

No. 3036256

THE COMPANIES ACT 1985

COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

of

ITnet HOLDINGS LIMITED

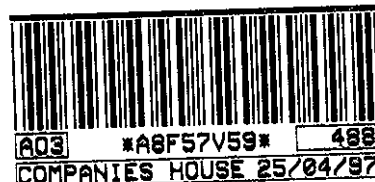
(Passed 15th April 1997)

In accordance with section 381A Companies Act 1985 the following Resolution was agreed to and was duly passed on 15th April 1997 as a Special Resolution:

SPECIAL RESOLUTION

That the Company adopt new Articles of Association in substitution for the existing Articles of Association of the Company in the form of the draft Articles of Association annexed to this written resolution.


.....
Director



Adopted 15/4/97
JFM

THE COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
NEW ARTICLES OF ASSOCIATION

of

ITNET HOLDINGS LIMITED

Registered Number 3036256

(adopted by special resolution on

15/4/97)

Preliminary

1.1 In these Articles the following expressions shall have the following meanings:

"A1 Ordinary Shares" means the preferred ordinary shares of one penny each having the rights set out in these Articles;

"A2 Ordinary Shares" means the redeemable preferred ordinary shares of one penny each having the rights set out in these Articles;

"A1 Preference Shares" means the cumulative redeemable preference shares of one penny each having the rights set out in these Articles;

"A2 Preference Shares" means the cumulative redeemable preference shares of one penny each having the rights set out in these Articles;

"A Shares" means the A1 Ordinary Shares and the A2 Ordinary Shares together and all such shares shall unless otherwise provided in these Articles rank *pari passu* as if the same constituted one class of shares;

"Acquisition Agreement" means an agreement (of the same date as the date of

adoption of these Articles) for the acquisition by the Company of the ordinary share capital of Itnet Limited;

"**the Act**" means the Companies Act 1985 and every statutory modification or re-enactment thereof for the time being in force;

"**acting in concert**" has the meaning ascribed to it by the City Code on Takeovers and Mergers as in force and construed at the Investment Date;

"**"B" Shares**" means "B" Ordinary Shares of ten pence each having the rights set out in these Articles;

"**Board**" means the board of directors for the time being of the Company or a duly appointed committee thereof or the directors present at a duly convened quorate meeting of the board or a duly appointed committee thereof and in relation to actions and decisions of the Board means (unless the content otherwise requires) the Board acting or deciding following a decision of a simple majority of its members;

"**"C" Shares**" means "C" Ordinary Shares of ten pence each having the rights set out in these Articles;

"**CS Director**" means the Director appointed pursuant to Article 19;

"**Change of Control**" means the acquisition whether by purchase, transfer, renunciation or otherwise (but excluding a transfer of Shares made in accordance with Article 10 (Permitted Transfers)) by any person (excluding any party to the Investment Agreement and any Permitted Transferee of such party) (a "**Third Party Purchaser**") of any interest in any Shares if, upon completion of that acquisition the Third Party Purchaser, together with persons acting in concert or connected with him, would hold more than 50% of the Equity Shares;

"**connected with**" has the meaning ascribed to it in section 839 Income and Corporation Taxes Act 1988 save that where the expression "control" is used in that section there shall be deemed to be control for that purpose whenever either section 416 or section 840 of that Act would so require and "connected persons" shall be construed accordingly;

"**a Controlling Interest**" means an interest in shares in a company conferring in the aggregate 25% or more of the total voting rights conferred by all the issued shares in that company (taking account of restrictions on voting rights contained in the articles of that company);

"**"D" Shares**" means "D" Ordinary Shares of ten pence each having the rights set out in these Articles;

"**Deemed Transfer Notice**" has the meaning ascribed in Article 13.2B;

"**Deferred Shares**" means the deferred shares of ten pence each (if any) created on any conversion of the "C" Shares pursuant to and having the rights set out in Article 3.4;

"**Directors**" means the directors for the time being of the Company (including any Special Director or CS Director);

"**EBT**" means the employee benefit trust established or to be established by the Company by a Trust Deed made between the Company (1) and Mourant & Co Trustees Limited (2) and to be entitled "The ITnet Employees' Trust";

"**EBT Trustees**" means the trustees for the time being of the EBT acting as such;

"**emoluments**" includes all salary and all items set out in paragraph 1(4) of schedule 6 to the Act;

"Family Trust" means, in relation to a Member, Director or Employee, a trust which does not permit any of the settled property or the income from it to be applied otherwise than for the benefit of that Member, Director or Employee or any of his Family Members and under which no power of control over the voting rights conferred by any Shares the subject of the trust is capable of being exercised by or being subject to the consent of any person other than the trustee or trustees of the trust or such Member, Director or Employee and his Family Members (or any of them) and in the case of Relevant Director only where such trust is approved by the holders of 75% in nominal value of the "A" Shares;

