuring of the Company's share capital set out in the circular sent to shareholders in January 2016, a revised set of proposals, which would restructure the Company's convertible zero dividend preference shares ("CZDPs"), had been agreed which would be put to shareholders for their approval.

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Origo now announces that a circular is today being posted to Shareholders (the "Circular"), providing details of the proposed restructuring of the Company's share capital together with notices convening: (i) a general meeting of the Company to be held at 33-37 Athol Street, Douglas, Isle of Man, IM1 1LB at 12.30 p.m. on 26 September 2016 (the "General Meeting"); (ii) a CZDP class meeting to be held at 33-37 Athol Street, Douglas, Isle of Man, IM1 1LB at 1.30 p.m. on 26 September 2016 (the "CZDP Class Meeting"); and (iii) an ordinary share class meeting to be held at 33-37 Athol Street, Douglas, Isle of Man, IM1 1LB at 2.00 p.m. on 26 September 2016 (the "Ordinary Share Class Meeting" and together with the General Meeting and the CZDP Class Meeting, the "Meetings").

The Proposals, if approved by Shareholders, would also serve to settle the ongoing disputes with Brooks Macdonald.

The Meetings are being convened for the purpose of seeking shareholder approval for the Proposals. A copy of the circular being sent to shareholders will be available on the Company's website ([www.origopc.com](http://www.origopc.com)) shortly.

Further details of the Proposals are set out below.

Capitalised terms used and not otherwise defined in this announcement have the meanings given in the Circular.

As further explained in paragraph 8 below, and following, *inter alia*, the publication of the Circular (which contains full details of the Proposals and the likely implications for the Company should the Proposals be rejected), the Company also announces that trading in the Company's securities on AIM is expected to resume at 7.30 a.m. on 7 September 2016.

**For further information about Origo please visit [www.origopl.com](http://www.origopl.com) or contact:**

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**1. Introduction**

In November 2014, the Company's Shareholders approved a revised Investing Policy, under which the Company is now, through an orderly realisation programme, seeking to divest its entire portfolio by November 2018 at such time and under such conditions as the Board may determine in order to maximise value on behalf of the Company's Shareholders.

Since the implementation of the revised Investing Policy, the Company has made initial progress in delivering on a number of objectives and the Company remains confident of the implementation of its Investing Policy. However, and as announced by Origo on 4 July 2016, continued economic uncertainty in China and the concomitant turbulence in commodities markets have impeded the Company's ability to realise assets at attractive prices.

As a result, the Company was not in a position to redeem 12 million CZDPs on 8 March 2016 (as provided, subject to compliance with the Act, by the Articles). The Company remains under a continuing obligation (under the current Articles) to undertake the redemption of 12 million CZDPs as and when it is legally able to do so.

Notwithstanding this, the Company is pleased to have reported, since March 2016, positive developments at some portfolio companies, which indicate that there is potential to realise value for shareholders in due course.

The Company is now seeking Shareholder approval for the Proposals, which would restructure the Company's share capital and would provide Origo with greater flexibility to implement its Investing Policy. The Proposals, if approved by Shareholders, would also serve to settle the ongoing disputes with Brooks Macdonald.

In order to be implemented, the Proposals require the approval of Shareholders at a general meeting and at separate class meetings of CZDP Shareholders and of Ordinary Shareholders, in the case of the General Meeting and the Ordinary Share Class Meeting by way of a majority of 75 per cent. or more of the votes cast by those in attendance and exercising their vote and in the case of the CZDP Class Meeting by way of a majority of 75 per cent. or more of the then issued and outstanding CZDPs.

**The purpose of the Circular is to convene the General Meeting and the Class Meetings, to provide Shareholders with information on the Proposals, to explain the reasons why the Directors consider the Proposals to be in the best interests of the Company and to recommend that you vote in favour of the Resolutions at the Meetings, as the Directors intend to do at the relevant Meetings in respect of their own beneficial holdings of Ordinary Shares, representing approximately 1.06 per cent. of the Company's issued ordinary share capital.**

**The Board considers that the effect of the Resolutions not being passed by Shareholders would be seriously adverse for the Company. Shareholders' attention is drawn to paragraph 15 below which sets out the likely consequences for the Company in the event that the Resolutions are not passed.**

## **2. Principal Benefits of the Proposals**

The Directors consider that the Proposals provide a number of significant benefits to the Company and its Shareholders, namely:

- more closely aligning the existing rights of the CZDPs, approved by Shareholders in March 2013, with the Investing Policy adopted by the Company in November 2014. This is expected to provide Origo with greater flexibility in the implementation of the Investing Policy with a view to maximising Shareholder value;
- allowing Ordinary Shareholders to receive a proportion of all future Distributions alongside CZDP Shareholders (subject to certain exceptions explained further in paragraph 4 below); and
- settlement of the ongoing disputes with Brooks Macdonald.

## **3. Background to and reasons for the Proposals**

Since the implementation of the revised Investing Policy in November 2014, the Company has made initial progress in delivering on a number of objectives and the Company remains confident of the implementation of its Investing Policy. However, and as announced by Origo on 4 July 2016, continued economic uncertainty in China and the concomitant turbulence in commodities markets have impeded the Company's ability to realise assets at attractive prices.

