

**THE COMPANIES ACT 1985**

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**COMPANY LIMITED BY SHARES**

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**ARTICLES OF ASSOCIATION**

of

**CLINOVIA LIMITED**

FRIDAY



(as adopted by Special Resolution passed on 22 September 1998  
and as amended by Special Resolution passed on 30 June 2006)

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**1. PRELIMINARY**

The regulations in Table A (as set out in the Schedule to the Companies (Tables A to F) Regulations 1985 SI 1985 No. 805 as amended) shall apply to the Company, save in so far as the Articles set out below disapply, modify or are inconsistent with them, to the exclusion of the Table A contained in any other enactment. References to Regulations are to Regulations in Table A.

**2. SHARE CAPITAL**

Subject to the provisions of the Act, all unissued shares shall be at the disposal of the Directors and they may allot, grant rights, options or warrants to subscribe or otherwise dispose of them to such persons, at such times, and on such terms as they think proper.

**3. PROCEEDINGS AT GENERAL MEETINGS**

- 3.1 No resolution shall be voted on and no other business shall be transacted at any meeting unless a quorum is present when such vote is taken or other business is transacted and no resolution or transaction shall be effective unless a quorum is so present. The first sentence of Regulation 40 shall be modified accordingly.

- 3.2 A resolution in writing shall be effective to do anything required by law to be done in general meeting. In the case of a member which is a corporation, the resolution may be signed on behalf of that corporation by any two of its Directors or by one of its Directors and its Secretary. Regulation 53 shall be modified accordingly.

#### **4. ALTERNATE DIRECTORS**

- 4.1 The same person may be appointed as the alternate director of more than one Director.

- 4.2 Subject to the provisions of these Articles, an alternate director shall be entitled to attend and vote at all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member at which his appointor is not personally present and generally at such meeting to perform all the functions of his appointor as a Director. Regulation 66 shall be modified accordingly.

- 4.3 A person appointed as an alternate director who is not a Director is not and shall not be deemed to be a Director by reason of such appointment and except as provided in these Articles shall not have power to act as a Director. An alternate Director shall owe the Company the same fiduciary duties and duty of care and skill in the performance of his office as are owed by a Director. Subject as provided in Article 9.5, the provisions of these Articles relating to whether or not a Director may vote or be counted in the quorum on resolutions concerning matters in which such Director has an interest or duty and to the disclosure of any such interest or duty shall accordingly apply *mutatis mutandis* to every such alternate director. The provisions of Regulations 85 and 86 (as modified by these Articles) shall apply to alternate directors except that paragraph (b) of Regulation 85 shall extend to the Company in addition to the bodies corporate referred to in that paragraph. An alternate director shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of his appointor except in relation to matters in which he acted (or failed to act) on the direction or at the request of his appointor. Regulation 69 shall not apply.

#### **5. DELEGATION OF DIRECTORS' POWERS**

- 5.1 The Directors may delegate any of their powers or discretions to any committee of two or more persons, who may include persons who are not Directors whether with or without voting rights or with qualified voting rights provided that (i) more

than half of the persons for the time being appointed as members of the committee shall be Directors and (ii) no resolution of the committee shall be effective unless a majority of the members of the committee who are present at the meeting when the resolution is passed or (if such resolution is in writing) sign or approve such resolution are Directors or their alternate directors acting as such. The Directors may from time to time impose regulations to govern the proceedings of any such committee. References in Table A or these Articles to committees of Directors shall be construed as including references to any such committee whether or not consisting only of Directors. Regulation 72 shall be modified accordingly.

5.2 Subject to any conditions imposed by the Directors in relation to the delegation of powers or discretions to a committee of Directors, the proceedings of a committee with two or more members shall be governed by any regulations imposed by the Directors pursuant to Article 5.1 and, except where they conflict with such regulations, by the provisions of these Articles regulating the Proceedings of Directors (including without limitation Regulations 92 and 94 (as modified by these Articles)) so far as they are capable of applying but so that references in such provisions to Directors shall be construed as references to any member of such committee (whether or not a Director). The last sentence of Regulation 72 shall not apply.

5.3 Any member of a committee of Directors who is not a Director may be paid such remuneration or fees as the Directors may determine and may be paid such travelling, hotel and other expenses (if any) properly incurred by him in connection with his attendance at meetings of the committee or otherwise in connection with the discharge of his duties as such member as the Directors (or any Director authorised in that behalf by the Directors) may approve.

## **6. APPOINTMENT AND RETIREMENT OF DIRECTORS**

6.1 The Directors shall not be subject to retirement by rotation. Regulations 73 to 75 shall not apply and references in any other Regulation to Directors retiring by rotation shall be disregarded.