"Finance Director Shares" means the "B" Shares which are authorised but unissued immediately after the Investment Date to be allotted to a new finance director of the ITnet Group in accordance with Article 7.3.2;

"Group Company" means the Company or any Member of the same Group as the Company and "Itnet Group Company" and "member of the ITnet Group" shall be construed accordingly;

"the Investment Agreement" means the agreement for loan and share subscription entered into on the date of adoption of these Articles between the Company (1) the Promoters (as defined therein) (2) 3i plc (3) 3i Group plc (4) and certain Trust Companies (as the same may be amended, supplemented, substituted or varied from time to time);

"Investment Date" means the date of the Investment Agreement;

"Investment Fund" means a fund, partnership, company, syndicate or other entity whose principal purpose is to make investments and whose investments and business are managed by an Investment Manager;

"Investment Manager" means a person who is of good financial standing and repute and who is resident in the United Kingdom and whose principal business is

to make, manage or advise upon investments;

"Investor" means each of 3i and any person who is or becomes an Investor for the purposes of the Investment Agreement, or any nominee of 3i or of any such person, **"member of an Investor's Group"** means an Investor, or any Member of the same Group as that Investor and any nominee of any of the foregoing and **"Investor's Group"** or **"Investors"** or where used in the context of Articles 10.3(b) or 10.3(c), **"Group"** shall be construed accordingly;

"Listing" means either:

- (a) the admission to the Official List of the London Stock Exchange or the Alternative Investment Market of any of the issued Equity Shares and such admission becoming effective; or
- (b) any equivalent admission to, or permission to deal on, any other Recognised Investment Exchange becoming unconditionally effective in relation to any of the issued Equity Shares;

"London Stock Exchange" means The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited;

"Member" means any registered holder of Shares for the time being;

"Member of the same Group" means, in relation to a body corporate, any other body which is for the time being a holding company of that body corporate or a subsidiary of that body corporate or a subsidiary of any holding company of which that body corporate is also a subsidiary;

"Permitted Transfer" means any transfer of Shares permitted under Article 10 and the expression **"Permitted Transferee"** shall be construed accordingly;

"Preference Shares" means the "A1" Preference Shares and the "A2" Preference Shares together and all such shares shall unless otherwise provided in these Articles rank pari passu as if the same constituted one class of shares;

"Recognised Investment Exchange" has the meaning ascribed thereto in section 207 Financial Services Act 1986;

"Relevant Directors" means any directors and former directors of the Company and/or of any subsidiary of the Company where such directors and former directors are interested in Shares and their connected persons but excluding any Special Director or CS Director;

"Relevant Employees" means such one or more Employees as the Board in its absolute discretion shall select to receive a D Offer Notice (as defined in Article 12.7A);

"Retained Group" has the meaning ascribed to it in the Acquisition Agreement;

"Sale" means the first to occur of the making of one of more agreements for either:

- (a) an acquisition of any Shares giving rise to a Change of Control; or
- (b) the transfer to a Third Party Purchaser of either the whole or substantially the whole of the business assets and undertaking of ITnet Limited (or its successor or assign); or
- (c) a merger or amalgamation of the Company (or its successor or assign) and/or ITnet Limited (or its successor or assign) with a Third Party Purchaser;

"Sale Price" means the value of an Equity Share determined in accordance with

Article 12.15 which is applicable as provided in Article 12.7C but subject to Article 12.7C3;

"**Sale Shares**" means any Shares of any Member offered for purchase pursuant to these Articles;

"**Shares**" means all or any of the Preference Shares and the Equity Shares;

"**Special Director**" means the director appointed by 3i pursuant to Article 18;

"**Subject to any necessary CS Special Consent**" means a requirement (whilst there remains outstanding any actual or contingent liability under a Support Undertaking or clause 13 of the Acquisition Agreement which liability has not been extinguished, released or discharged to the reasonable satisfaction of the holders of 75 % in nominal value of the "C" Shares or counter-indemnified or otherwise secured by a third party insurance company or other financial institution of good financial standing and repute to the satisfaction of the holders of 75 % in nominal value of the "C" Shares) for the consent of the holders of 75 % in nominal value of the "C" Shares and so that there shall be no requirement for any such consent upon there ceasing to be such liability or upon such liability being counter-indemnified or secured as aforesaid;

"**Support Undertaking**" has the meaning ascribed to it in the Acquisition Agreement and the expression "Support Undertakings" shall be construed accordingly;

"**Syndicatee**" has the meaning as ascribed to it in the Investment Agreement being a person of good financial standing and repute and who is resident in the United Kingdom;

"**3i**" means 3i Group plc, "**member of the 3i Group**" means 3i, and "**any Member of the same Group as 3i**" and "**the 3i Group**" shall be construed

accordingly;