The Company's Articles currently provide for the Company (subject to the Act) to redeem 12 million CZDPs on 8 March 2016 (the "**March 2016 Redemption**"). As the Board considered it likely that the Company would not be in a position to undertake the March 2016 Redemption in compliance with the Act, the Company issued a circular to Shareholders on 19 January 2016 seeking their approval to an initial set of proposals in relation to a restructuring of the Company's share capital to (amongst other things) remove the requirement to undertake the March 2016 Redemption (the "**Initial Proposals**"). However, the Initial Proposals (which had been negotiated between the Company and the main CZDP Shareholders (Brooks Macdonald)) did not receive the necessary approval of at least a 75 per cent. majority of votes cast at the general meeting and the ordinary share class meeting held on 4 February 2016 and therefore the Initial Proposals could not be implemented.

The Company subsequently announced on 8 March 2016 that it was not in a position to undertake the

March 2016 Redemption in compliance with the Act. The Company remains under a continuing obligation to undertake the redemption of 12 million CZDPs as and when it is legally able to do so.

On 9 March 2016, Brooks Macdonald issued a claim before the Isle of Man Court seeking the winding up of the Company on just and equitable grounds and for unfair prejudice (further details of which are set out in paragraph 3 of Annex 1).

Following the rejection by Shareholders of the Initial Proposals and the Winding-up Claim being brought, the Company has worked with Brooks Macdonald and PAX (the Company's single largest Ordinary Shareholder) to form the Proposals which would restructure the CZDPs and, amongst other things, remove all obligations of the Company in respect of the redemption of at least 12 million CZDPs, remove any final CZDP redemption and/or maturity date, remove the CZDP conversion provisions and allow the Company more flexibility as to the timings of redemptions, which would not be the case if the Proposals are rejected.

Importantly, the Proposals have been negotiated between the Company, Brooks Macdonald and the PAG Entities and each of Brooks Macdonald and PAX have given the Company irrevocable undertakings to vote in favour of the Resolutions on the terms described more fully in paragraph 14.

The Proposals, if implemented, would also serve to settle the Company's ongoing disputes with Brooks Macdonald in accordance with the terms of the Settlement Deed. Brooks Macdonald has commenced proceedings in the Isle of Man Court against the Company in two separate matters (being the Conversion Claim and the Winding-up Claim, further details of which are set out in Annex 1). Brooks Macdonald has agreed to take all required steps to discontinue such proceedings in the event that the Resolutions are passed. Brooks Macdonald has also intimated a further complaint that it may bring against the Company in the event that the Proposals are not approved (being the CZDP Complaints, further details of which are set out in Annex 1). The Company has been actively engaged in dealing with the complaints raised and proceedings brought by Brooks Macdonald, which has required a significant amount of management time and incurring of significant costs. The Company estimates that, to date, its legal and other related expenses in relation to the disputes with Brooks Macdonald are in excess of US\$3.5 million.

Details of the Settlement Deed between Origo, PAX, PAGAML and Brooks Macdonald are set out in paragraph 5 below.

#### **4. Proposals**

The principal terms of the Proposals are:

- the removal of all obligations of the Company in respect of the redemption of at least 12 million CZDPs and the removal of any final CZDP redemption and/or maturity date;
- the reset of the accreted principal amount per CZDP to US\$1.0526;

- that all distributions made to CZDP Shareholders shall upon receipt by CZDP Shareholders operate to redeem the relevant whole number of issued CZDPs (*pro rata* as between CZDP Shareholders in direct proportion to the numbers of CZDPs which they respectively hold);
  
- that no rate of return on the CZDPs will begin to accrete until 1 January 2018 and, in respect of each CZDP still in issue on 1 January 2018, its principal amount of US\$1.0526 shall be subject to the accretion of a rate of return equal to 4 per cent. per annum from (and including) 1 January 2018 to (and including) the date on which such CZDP is redeemed, with such return accruing on a simple and not compound basis;
  
- that the current liquidation preference of the CZDPs shall be removed, except if a winding up of the Company is commenced within 365 days of the Settlement Date (other than such a winding up which is initiated in breach of the BM Undertaking or otherwise initiated by Brooks Macdonald or any of its group entities), as further explained below;
  
- that the rights attaching to the CZDPs and the Ordinary Shares will be amended such that, other than on a winding up (other than any such winding up which is initiated in breach of the BM Undertaking or which is otherwise initiated by Brooks Macdonald or any entity or person which controls or is controlled by or is under common control with any Brooks Macdonald entity) commencing within 365 days of the Settlement Date, Ordinary Shareholders shall receive a proportion of all future distributions alongside CZDP Shareholders on the following basis (*pro rata* within the respective classes of shares):
  - in respect of the first US\$15 million of distributions, 80 per cent. (i.e. US\$12 million) to the CZDP Shareholders and 20 per cent. (i.e. US\$3 million) to the Ordinary Shareholders;
  
  - in respect of distributions in excess of the first US\$15 million:
    - until such time as all CZDPs have been redeemed in full, 44 per cent. to the CZDP Shareholders and 56 per cent. to the Ordinary Shareholders;
  
    - thereafter, 100 per cent. to the Ordinary Shareholders;
  
- that until such time as all CZDPs have been redeemed in full:
  - distributions on Ordinary Shares will be made solely in the proportions set out above, and at the same time as distributions are made to the CZDP Shareholders, after which time former CZDP Shareholders will no longer be entitled to receive any further distributions or other amounts from the Company;
  