6.2 No Director shall be required to retire or vacate his office or be ineligible for reappointment as a Director nor shall any person be ineligible for appointment as

a Director by reason of his having attained any particular age. Section 293 of the Act shall not apply.

## **7. DISQUALIFICATION AND REMOVAL OF DIRECTORS**

The office of a Director shall be vacated if he shall in writing offer to resign and the Directors shall resolve to accept such offer. Regulation 81 shall be modified accordingly.

## **8. DIRECTORS' APPOINTMENTS AND INTERESTS**

8.1 Subject to the provisions of the Act, and provided that he has disclosed to the Directors the nature and extent of any material interest, a Director may notwithstanding his office hold and be remunerated in respect of any office or place of profit under the Company and he or any firm of which he is a member may act in a professional capacity for the Company and be remunerated therefor and shall not by reason of his office be accountable to the Company for any benefit which he derives from any such office or place of profit. Regulations 84 and 85 shall be modified accordingly.

8.2 For the purposes of Regulation 85 (as modified by these Articles) a Director shall be deemed to be interested in any transaction or arrangement (if he would not otherwise be so interested) in which he is treated as interested for the purposes of Section 317 of the Act. In the case of any transaction or arrangement with the Company in which the Director is interested before it is made or entered into, a general notice given by a Director and which otherwise complies with paragraph (a) of Regulation 86 shall not be a disclosure as provided in that paragraph *unless it relates to a specified company or firm of which he is a member or a specified person who is connected with the Director within the meaning of Section 346 of the Act.* Regulation 86 shall be modified accordingly.

8.3 References in this Article and in Regulations 85 and 86 (as modified by these Articles) to transactions or arrangements shall include contracts, guarantees and indemnities (whether or not constituting a transaction or arrangement). Regulations 85 and 86 shall be modified accordingly.

## **9. PROCEEDINGS OF DIRECTORS**

9.1 If the same person is the alternate director for more than one Director he shall be entitled in the absence of two or more of his appointors to separate votes on

behalf of each such appointor on a cumulative basis in addition (if he is himself a Director) to his own vote. Regulation 88 shall be modified accordingly.

9.2 A Director who is also an alternate director, if his appointor is not present, shall be counted only once in identifying the number of Directors for the purposes of the quorum for the transaction of the business of the Directors. Regulation 89 shall be modified accordingly.

9.3 Regulation 92 shall apply to resolutions in writing of Directors and extend to include alternate directors, and shall be modified accordingly.

9.4 Any Director or alternate director who attends a meeting of Directors by telephone or other conference facility shall be deemed to be personally present at such meeting for all purposes of these Articles and shall be counted in the quorum accordingly.

9.5 Subject to the provisions of the Act, a Director may vote at a meeting of Directors on any resolution on which he would otherwise be prohibited from voting by Regulation 94 (including a resolution for the approval of an alternate director appointed by him) provided that before such resolution is moved he discloses to the meeting or is deemed pursuant to Regulation 86 (as modified by these Articles) to have disclosed the nature and extent of his interest. Regulation 94 shall be modified accordingly.

9.6 If an alternate director has an interest in a matter for the purposes of Regulation 94 only because he is treated as having an interest of his appointor or one of his appointors and such alternate director is himself a Director and/or is also an alternate director for any other Director or Directors not personally present at the meeting, Regulation 94 (as modified by Article 9.4) shall apply separately to each of the votes to which he is entitled on a cumulative basis and (notwithstanding that he is so treated as having an interest and provided he is not otherwise precluded from voting) he may vote and shall be counted in the quorum in respect of his office as Director and as alternate director for such other Director or Directors. Regulations 94 (as modified as aforesaid) and 95 shall be modified accordingly.

9.7 All or any of the Directors may participate in a meeting of the Directors or any committee of the Directors by means of a conference telephone or any communication equipment which allows all persons participating in the Meeting

to hear each other. A person so participating shall be deemed to be present in person at the Meeting and shall be entitled to vote or be counted in a quorum accordingly. Such a Meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the Chairman of the Meeting then is.