"Table A" means Table A in the Companies (Tables A - F) Regulations 1985 as amended by the Companies (Tables A - F) (Amendment) Regulations 1985;

"Transfer Notice" has the meaning ascribed to it in Article 12.1 and (for the avoidance of doubt) does not include a Deemed Transfer Notice;

"Transfer Period" means the period referred to in Article 12.5A;

"Third Party Purchaser" has the meaning ascribed to it in the definition of Change of Control;

"Trust Company" means, in relation to a Member, Director or Employee a company of which the entire issued share capital is held by trustees under one or more Family Trusts of that Member, Director or Employee in which no immediate beneficial interest is for the time being vested in any person other than the Director or the Member or Employee or their respective Family Members;

"Valuers" means the auditors for the time being of the Company unless they decline an instruction to determine Sale Price in which case the Valuers shall be a firm of chartered accountants nominated by the Board provided that where a valuation is required in relation to the "C" Shares or in the reasonable opinion of the Board a valuation directly or indirectly relates to the value of the "C" Shares, the identity of the Valuers must be agreed between the Board and the holders of 75% in nominal value of the "C" Shares and in default of such agreement within 7 days the Valuers shall be nominated, on the application of either the holders of 75% in nominal value of the "C" Shares or the Board, by the President for the time being of the Institute of Chartered Accountants;

"voting rights" has the meaning ascribed to it in section 736A of the Act;

"Warrant Instrument" means the warrants granted on the Investment Date by the Company to subscribe for 308,785 A1 Ordinary Shares.

- 1.2 Except as otherwise provided in these Articles, the "B" Shares, the "C" Shares and the "D" Shares shall rank pari passu in all respects and constitute one class of shares.
- 1.3 Words and expressions defined in the Act shall apply in these Articles unless otherwise stated.
- 1.4 A reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended modified or re-enacted.
- 2.1 The regulations contained in or incorporated in Table A shall apply to the Company save insofar as they are excluded or varied hereby or are inconsistent herewith and such regulations (save as so excluded varied or inconsistent) and the Articles hereinafter contained shall be the regulations of the Company.
- 2.2 Regulations 6, 54, 73-80 (inclusive), 85, 86, 94-98 (inclusive) and 118 of Table A shall not apply to the Company.

Share capital

- 3 The authorised share capital of the Company is £598,206.01 divided into 11,950,000 "A1" Preference Shares 5,925,646 "A2" Preference Shares, 2,308,785 "A1" Ordinary Shares, 991,740 "A2" Ordinary Shares and 1,549,490 "B" Shares and 771,653 "C" Shares and 1,543,300 "D" Shares. The rights attaching to the respective classes of shares shall be as follows:-

3.1 Income

Subject to the provisions of Article 21.4 the profits of the Company available for distribution shall be applied as follows:-

3.1.1 First in paying to the holders of the Preference Shares a fixed cumulative preferential net cash dividend (hereinafter in these Articles referred to as "**the Preference Dividend**");

- (a) for the period from the date of subscription until midnight on the last Saturday on or prior to 31 December 1995 and thereafter for each financial year up to midnight on the last Saturday on or prior to 31st December 1998 of 7.5 pence per annum on each Preference Share;
- (b) for the period from midnight on the last Saturday on or prior to 31 December 1998 and thereafter in each financial year up until midnight on or prior to the last Saturday of each financial year of 9 pence per annum on each Preference Share;

The Preference Dividend will accrue from the date of subscription for the Preference Shares and be payable half yearly on 31st July and 31st January the first such payment to be made on 31st July 1996.

3.1.2 Second in paying to the holders of the "A" Shares as a class in respect of each financial year of the Company a cumulative preferential net cash dividend (hereinafter in these Articles referred to as "**the Participating Dividend**") of a sum equal to the "**Relevant Percentage of the Net Profit**" (calculated as hereinafter provided) of the Company and its subsidiaries for the relevant financial year. The Participating Dividend (if any) shall accrue from the date of subscription for the Shares in respect of which it is paid and be paid not later than 4 months after the

end of each successive accounting reference period of the Company or not later than 14 days after the audit report on the accounts of the Company for such period is signed by the Company's auditors, whichever is earlier.

For the purposes of this Article 3.1.2 the **Relevant Percentage** shall be 5% for the period from the date on which such Shares are subscribed to 31st December 1995 and for each of the financial years of the Company ending at midnight on or prior to the last Saturday before 31st December 1996, 31st December 1997 and 31st December 1998 and shall be 10% for the financial year ending on the last Saturday on or before 31st December 1999 and for every financial year thereafter.

For the purpose of calculating the Participating Dividend, the expression "**Net Profit**" shall mean the profit on ordinary activities before taxation of the Company and its subsidiaries calculated on the historical cost accounting basis and shown in the audited consolidated profit and loss account of the Company and its subsidiaries for the relevant financial year (to the nearest £1) but adjusted by adding back any amortisation of goodwill.