  - the CZDPs will have priority in respect of the balance of their accreted principal amount over the Ordinary Shares on a winding up of the Company (other than any such winding up which is initiated in breach of the BM Undertaking, or which is otherwise initiated by Brooks Macdonald or any entity or person which controls or is controlled by or is under common control with any Brooks Macdonald entity) provided such winding up commences within 365 days of the Settlement Date;
  
- that the CZDP conversion provisions will all be removed;

- that the Articles also be amended so that any single person holding the greatest number of Ordinary Shares and any single person holding the greatest number of CZDPs shall each have the right to nominate an independent person to be appointed as a non-executive director of the Company, such appointment being subject to relevant regulatory requirements;
  
- that the rights attaching to the CZDPs will be amended such that, for so long as there are CZDPs in issue, the Company shall not, and shall procure that no member of the Group shall:
  - without CZDP Majority Shareholder Consent:
    - undertake or permit or incur (i) any borrowings (or enter into or vary any contracts for financial indebtedness or arrangements for financial indebtedness), or (ii) any other financial indebtedness on the part of any member of the Group, other than in each case for the purposes of discharging liabilities of any member of the Group existing as at 19 August 2016 towards fees or disbursements of professional advisers (excluding the fees and disbursements of OAL), but which in any event shall not exceed £2 million in aggregate;
  
    - without prejudice to the obligation of the directors of the Company to have due regard to the interests of all shareholders as a whole, cease to have due regard to the interests of the CZDP Shareholders as a class and do anything materially prejudicial to them;
  
    - change the terms of engagement or appointment or the fees payable to any investment manager (including OAL) of any member of the Group;
  
    - if any CZDPs remain in issue on 1 January 2019, extend the Asset Realisation Support Agreement (further details of which are set out in paragraph 7 below) beyond that date;
  
    - enter into, or permit the entry into of, any transaction or arrangement between any member of the Group on the one hand and any PAG Entity and/or any affiliate of any PAG Entity who or which is a "related party" (as defined in the AIM Rules for Companies) of the Company and/or any agent of any PAG Entity or such affiliate thereof (including, without limitation, any fund manager) and/or any shareholder of the Company from time to time owning more than 10 per cent. of the voting rights of the Company and/or persons acting in concert with any of them, on the other hand save in respect of issues of any further Ordinary Shares in the Company issued on bona fide arm's length terms; and
  
    - allot or issue any shares or securities or rights to subscribe for or to convert or exchange any securities into shares or securities or reclassify any shares or permit any of the foregoing by any member of the Group (other than (i) issues of Ordinary Shares made to the Company or any wholly owned subsidiary of it; and (ii) issues of any further Ordinary Shares in the Company in every case issued on bona fide arm's length terms); and
  - without CZDP Ordinary Consent, make or permit any change in its Investing Policy;

The Proposals, if implemented, would also serve to settle the Company's ongoing disputes with Brooks Macdonald.

In determining the levels of cash available for Distribution to the Company's shareholders, the Board will take into account 24 months of reasonable working capital requirements for Distributions made on or before 31 December 2016, but not more than 12 months of reasonable working capital requirements for Distributions thereafter.

The Company may only make Distributions or redeem CZDPs if it will, immediately thereafter, be able to pay its debts as they become due in the normal course of business and the value of its assets exceeds the value of its liabilities (in accordance with section 49 of the Act).

The Company is also taking the opportunity to make a number of administrative changes to the Articles. These changes include, *inter alia*, the removal of Article 45 - which seeks to replicate certain provisions of the City Code. The City Code has applied to the Company since 30 September 2013 and Article 45 is now therefore redundant.

To more accurately reflect the revised structure of the CZDPs it is proposed that the CZDPs will be renamed 'Redeemable Preference Shares' on implementation of the Proposals.

In connection with the Proposals, Brooks Macdonald has given the BM Undertaking, further details of which are set out in paragraph 6.

## **5. Settlement Deed**

In connection with the Proposals, on 19 August 2016 the Company entered into the Settlement Deed with Brooks Macdonald and the PAG Entities.

The Settlement Deed is conditional on (amongst other things) the Proposals being approved by Shareholders and the passing of the Resolutions on or before 30 September 2016. Accordingly, the Settlement Deed will only have effect if the Proposals are approved and the Resolutions are passed and provided that such approval and the passing of the Resolutions occurs on or before 30 September 2016.

Once it becomes effective, the Settlement Deed disposes of the legal claims pursued and/or intimated by Brooks Macdonald to date (subject as set out below) and Brooks Macdonald has agreed to take all required steps to discontinue the proceedings it has brought in respect of the Conversion Claim and the Winding-up Claim.

Shareholders should note, however, that: (i) the Settlement Deed is only binding in relation to Brooks

Macdonald and not all of the CZDP Shareholders; (ii) Brooks Macdonald Asset Management (International) Limited and Brooks Macdonald Asset Management Limited hold CZDPs and/or Ordinary Shares through certain nominee companies (including, amongst others, Brooks Macdonald Nominees Limited and Secure Nominees Limited) on behalf of beneficial owners and those beneficial owners are not bound by this Settlement Deed; (iii) although Brooks Macdonald Nominees Limited and Secure Nominees Limited have agreed not to bring any claims of their own initiative in respect of the ongoing disputes under the Settlement Deed, they may nevertheless be required by the beneficial owners of CZDPs and/or Ordinary Shares to bring claims in certain circumstances; and (iv) certain other entities hold CZDPs for which Brooks Macdonald performs management activities but are not a party to, and accordingly will not be bound by, the Settlement Deed.