## **10. ACCOUNTS**

*A member, subject to such conditions and regulations as the Directors may determine having regard to any obligation binding upon the Company to keep confidential information supplied to it by other persons, may inspect personally or by his agent at any time and from time to time any account or book or document of the Company (and take and retain copies thereof). Regulation 109 shall not apply.*

## **11. OVERRIDING PROVISIONS**

11.1 For so long as the holder of not less than ninety per cent (90%) of the issued share capital of the Company is Oval (1346) Limited or any company which is itself a subsidiary of Oval (1346) Limited (referred to in this Article as "the Parent Company"), the following provisions shall apply and to the extent of any inconsistency shall have overriding effect as against all other provisions of these Articles:

11.1.1 the Parent Company may at any time and from time to time appoint any person to be a Director or the Secretary or remove from office any Director or the Secretary (whether or not appointed by the Parent Company) but so that in the case of an executive Director or an executive Secretary his removal from office shall be deemed to be an act of the Company and shall have effect without prejudice to any claim for damages for breach of any contract of service between him and the Company;

11.1.2 the Parent Company may at any time and from time to time appoint any person to be an alternate director for any Director (in which case the Director shall during the currency of such appointment have no right to appoint an alternate director himself and shall have no right to remove such alternate director or to direct him how to vote or act) or remove from office any alternate director (whether or not appointed by the Parent Company) but so that in the case of appointment the alternate director shall be deemed for the purposes of these

Articles to have been appointed by such Director and no approval of the Directors shall be required;

- 11.1.3 the Parent Company may at any time and from time to time appoint any person (whether or not a Director and notwithstanding that members are otherwise required to be Directors) to be a member of any committee of Directors or remove from office any member of any such committee (whether or not appointed by the Parent Company);
- 11.1.4 the Parent Company may at any time and from time to time appoint any person (whether or not a Director and notwithstanding that members are otherwise required to be Directors) to be a member of any committee of Directors or remove from office any member of any such committee (whether or not appointed by the Parent Company);
- 11.1.5 no security or security interest shall be created or allowed to subsist without the consent of the Parent Company; and
- 11.1.6 any or all powers of the Directors shall be restricted in such respects and to such extent as the Parent Company may by notice to the Company from time to time prescribe.
- 11.2 Any such appointment, removal, consent or notice shall be in writing served on the Company and signed on behalf of the Parent Company by any two of its Directors or by any one of its Directors and either its Secretary or some other person duly authorised for the purpose.
- 11.3 No person dealing with the Company shall be concerned to see or enquire as to whether the powers of the Directors have been in any way restricted hereunder or as to whether any requisite consent of the Parent Company has been obtained. Moreover, no obligation incurred or security or security interest created or transaction effected by the Company to, in favour of or with any third party in excess of the powers of the Directors as so restricted (but within the powers of the Directors apart from any restriction imposed under this Article) or without any requisite consent of the Parent Company shall be invalid or ineffectual unless the third party had at the time express notice that the incurring of such obligation or the creation of such security or security interest or the effecting of such transaction was in excess of the powers of the Directors as so restricted and lacked any such requisite consent.

## 12. INDEMNITY

Subject to the provisions of, and so far as may be permitted by and consistent with, the law and as the Board may from time to time deem fit and subject as mentioned below, every Director of the Company shall be indemnified by the Company out of its own funds against (a) any liability incurred by or attaching to him in connection with any negligence, default, breach of duty or breach of trust by him in relation to the Company other than (i) any liability to the Company or any associated company (as defined in Section 309A(6) of the Act) and (ii) any liability of the kind referred to in Sections 309B(3) or (4) of the Act; and (b) any other liability incurred by or attaching to him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office. Such indemnity shall not, however, extend to any liability incurred by or attaching to a Director as a result of his own fraud or wilful default but shall extend to other liabilities arising after he ceased to be a Director in respect of acts of omissions while he was a Director. Where a person is indemnified against any liability in accordance with this Article, such indemnity shall extend to all costs, charges, losses, expenses and liabilities incurred by him in relation thereto. Regulation 118 will not apply to the Company.

## TRANSFER OF SHARES<sup>1</sup>

13. Notwithstanding anything contained in these Articles, the directors shall not decline to register any transfer of shares, nor may they suspend such registration, where such transfer:

- (d) is to any Secured Party; or
- (e) is delivered to the Company for registration by a Secured Party in order to perfect its security over the shares; or
- (f) is executed by a Secured Party pursuant to the power of sale or otherwise under such security,

and furthermore notwithstanding anything to the contrary contained in these Articles no transferor of any shares in the Company or proposed transferor of such shares to a Secured Party and no Secured Party shall be required to offer

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<sup>1</sup> Article 13 inserted by a written Special Resolution of the Company dated 30 June 2006.



the shares which are or are to be the subject of any such aforementioned transfer to the shareholders for the time being of the Company or any of them, and no such shareholder shall have any right under the Articles or otherwise howsoever to require such shares to be transferred to them whether for consideration or not. For the purposes of this Article, "**Secured Party**" means any bank or financial institution (including, without limitation, Barclays Bank PLC) to which a security interest has been granted over the shares in the Company, or any nominee, receiver or other entity acting on its behalf.

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