3.1.3 Save as aforesaid and subject to Article 3.1.3.A below no dividend or other distribution shall be declared or paid to the holders of "A" Shares, "B" Shares, "C" Shares and "D" Shares in respect of the period up until 31st December 1999 and thereafter, save as aforesaid, no dividend shall be declared or paid to the holders of "A" Shares, "B" Shares, "C" Shares and "D" Shares in respect of any financial year of the Company unless and until:

3.1.3.1 the Preference Dividend and the Participating Dividend (if any) have been paid in full in respect of that financial year and in respect of all previous financial years of the Company;

- 3.1.3.2 all Preference Shares which have fallen due for redemption have been redeemed;
- 3.1.3.3 (unless the holders of 75 % is nominal value of the "C" Shares otherwise consent), all actual or contingent liabilities of the Retained Group under Support Undertakings and clause 13 of the Acquisition Agreement have been extinguished, released or discharged, to the reasonable satisfaction of the holders of 75 % in nominal value of the "C" Shares or counter-indemnified or otherwise secured to the satisfaction of the holders of 75 % in nominal value of the "C" Shares.
- 3.1.3.A Notwithstanding the provisions of Article 3.1.3, the Board may with the consent of the holders of 75 % in nominal value of the "A" Shares and the holders of 75 % in nominal value of the "C" Shares pay a dividend on the "D" Shares (pari passu) of such amount per "D" Share as shall be proposed by the Board and consented to as aforesaid.
- 3.1.4 Subject to Article 3.1.3 and Article 3.1.3A the profits which the Company may determine to distribute in respect of any financial year shall be applied pro rata to the number of Equity Shares held by each Member and irrespective of any difference in nominal value with the prior written consent of the holders of 75 % in nominal value of the "A" Shares:
- 3.1.4.1 first in paying to the holders of the "B" Shares "C" Shares and "D" Shares a dividend ("**the Initial Ordinary Dividend**") on each share of an amount up to but not exceeding the Participating Dividend paid on each "A" Share for such year (less in the case of "D" Shares any dividend paid to the holders of "D" Shares under Article 3.1.3A in such year);

- 3.1.4.2 second in distributing the balance of such profits amongst the holders of the "A" Shares, "B" Shares, "C" Shares and "D" Shares.
- 3.1.5 The Deferred Shares shall carry no right to any dividend or otherwise to participate in the profits available for distribution by the Company.
- 3.1.6 Every dividend shall unless otherwise provided accrue on a daily basis.
- 3.1.7 Unless the Company has insufficient profits available for distribution and the Company is thereby prohibited from paying dividends by the Act the Preference Dividend and the Participating Dividend shall (notwithstanding regulations 102 to 108 inclusive contained in Table A or any other provision of these Articles and in particular notwithstanding that there has not been a recommendation of the directors or resolution of the Company in general meeting) be paid immediately on the due date and if not then paid shall be a debt due by the Company and be payable in priority to any other dividend provided that if due to delays in the preparation of the audited accounts of the Company the Participating Dividend cannot be calculated by the date it is due for payment then there shall be paid forthwith an interim dividend in respect of the Participating Dividend of a sum equal to the last Participating Dividend payable. The next and (if appropriate) any subsequent Participating Dividend shall be adjusted to take account of any overpayment or underpayment in respect of the said interim dividend which becomes apparent when the audited accounts are available.
- 3.1.8 The Company shall procure that each of its subsidiaries which has profits available for distribution shall (so far as is lawful) from time to time declare and pay to the Company (or the relevant subsidiary's other members if different) such dividends as are necessary to permit lawful and prompt payment by the Company of any redemption moneys due on the Preference Shares, the Preference Dividend, and the Participating

Dividend.

- 3.1.9 Without prejudice to the express rights of the "A" Shares under these Articles or otherwise, for the purposes of determining the relative entitlements of the holders of the "A" Shares and the holders of other Equity Shares upon or in relation to any issue or allotment of Shares, dividend or other distribution, return of assets or other reduction of capital or otherwise and in any such case whether under the provisions of these Articles, the Act or otherwise, each "A" Share shall be deemed to have the same nominal value as each of the other Equity Shares.