In addition to the terms of the Settlement Deed:

- Brooks Macdonald Group Plc has confirmed that, absent a takeover offer in respect of the Company being made, it shall not and, to the extent that it is able and it would be lawful and in compliance with its regulatory and legal obligations, it shall ensure that any entity or person which it controls or is controlled by or is under its common control with it, and its clients, shall not commence proceedings against the Company prior to the date of the Meetings; and
- Brooks Macdonald Asset Management Limited, Brooks Macdonald Asset Management (International) Limited, Brooks Macdonald Nominees Limited and Secure Nominees Limited have confirmed that, absent a takeover offer in respect of the Company being made and, to

the extent that they are able and it would be lawful and in compliance with their regulatory and legal obligations, they shall not, and they shall ensure that their clients shall not, commence proceedings against the Company prior to the date of the Meetings.

## 6. Undertakings

In connection with the Proposals:

- Brooks Macdonald Group Plc has undertaken that it shall not and to the extent that it is able and it would be lawful and in compliance with its regulatory and legal obligations, it shall ensure that any entity or person which it controls or is controlled by or is under its common control with, and their clients, shall not commence, participate in, fund, voluntarily aid, prosecute or cause to be commenced, any complaint, claim, action, suit, cause of action or other proceeding for the purpose of winding up the Company within 365 days of the Settlement Date, provided that if the Settlement Deed does not become unconditional then this undertaking will lapse on the earlier of (i) 30 September 2016 and (ii) the vote upon the Resolutions having been taken.
- Brooks Macdonald Asset Management Limited, Brooks Macdonald Asset Management (International) Limited, Brooks Macdonald Nominees Limited and Secure Nominees Limited have undertaken that to the extent that they are able and it would be lawful and in compliance with their regulatory and legal obligations, they shall not and they shall ensure that any entity or person which controls or is controlled by or is under its common control with it, and their clients, shall not commence, participate in, fund, voluntarily aid, prosecute or cause to be commenced, any complaint, claim, action, suit, cause of action or other proceeding for the purpose of winding up the Company within 365 days of the Settlement Date, provided that if the Settlement Deed does not become unconditional then this undertaking will lapse on the earlier of (i) 30 September 2016 and (ii) the vote upon the Resolutions having been taken;
- PAX and PAGAML have undertaken that neither they nor their affiliates nor any person with which they (or their affiliates) are acting in concert will make, propose or effect a takeover bid for the Company or for the Ordinary Shares as a result of which they, their affiliates or persons acting in concert with them would hold shares carrying in aggregate 50 per cent. or more of the voting rights of the Company if the bid were completed or became effective during the period from the date of the undertaking (being 19 August 2016) to the earlier of (i) 30 September 2016; and (ii) the date shareholders of the Company vote down any of the Resolutions (the "Effective Period"). Rule 2.8 of the Takeover Code applies to this undertaking such that PAX, PAGAML, their affiliates and any person with which they (or their affiliates) are acting in concert would not be prevented from proposing, making or effecting a takeover bid for the Company or for the Ordinary Shares in the event that: (i) shareholders of the Company vote down any of the Resolutions; or (ii) the Effective Period otherwise ends. For these purposes, "affiliate" means any entity or other person which controls, or is under the control of, or under common control with, another person or entity of which it is an affiliate, where "control" means the ability whether by means of ownership or other means to direct the conduct of the affairs of the entity or person which is under control, and the directors of any such entities; and
- the Company has undertaken that, to the extent permitted by law and/or applicable regulatory requirements, it will not take any step that would trigger any conversion provisions in Article 4.17 prior to the earliest of (i) 30 September 2016, (ii) the Settlement Date; and (iii) the date the Proposals are voted down by Shareholders.

Voting undertakings have also been provided by Brooks Macdonald and PAX and PAGAML in respect of the Resolutions, as further described in paragraph 14.

## 7. Asset Realisation Support Agreement

The Company and OAL are party to an asset realisation support agreement (the "**Asset Realisation**

**Support Agreement**"), the terms of which were approved by Shareholders on 20 November 2014. The Asset Realisation Support Agreement became effective on 13 January 2015.

Pursuant to the Asset Realisation Support Agreement, OAL was appointed as a consultant to the Group to provide to the Group: (i) management and investment realisation support services, including support services on the disposal of assets and the provision (if required by the Company) of the services of Chris Rynning and Niklas Ponnert as Directors to the Company; and (ii) general administrative services, including accounting, treasury, and corporate secretarial services.

On 6 September 2016 the Company entered into an amendment agreement with OAL to the Asset Realisation Support Agreement (the "**Amendment Agreement**") which, conditional on the Resolutions being passed on or prior to 30 September 2016, will amend the Asset Realisation Support Agreement as follows:

- the aggregate annual fees payable to OAL for the provision of services pursuant to the Asset Realisation Support Agreement will be reduced as follows:
  - US\$1.6 million (currently US\$1.8 million) in respect of the second year of the Asset Realisation Support Agreement (i.e. the year commencing on 13 January 2016);
  - US\$1.2 million (currently US\$1.6 million) in respect of the third year of the Asset Realisation Support Agreement (i.e. the year commencing on 13 January 2017);
  - US\$1 million (currently US\$1.05 million) in respect of the fourth year of the Asset Realisation Support Agreement (i.e. the period commencing on 13 January 2018 and ending on 31 December 2018);
- the Existing Performance Hurdle (as defined below) will be removed and instead OAL shall be entitled to receive the performance fee under the Asset Realisation Support Agreement only if the Company has made aggregate Distributions in excess of US\$90 million to Shareholders during the period from the date on which the Proposals are approved until the termination of the Asset Realisation Support Agreement (the "**New Performance Hurdle**"); and
- the term of the Asset Realisation Support Agreement will be a fixed term expiring on 31 December 2018 and will be subject to termination for cause.