3.2 Capital

On a return of assets on liquidation or capital reduction or otherwise, the assets of the Company remaining after the payment of its liabilities shall be applied as follows:

- 3.2.1 first in paying to the holders of the Preference Shares £1 per share together with a sum equal to any arrears or accruals of the Preference Dividend calculated down to the date of the return of capital;
- 3.2.2 second in paying to the holders of the "A" Shares 10 pence per share together with a sum equal to any arrears or accruals of the dividends on the "A" Shares calculated down to the date of the return of capital;
- 3.2.3 third in paying to the holders of "B" Shares 16.1 pence per share, "D" Shares 19.4 pence per share and the "C" Shares 16.1 pence per share;
- 3.2.4 fourth in paying to the holders of the "A" Shares "B" Shares "C" Shares and "D" Shares up to a maximum payment of £10,000 on each share (pari passu as if the same constituted one class of Share and irrespective of their different nominal values);

in nominal value of the Preference Shares and provided there are no arrears of dividend on the "A" Shares or Preference Shares, the Company may redeem all or (in instalments of not less than 1,000,000 shares) some of the Preference Shares in advance of the due date for redemption and in the absence of any contrary agreement between such holders and the Company any partial early redemption shall be deemed to relate to the Preference Shares falling due for redemption in inverse order of maturity.

- 3.3.3 All of the Preference Shares shall (unless the holders of 75% in nominal value of the Preference Shares give notice in writing to the Company to the contrary) be redeemed immediately upon an Exit Event.
- 3.3.4 Other than a redemption pursuant to Article 21, on the dates fixed for any redemption the Company shall pay to each registered holder of Preference Shares the amount payable in respect of such redemption and upon receipt of that amount each such holder shall surrender to the Company the certificate for his shares which are to be redeemed in order that they may be cancelled provided that if any certificate so surrendered includes any shares not redeemable at that time the Company shall issue a fresh certificate for the balance of the shares not redeemable to the holder. If there is more than one holder of Preference Shares any redemption shall be made among such holders pro rata (as nearly as may be) to their respective holdings. If on the date Preference Shares are to be redeemed under this Article there are any "A2" Preference Shares still in issue then where the same person holds both "A1" Preference Shares and "A2" Preference Shares any redemption shall be made of those classes pro rata (as nearly as may be) to the numbers of each such class held.
- 3.3.5 The Company shall pay on each of the Preference Shares so redeemed under Article 3.3.4 the sum of £1 together with any arrears or accruals of the Preference Dividend calculated to the date of redemption and in the

absence of any direction to the contrary by the holder of the relevant Preference Share any moneys paid on redemption of such share shall relate first to any arrears and accruals of Preference Dividend. The Preference Dividend shall cease to accrue from the date of payment of the redemption moneys.

3.4 Conversion of "C" Shares

- 3.4.1 If, in accordance with the clause 14 of the Acquisition Agreement, the **Relevant Percentage** (as such expression is defined in the Acquisition Agreement) of the "C" Shares falls to be converted into Deferred Shares in accordance with the criteria laid down in clauses 14(E) and 14(F) of the Acquisition Agreement such conversion shall occur forthwith on the earlier of agreement of the Relevant Percentage in accordance with clause 14(E), (F) and (G) or final determination of the Relevant Percentage in accordance with clause 14(H) of the Acquisition Agreement ("a **Conversion Event**").
- 3.4.2 On the occurrence of a Conversion Event the Relevant Percentage of "C" Shares ("**the Conversion Shares**") shall automatically convert into Deferred Shares on a one for one basis and subject to sub-clause 3.4.3 below, all dividends and (save in respect of a return on capital under Article 3.2 and subject to Article 3.4.5) all other rights attaching to the Conversion Shares shall immediately cease.
- 3.4.3 To the extent that any dividend or other distribution is made on the Conversion Shares at any time after a Conversion Event which refers to a period prior to a Conversation Event then the holders of Deferred Shares shall be entitled to receive a proportion of the dividend payable on the Conversion Shares calculated pro rata on a time basis up to the Conversion Event.

3.4.4 To the extent that "C" Shares are held by more than one Member then the Conversion Shares shall be allocated amongst such members pro rata to their then existing holdings of "C" Shares. Such Members holding "C" Shares shall within 14 days deliver up the certificates for Conversion Shares for cancellation and the Company shall procure the issue and delivery by the Board of the relative share certificates in respect of the Deferred Shares created on conversion pursuant to this clause to the relevant Member.

3.4.5 In the event that all "C" Shares shall have converted into Deferred Shares, for so long as the Retained Group retains any actual or contingent liability under Support Undertakings or clause 13 of the Acquisition Agreement which has not been extinguished, released or discharged to the reasonable satisfaction of the holders of 75 % in nominal value of the Deferred Shares or counter-indemnified or otherwise secured by a third party insurance company or other financial institution of good financial standing and repute to the satisfaction of the holders of 75 % in nominal value of the Deferred Shares:

3.4.5.1 where reference is made in these Articles to the requirement for the consent of the holders of 75 % in nominal value of the "C" Shares such provisions shall be construed as a requirement for the consent of the holders of 75 % in nominal value of the Deferred Shares; and

3.4.5.2 under Article 4.2 the class rights (other than Article 4.2.4) applying to the "C" Shares shall apply mutatis mutandis to the Deferred Shares.

Voting

3.5

3.5.1 Subject to the following provisions of this Article 3.5 and to any special

rights or restrictions as to voting attached to any Shares by or in accordance with these Articles, on a show of hands every Member who (being an individual) is present in person or (being a corporation) is present by a representative not being himself a Member, shall have one vote, and on a poll every Member who is present in person or by proxy or (being a corporation) is present by a representative or by proxy shall (except as hereinafter provided) have one vote for every share in the capital of the Company of which he is the holder.

- 3.5.2 The holders of the Preference Shares shall be entitled to receive notice of all general meetings but shall not by reason of such holding be entitled to attend or vote thereat.
- 3.5.3 For so long as any member of the 3i Group is the holder of any Shares the number of votes attaching to all the Shares held by members of the 3i Group shall be restricted so that the voting rights conferred on all members of the 3i Group in respect of all such Shares shall represent the lesser of:
 - 3.5.3.1 49% of the voting rights which would attach to all Shares after the application of this restriction assuming "B" Shares carry one vote per share and Article 3.5.6 does not apply; and
 - 3.5.3.2 the percentage of the voting rights which would be conferred on all members of the 3i Group in respect of all such Shares but for the application of this restriction.
- 3.5.4 The holders of the "D" Shares shall neither be entitled to receive notice of any general meeting of the Company nor have the right to attend or vote at such meetings.
- 3.5.5 The holders of Deferred Shares shall have no right to receive notice of or

to attend and vote at general meetings of the Company.

3.5.6 Provided that there shall be no less than 4 Relevant Directors:

3.5.6.1 who each hold directly; or

3.5.6.2 whose Family Members or Family Trusts hold; or

3.5.6.3 whose Trust Company holds; or

3.5.6.4 in respect of whom there is held in one or more of the ways referred to in Articles 3.5.6.1 - 3.5.6.3 (inclusive);

at least 0.5% of the Equity Shares then subject to Article 3.5.7 if, on the assumption that every holder of "B" Shares had one vote for every "B" Share which he holds, the votes cast in any poll in a particular way by that holder by reference to one or more of his "B" Shares and the votes cast in the poll in the same way by other holders of "B" Shares would constitute a majority of the votes cast in the poll by all holders of "B" Shares, then the number of votes counted as having been cast in the poll by all holders of "B" Shares who cast their votes in that way shall be such number of votes as is required (if those holders of "B" Shares have voted in favour of any ordinary resolution) duly to pass the resolution or (if those holders of "B" Shares have voted against the resolution) duly to defeat any ordinary resolution.

3.5.7 The provision of Article 3.5.6 shall be disapplied in the event that (and for so long as there shall have occurred and is continuing and not otherwise waived by the holders of 75% in nominal value of the "A" Shares) all or any of:

3.5.7.1 a material breach by a Relevant Director or the Company of these

Articles which is not remedied within 10 days of such breach; or

3.5.7.2 a breach of the Investment Agreement which is not remedied within 10 days of such breach; or

3.5.7.3 a breach by any Group Company of any payment obligation under or of clause 17.3 of an agreement of even date between The Royal Bank of Scotland plc (1) the Company (2), ITnet Limited (3) and the EBT Trustees (4) (as such agreement may be amended, varied supplemented or substituted from time to time); or

3.5.7.4 the situation set out in clause 18(B)(iii) of the Investment Agreement has occurred.

3.5.8 Notwithstanding the provision of Article 3.5.3 and 3.5.6 the holders of the "C" Shares shall at all times be entitled to one vote for each "C" Share held by each Member.

Class Rights

4 Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, only with the consent in writing of the holders of 75% in nominal value of the issued shares of that class.

4.1 Without prejudice to the generality of this Article, the special rights attached to the Preference Shares and the "A" Shares shall be deemed to be varied:

4.1.1 by the grant of any option or other right to subscribe for shares and by any alteration or increase or reduction or sub-division or consolidation of

the authorised or issued capital of the Company (an "'A" Event") or of any of its subsidiaries, or any variation of the rights attached to any of the shares for the time being in the capital of the Company or of any of its subsidiaries other than

- 4.1.1.1 as expressly contemplated by the Investment Agreement or Warrant Instrument;
- 4.1.1.2 any options or rights granted or shares allotted and issued to the EBT Trustees which relate to or comprise "D" Shares which form part of the Company's authorised share capital at the Investment Date; and
- 4.1.1.3 the allotment of the Finance Director Shares;
- 4.1.2 by the disposal of the undertaking of the Company or of any of its subsidiaries or any substantial part thereof or by the disposal of any share in the capital of any subsidiary of the Company; or
- 4.1.3 by the acquisition of any interest in any share in the capital of any company by the Company or any of its subsidiaries; or
- 4.1.4 by the making of a material change in the nature of the business of the Company or any subsidiary of the Company; or
- 4.1.5 by the application by way of capitalization of any sum in or towards paying up any debenture or debenture stock of the Company; or
- 4.1.6 by any alteration of the restrictions on the powers of the directors of the Company and its subsidiaries to borrow give guarantees or create charges; or