Under the terms of the Asset Realisation Support Agreement, OAL is currently entitled to receive an additional performance fee if the Group has received realised gross cash proceeds from the realisation of assets in its portfolio (net of repayment of third party debts, any related hedge or other break costs and any prepayment fees and penalties, but before any related transactional costs, fees and expenses and any taxes payable) ("**Gross Realisations**") in excess of US\$90 million (the "**Existing Performance Hurdle**"). The Existing Performance Hurdle will be amended pursuant to the Amendment Agreement as set out above such that OAL will be entitled to a performance fee (the quantum of which reflects the existing terms of the Asset Realisation Support Agreement) of 20 per cent. of Gross Realisations over the New Performance Hurdle, subject to the first US\$1.7 million of Gross Realisations over the New Performance Hurdle being payable to OAL.

#### **8. Restoration of Trading on AIM**

Shareholders will be aware that trading in the Company's securities on AIM has been suspended since 11 March 2016 as a result of the provisions of section 167 of the Isle of Man Companies Act 1931 (the "**1931 Act**").

As announced by the Company on 11 March 2016, section 167 of the 1931 Act states that any disposition of the property of the Company after the commencement of the winding up by the Isle of Man Court (which was deemed to have commenced on the presentation of the Winding Claim) is void unless the Court orders otherwise. The Company's announcement of 11 March 2016 went on to confirm that, whilst the Company's daily operations should remain broadly unaffected, disposals of its assets without Court approval may have been rendered void and therefore that there were likely to be challenges in implementing Origo's Investing Policy pending the outcome of proceedings. In addition, the Company had received legal advice that the provisions of section 167 of the 1931 Act extended to any transfer of the Company's shares.

As a result, the Company requested the temporary suspension of trading of its securities on AIM. In August 2016, with the agreement of the Company, Brooks Macdonald and PAX, the Isle of Man Court granted validation orders such that: (i) transfers of the Company's issued shares shall not be void by virtue of section 167 of the 1931 Act in the event of a winding up order being made (the "**Share Transfer Validation Order**"); and (ii) dispositions of the property of the Company made in the ordinary course of business for proper value shall not be void by virtue of the provisions of section 167 of the 1931 Act notwithstanding the presentation of the Winding-up Claim.

As a result of the Share Transfer Validation Order and the publication of the Circular, which contains full details of the Proposals and the likely implications for the Company should the Proposals be rejected, the Company expects that trading in the Company's securities on AIM will resume at 7.30 a.m. on 7 September 2016.

## **9. Articles of Association**

In order to give effect to the Proposals, the Board is seeking to amend and replace the existing Articles.

A summary of the main changes between the proposed new Articles and the existing Articles is set out in Annex 2. Other changes, which are of minor, technical or clarifying nature and also some other minor changes which are incidental, have not been noted in Annex 2.

Full copies of the proposed new Articles, in both unmarked final and marked-up formats (with the marked-up copy showing all of the proposed changes to the existing Articles), are available for inspection on the Company's website: <http://www.origopl.com> → Shareholder Communications → Company Documents, and will be available during the General Meeting and the Class Meetings. A full replacement set of Articles, incorporating the proposed amendments, will be filed at the Isle of Man Companies Registry provided the Resolutions are passed.

A General Meeting is therefore being convened for 12.30 p.m. on 26 September 2016 at which a resolution requiring the approval of not less than 75 per cent. of the votes cast by those Shareholders in attendance and exercising their vote and set out in the Notice of General Meeting attached to the Circular will be proposed and voted upon by the Shareholders present and voting at such meeting.

## **10. CZDPs**

As the Proposals involve an alteration of the share rights attaching to the CZDPs, the Proposals are also conditional upon the approval of the holders of not less than 75 per cent. of the CZDPs then in issue and outstanding of a resolution to amend the terms of the CZDPs at a separate class meeting of CZDP Shareholders. This resolution is set out in the Notice of CZDP Class Meeting attached to the Circular.

The CZDP Class Meeting is therefore being convened for 1.30 p.m. on 26 September 2016 at which the resolution set out in the Notice of CZDP Class Meeting attached to the Circular will be proposed and voted upon by the CZDP Shareholders.

## **11. Ordinary Shares**

The Proposals also involve an alteration of the share rights attaching to the Ordinary Shares. The Proposals are, therefore, also conditional upon the approval of not less than 75 per cent. of the votes cast by the Ordinary Shareholders in attendance and exercising their vote of a resolution to amend the Articles at a separate class meeting of Ordinary Shareholders. This resolution is set out in the Notice of Ordinary Share Class Meeting attached to the Circular.

The Ordinary Share Class Meeting is therefore being convened for 2.00 p.m. on 26 September 2016 at which the resolution set out in the Notice of Ordinary Share Class Meeting attached to the Circular will be proposed and voted upon by the Ordinary Shareholders present and voting at such meeting.

## **12. Related Party Transactions**

Brooks Macdonald and its affiliates are interested in approximately 63.93 per cent. of the CZDPs. PAX is interested in approximately 25.60 per cent. of the Ordinary Shares. Therefore, under the AIM Rules for Companies, Brooks Macdonald and PAX are each deemed to be related parties of the Company. As a result, the entry by the Company into the Settlement Deed, which is conditional upon the Proposals being implemented, was a Related Party Transaction.

As announced by the Company on 19 August 2016, the Directors consider, having consulted with the

Company's nominated adviser, that the terms of the Settlement Deed are fair and reasonable insofar as the Shareholders are concerned.

In order to give effect to the amendments to the Asset Realisation Support Agreement set out in paragraph 7, the Company entered into the Amendment Agreement with OAL on 6 September 2016. OAL is deemed to be a related party of the Company. As a result, entry by the Company into the Amendment Agreement with OAL, which is conditional upon the Proposals being implemented, is a Related Party Transaction.

The Independent Directors consider, having consulted with the Company's nominated adviser, that the terms of the Amendment Agreement are fair and reasonable insofar as the Shareholders are concerned.

## **13. Action To Be Taken**

Shareholders will find enclosed with the Circular a Form of Proxy for the General Meeting and the appropriate Form(s) of Proxy for the relevant Class Meetings. The Forms of Proxy are colour-coded for convenience as follows: (a) the Form of Proxy printed on white paper is the Form of Proxy for the General Meeting; (b) the Form of Proxy printed on blue paper is the Form of Proxy for the CZDP Class Meeting; and (c) the Form of Proxy printed on yellow paper is the Form of Proxy for the Ordinary Share Class Meeting.

Whether or not you intend to be present at the Meetings, you are requested to complete, sign and return the Form(s) of Proxy in accordance with the instructions printed on it. The Form(s) of Proxy should be returned to Capita Asset Services using the business reply envelope enclosed or otherwise by post, courier or hand to Capita Asset Services, PXS, 34 Beckenham Road, Beckenham, Kent, BR3 4TU as soon as possible and, in any event, so as to arrive not later than 12.30 p.m. on 24 September 2016 (in the case of the white Form of Proxy for the General Meeting), 1.30 p.m. on 24

September 2016 (in the case of the blue Form of Proxy for the CZDP Class Meeting) and 2.00 p.m. on 24 September 2016 (in the case of the yellow Form of Proxy for the Ordinary Share Class Meeting). The completion and return of a Form of Proxy will not preclude you from attending the relevant Meetings and voting in person should you wish to do so.

#### 14. Irrevocable Undertakings

The Company has received an irrevocable undertaking from Brooks Macdonald in respect of all the voting rights over CZDPs and Ordinary Shares which Brooks Macdonald is entitled to exercise (representing approximately 78.55 per cent. of the CZDPs and 3.83 per cent. of the Ordinary Shares in which Brooks Macdonald and its affiliates are interested) that it will use reasonable endeavours insofar as the matters are within its control and in its clients' best interests to exercise such voting rights in favour of the Resolutions at the Meetings. Shareholders should note that Brooks Macdonald is not therefore entitled to exercise voting rights attaching to 21.45 per cent. of CZDPs and 96.17 per cent. of Ordinary Shares in which Brooks Macdonald and its affiliates are interested due to the manner in which such shares are held.

The Company has received an irrevocable undertaking from PAX and PAGAML in respect of all the voting rights over Ordinary Shares which PAX is entitled to exercise (representing approximately 25.60 per cent. of the Ordinary Shares) that they will exercise such voting rights to vote in favour of the Resolutions at the General Meeting and Ordinary Share Class Meeting.

#### 15. Likely Consequences of Proposals Not Being Passed

If the Resolutions are not passed, then:

- the Settlement Deed (which seeks to settle the Company's ongoing dispute with Brooks Macdonald) would not become unconditional and Brooks Macdonald would no longer be prevented from bringing proceedings in respect of the various claims that it has previously made or intimated. It is highly likely that Brooks Macdonald would seek to continue proceedings in the Isle of Man Court in respect of the Winding-up Claim and the extant appeal to the judgment dated 29 July 2016 in respect of the disclosure hearing relating to the Winding-up Claim ("Disclosure Hearing Appeal"), both of which are currently stayed. The real likelihood is that these proceedings would be continued at the next hearing in the Isle of Man on 7 October 2016 (which has been fixed so the parties can update the Isle of Man Court). Although the Board believes that the Winding-up Claim is an abuse of process and is vigorously defending such claim, it is possible that the Isle of Man Court would decide that there are grounds to order the Company to be wound up. It is also possible that Brooks Macdonald may commence additional legal proceedings in respect of the CZDP Complaint and continue proceedings in respect of the Conversion Claim (which is currently stayed). Accordingly, the Company would expect to be embroiled in time-consuming litigation with Brooks Macdonald which would inevitably involve significant cost, management time and risk;
- as the Articles would not be amended to align the existing structure of the CZDPs with the Investing Policy, the Company would not benefit from greater flexibility in the implementation of the Investing Policy, which would see the Company continuing to encounter difficulties as regards its working capital requirements and the restriction on borrowing pursuant to Article 4.23(c). Furthermore, the Company would remain under a continuing obligation to undertake the redemption of 12 million CZDPs as and when it is legally able to do so; and
- the PAG Undertaking and the BM Undertaking would lapse.