- 4.1.7 by the winding up of the Company; or
 - 4.1.8 by the redemption of any of the Company's shares (otherwise than pursuant to these Articles) or by the entering into of a contract by the Company to purchase any of its Shares; or
 - 4.1.9 by any alteration of the Company's memorandum or articles of association; or
 - 4.1.10 by the appointment or removal of auditors to the Company; or
 - 4.1.11 by any alteration of the Company's accounting reference date; or
 - 4.1.12 by the entering into of a written service agreement with any Director or person connected with any Director or the material variation of any such existing service agreement with any such person; or
 - 4.1.13 by the calling of a meeting of the Company to effect or approve any matter which would by virtue of this Article be a variation of the class rights of the "A" Shares and the Preference Shares.
- 4.2 Without prejudice to the generality of this Article the specific rights attaching to the "C" Shares shall be deemed to be varied by:
- 4.2.1 the occurrence of an Exit Event in circumstances where any holder of "C" Shares retains an actual or contingent liability under a Support Undertaking or clause 13 of the Acquisition Agreement which has not been extinguished, released or discharged to the reasonable satisfaction of the holders of 75 % in nominal value of the "C" Shares or counter-indemnified or otherwise secured by a third party insurance company or other financial institution of good financial standing and repute to the satisfaction of the holders of 75 % in nominal value of the "C" Shares;

- 4.2.2 the occurrence of an Exit Event within 18 calendar months of the Investment Date;
- 4.2.3 any payment or transaction to which the Company or any of its subsidiaries is party with:
- (a) an Investment Fund or Investor being a holder for the time being of "A" Shares or Preference Shares (or any person connected with such Member); or
 - (b) a holder of "B" Shares (or any person connected with such Member)

other than as contemplated by or provided in these Articles, the Investment Agreement (as entered into on the Investment Date) under any contract of employment with any holder of "B" Shares or any other bona fide arms length transaction;

- 4.2.4 the grant of any option or other right to subscribe for shares and by any alteration or increase or reduction or subdivision or consolidation of the issued share capital of the Company ("a "C" Event") other than:
- 4.2.4.1 as expressly contemplated by the Investment Agreement and the Warrant Instrument (in each case as originally entered into);
 - 4.2.4.2 any options or rights granted or shares allotted and issued to the EBT Trustees which relate to or comprise "D" Shares which form part of the Company's authorised share capital on the Investment Date; and
 - 4.2.4.3 where the holders of "C" Shares are entitled to subscribe for such additional "C" Shares as would preserve the aggregate percentage

of "C" Shares in issue as a percentage of the total issued Equity Shares at such percentage of the total issued Equity Shares as was represented by such "C" Shares immediately prior to the occurrence of a "C" Event provided that the cash subscription price shall be the same for such holder of "C" Shares as that for any allotment pursuant to a "C" Event and in relation to any non-cash element of the subscription price the equivalent subscription price for the holders of "C" Shares shall be as agreed between the Board and the holder of 75 % in nominal value of the of "C" Shares or as determined on the application of the Board or the holders of 75 % in nominal value of the "C" Shares by the Valuers whose decision shall be final and binding in the absence of manifest error and whose costs should be borne as he shall determine; and

4.2.4.4 the allotment of the Finance Director Shares.

Lien

- 5 The lien conferred by regulation 8 of Table A shall apply to all shares of the Company whether fully paid or not and to all shares registered in the name of any person indebted or under liability to the Company whether he be the sole registered holder thereof or one of several joint holders.

Calls

- 6 The liability of any member in default in respect of a call shall be increased by the addition at the end of the first sentence of regulation 18 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment".

Allotment of Shares

7

- 7.1 Subject to the Act, and without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares or other securities, all shares or other securities shall be issued to such persons and upon such terms and conditions and with such rights, priorities, privileges or restrictions as the resolution creating or issuing such shares or other securities effecting the increase in the authorised share capital of the Company shall prescribe but, in the absence of any such prescription, all shares or other securities whether forming part of the existing or any increased capital shall be at the disposal of the Board who may issue them, (save as provided in Articles 7.2 and 7.3) subject to section 80 of the Act, to such persons and at such times and generally on such terms and conditions and with such rights, priorities, privileges and restrictions as they shall think fit.
- 7.2 Save as otherwise provided in these Articles, the provisions of sub-section 1 of section 89 and sub-sections 1-6 of section 90 of the Act shall apply to any allotment of the Company's equity securities whether for cash or consideration other than cash.
- 7.3 For the purposes of section 80 of the Act the Board are hereby unconditionally authorised to allot:
- 7.3.1 to Syndicatees up to a total of 991,740 "A1" Ordinary Shares of one pence each and 5,925,646 "A1" Preference Shares of one penny each;
 - 7.3.2 the Finance Director Shares to such group finance director of the Company approved by the Board;
 - 7.3.3 to the EBT Trustees, to the extent not allotted at the Investment Date, any "D" Shares authorised but unissued at the Investment Date (which the Board shall be entitled to allot upon such terms and conditions as the

Board shall deem fit);

7.3.4 to the Investors up to a total of 308,785 "A" Shares.