#### 16. Recommendation

Given the merits of the Proposals and the likely consequences of the Proposals not being passed as set out above, the Directors unanimously recommend that Shareholders vote in favour of the Resolutions as they intend to do in respect of their own beneficial shareholdings, which together amount to 3,811,009 Ordinary Shares, representing approximately 1.06 per cent. of the Company's issued Ordinary Shares. Chris Rynning, a former director of the Company, also intends to vote in favour of the Resolutions in respect of his beneficial shareholding, which amounts to 14,570,040 Ordinary Shares, representing approximately 4.06 per cent. of the Company's issued Ordinary Shares.

## ANNEX 1

### SUMMARY OF COMPLAINTS

#### 1. CZDP Complaints

Brooks Macdonald has notified the Company of complaints based on its contention that the Articles should have included an option exercisable by the holders of the CZDPs to redeem the CZDPs upon a change of control in respect of the Company. The value of the claims may be up to the sum paid by Brooks Macdonald for the CZDPs it holds. These complaints were the subject of an announcement made by the Company on 7 February 2014. Brooks Macdonald has threatened to bring this claim in the courts of England and Wales. It is the Company's view that these claims would be unlikely to succeed. However, the Company would incur significant costs in defending the claims. If the Company was not successful in defending the proceedings, it would be liable to pay the damages claimed (plus interest) and Brooks Macdonald's costs of the proceedings. In the event that the Company did successfully defend these claims, it would be entitled to its costs from Brooks Macdonald but there would be a proportion of the costs that will be irrecoverable.

#### 2. Conversion Claim

Brooks Macdonald notified the Company of a claim to establish the correct interpretation of Article 4.17 of the Articles governing the conversion of CZDPs to Ordinary Shares upon a Potential Disposal (as defined in Article 4.17). This complaint was the subject of an announcement made by the Company on 14 July 2015. On 10 February 2016 Proceedings were commenced by Brooks Macdonald before the Isle of Man Court on 10 February 2016 seeking a declaration as to the correct interpretation of Article 4.17 of the Articles. This claim was the subject of an announcement made by the Company on 16 February 2016. By consent between the parties, these proceedings were stayed by the Isle of Man Court on 19 April 2016 pending the outcome of the Winding-up Claim. The stay remains in force as at the date of this circular. In the event that the Conversion Claim were to proceed to trial the position regarding costs is likely to be broadly the same as the CZDP Complaints. Further, Brooks Macdonald may apply to have its costs paid by the Company to represent the interests of the CZDP holders (any such application would be strongly resisted by the Company).

#### 3. Winding-up Claim

On 9 March 2016, Brooks Macdonald issued a claim before the Isle of Man Court seeking the winding up of the Company on just and equitable grounds pursuant to the provisions of section 162(6) of the Companies Act 1931 (applied to the Company pursuant to section 182 of the Companies Act 2006) and/or an order under section 180(2)(f) (winding up under section 165 of the Companies Act 1931 on the grounds that it is just and equitable to do so) and on the grounds that the affairs of the Company have been, are being, or are likely to be conducted in a manner that is, likely to be oppressive or unfairly prejudicial to such member in his capacity as a member. This claim was the subject of an announcement made by the Company on 10 March 2016. The Winding-up Claim was listed for hearing from 22 to 24 August 2016. However, in light of the Company's entry into the Settlement Deed (which is conditional upon the Proposals being implemented) on 19 August 2016, the Winding-up Claim and the extant Disclosure Hearing Appeal were each stayed by the Isle of Man Court on 22 August 2016 until further order. An update is to be sent to the Court by 4pm on 30 September 2016 as to the outcome of the Proposals and/or the status of the Winding-up Claim and a hearing to update the Court is fixed for 7 October 2016. If the Proposals are not implemented and the Winding-up Claim continues and the Company was unsuccessful in defending the proceedings, the Court could issue a winding-up order, forcing the Company into compulsory liquidation. In this situation the Company

would also be liable for Brooks Macdonald's costs of the proceedings. In the event that the Company did successfully defend the Winding-up Claim, it would be entitled to its costs from Brooks Macdonald but there would be a proportion of the costs that will be irrecoverable.

It should be noted that Brooks Macdonald was a defendant, representing the CZDP holders, in declaratory proceedings by the Company before the Isle of Man Court regarding the correct interpretation of provisions in the Articles governing the passing by the Company of "75 per cent. Resolutions". The Company's interpretation was upheld by the Isle of Man Court as outlined in the announcement on 10 July 2015. The Company paid a proportion of Brooks Macdonald's costs of the proceedings on the basis that it obtained an order that it should act as representative defendant on behalf of all holders of CZDPs.

## ANNEX 2

### SUMMARY OF THE MAIN PROPOSED CHANGES TO THE ARTICLES OF ASSOCIATION

#### 1. Rights attaching to the CZDPs and Ordinary Shares

The rights attaching to the CZDPs and Ordinary Shares are being amended so that:

- all obligations of the Company in respect of the redemption of at least 12 million CZDPs and the removal of any final CZDP redemption and/or maturity date are removed;
- the accreted principal amount per CZDP is reset to US\$1.0526;
- all distributions made to CZDP Shareholders shall upon receipt by CZDP Shareholders operate to redeem the relevant whole number of issued CZDPs (*pro rata* as between CZDP Shareholders in direct proportion to the numbers of CZDPs which they respectively hold);
- no rate of return on the CZDPs will begin to accrete until 1 January 2018 and in respect of each CZDP still in issue on 1 January 2018, its principal amount of US\$1.0526 shall be subject to the accretion of a rate of return equal to 4 per cent. per annum from (and including) 1 January 2018 to (and including) the date on which such CZDP is redeemed, with such return accruing on a simple and not compound basis;
- the current liquidation preference of the CZDPs shall be removed, except if the winding up of the Company is commenced within 365 days of the Settlement Date (other than such a winding up which is initiated in breach of the BM Undertaking or otherwise initiated by Brooks Macdonald or any of its group entities), as further explained below;
- other than on a winding up (other than any such winding up which is initiated in breach of the BM Undertaking or which is otherwise initiated by Brooks Macdonald or any entity or person which controls or is controlled by or is under common control with any Brooks Macdonald entity) commencing within 365 days of the Settlement Date, Ordinary Shareholders shall receive a proportion of all future distributions alongside CZDP Shareholders on the following basis (*pro rata* within the respective classes of shares):

- in respect of the first US\$15 million of distributions, 80 per cent. (i.e. US\$12 million) to the CZDP Shareholders and 20 per cent. (i.e. US\$3 million) to the Ordinary Shareholders;
  
- in respect of distributions in excess of the first US\$15 million:
  - until such time as all CZDPs have been redeemed in full, 44 per cent. to the CZDP Shareholders and 56 per cent. to the Ordinary Shareholders;
  
  - thereafter, 100 per cent. to the Ordinary Shareholders;
  
- until such time as all CZDPs have been redeemed in full:
  - distributions on Ordinary Shares will be made solely in the proportions set out above, and at the same time as distributions are made to the CZDP Shareholders, after which time former CZDP Shareholders will no longer be entitled to receive any further distributions or other amounts from the Company;
  
  - the CZDPs will have priority in respect of the balance of their accreted principal amount over the Ordinary Shares on a winding up of the Company (other than any such winding up which is initiated in breach of the BM Undertaking, or which is otherwise initiated by Brooks Macdonald or any entity or person which controls or is controlled by or is under common control with any Brooks Macdonald entity) provided such winding up commences within 365 days of the Settlement Date;
  
- all rights of conversion of the CZDPs into Ordinary Shares and obligation to convert on a takeover are removed;
  
- (in the case of the CZDPs) for so long as there are CZDPs in issue, the Company shall not, and shall procure that no member of the Group shall:
  - without CZDP Majority Shareholder Consent:
    - undertake or permit or incur (i) any borrowings (or enter into or vary any contracts for financial indebtedness or arrangements for financial indebtedness), or (ii) any other financial indebtedness on the part of any member of the Group, other than in each case for the purposes of discharging liabilities of any member of the Group existing as at 19 August 2016 towards fees or disbursements of professional advisors (excluding the fees and disbursements of OAL), but which in any event shall not exceed £2 million in aggregate;
  
    - without prejudice to the obligation of the directors of the Company to have due regard to the interests of all shareholders as a whole, cease to have due regard to the interests of the CZDP Shareholders as a class and do anything materially prejudicial to them;
  
    - change the terms of engagement or appointment or the fees payable to any investment manager (including, without limit, OAL) of any member of the Group;
  
    - if any CZDPs remain in issue on 1 January 2019, extend the Asset Realisation Support Agreement beyond that date;

- enter into or permit the entry into of any transaction or arrangement between any member of the Group on the one hand and any PAG Entity and/or any affiliate of any PAG Entity who or which is a "related party" (as defined in the AIM Rules for Companies) of the Company and/or any agent of any PAG Entity or such affiliate thereof (including, without limitation, any fund manager) and/or any shareholder of the Company from time to time owning more than 10 per cent. of the voting rights of the Company and/or persons acting in concert with any of them, on the other hand save in respect of issues of any further Ordinary Shares in the Company issued on bona fide arm's length terms; and

- allot or issue any shares or securities or rights to subscribe for or to convert or exchange any securities into shares or securities or reclassify any shares or permit any of the foregoing by any member of the Group (other than (i) issues of Ordinary Shares made to the Company or any wholly owned subsidiary of it; and (ii) issues of any further Ordinary Shares in the Company in every case issued on bona fide arm's length terms);

- o without CZDP Ordinary Consent, make or permit any change in its Investing Policy;

- Article 10 (the Company's general right to purchase, redeem or otherwise acquire shares) is being amended to reflect the agreed payments set out above;
- the right to distribute assets in specie on a winding up would require a 75 per cent. Resolution (as defined in the Articles) of both the Ordinary Shares and of the CZDPs for each class to be bound;
- as a result of the changes to the CZDPs they are being renamed redeemable preference shares.

## **2. City Code**

Since 30 September 2013 the City Code has applied to the Company. As a result the provisions (save for a number of definitions) set out in Article 45 are redundant and it is proposed that they be removed.

## **3. 75 per cent. Resolution**

It is proposed that the definition of 75 per cent. Resolution be amended to clarify the Isle of Man Court

judgment on its interpretation handed down on 9 July 2015, which confirmed that a 75 per cent. Resolution requires a majority of 75 per cent. or more of votes cast in favour, and not a majority of 75 per cent. or more of all issued and outstanding shares to have voted in favour, to be validly passed.

## **4. Articles 36.4 and 61.2**

These Articles are being amended (and applied to the CZDPs) so that they are consistent with other

provisions in the Articles.

#### 5. New Article 74A

This new Article entitles any single person holding the greatest number of Ordinary Shares and any single person holding the greatest number of CZDPs to nominate an independent person to be appointed as a non-executive director of the Company (such appointment being subject to relevant regulatory requirements).

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