By virtue of section 91 of the Act, section 89(1) of the Act shall not apply to any such allotments. The authority contained in this sub-Article shall terminate 5 years after the date of the adoption of these Articles.

Transmission of Shares

8

8.1 A person becoming entitled to any Share in consequence of the death of a Member shall be bound by the provisions of Article 13 (Compulsory Transfers) and accordingly such a person may not elect to become the holder of such Share. Regulation 30 shall not apply.

8.2 In Regulation 31, the words "before being registered as the holder of the share" shall be omitted.

Transfer of Shares - General

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9.1 The Board shall not register the transfer of any Share or any interest in any Share unless the transfer is (but shall be obliged to register it if it is):

- (a) permitted by Article 10 (Permitted Transfers); or
- (b) made in accordance with Article 12 (Voluntary Transfers), Article 13 (Compulsory Transfers) or Article 14 (Piggy Back Rights and Come Along Option)

and in any such case is not prohibited under Article 11 (Restriction on Transfers).

- 9.2 Any transfer of any Share or of any interest therein made otherwise than in accordance with Article 9.1 ("**a Relevant Event**") shall be void and of no effect whatsoever. Without prejudice to the provisions of Article 13.2, the Board shall be at liberty by notice to the holders thereof to disapply all rights attaching to any Shares which are the subject of a transfer not made in accordance with Article 9.1 until such time as the Board is satisfied that Article 9.1 has been complied with. In the case of "A" Shares and "C" Shares the Board shall not exercise this right unless the Relevant Event is material and such breach has not been remedied to the Board's reasonable satisfaction within one month of the Relevant Event.
- 9.3 For the purpose of ensuring that the transfer of Shares is in accordance with these Articles or that no circumstances have arisen whereby a Member may give or be deemed to have given a Transfer Notice the Board may from time to time require any Member (or any person named as transferee in any transfer lodged for registration) to furnish to the Board such information and evidence as it may require and deem (provided that solely in relation to a Transfer Notice served by a Member holding Preference Shares and/or "A" Shares and or "C" Shares, the Board must reasonably so require and deem) relevant to such purpose. Failing such information or evidence being furnished to their satisfaction (provided that solely in relation to a Transfer Notice served by a Member holding Preference Shares and/or "A" Shares and/or "C" Shares it is to the Board's reasonable satisfaction) within a reasonable time after such request, the Board may in its absolute discretion (or, solely in relation to a Transfer Notice served by a Member holding Preference Shares and/or "A" Shares and/or "A" Shares and "C" Shares, reasonable discretion) refuse to register the transfer in question or (in case no transfer is in question) require by notice in writing to the Members concerned that a Transfer Notice be given in respect of the Shares concerned. If such information or evidence discloses to the satisfaction (provided that solely in relation to a Transfer Notice served by a Member holding Preference Shares and/or "A" Shares and/or "C" Shares it is to the Board's reasonable satisfaction)

of the Board in its absolute discretion (or, solely in relation to a Transfer Notice served by a Member holding Preference Shares and/or "A" Shares and/or "C" Shares, reasonable discretion) that circumstances have arisen whereby a Member may be bound to give a Transfer Notice, the Board may in its absolute discretion (or, solely in relation to a Transfer Notice served by a Member holding Preference Shares and/or "A" Shares and/or "C" Shares, reasonable discretion) by notice in writing to the Member concerned require that a Transfer Notice be given in respect of the Shares concerned.

- 9.4 If the Board has in accordance with Article 9.3 required a Transfer Notice to be given by a Member in respect of any Shares and that Transfer Notice is not duly given within a period of one week after service of the notice referred to in Article 9.3, that Transfer Notice shall be deemed to have been given at the expiry of that week and the provisions of Articles 13.2B and 13.3 relating to Transfer Notices deemed to have been given shall take effect accordingly unless the Board in its absolute discretion (or, solely in relation to a Transfer Notice served by a Member holding Preference Shares and/or "A" Shares and/or "C" Shares, reasonable discretion) resolves otherwise before the end of that week.
- 9.5 An obligation to transfer a Share under these Articles 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.
- 9.6 Regulation 31 (Table A) shall be modified to reflect the provisions of this Article and Articles 10, 11, 12, 13 and 14.

Permitted Transfers

10

10.1 Transfers to Relations and Trustees

- (a) Subject to Articles 10.1(b) to 10.1(f) inclusive, any Member who is an individual may at any time transfer "B" Shares or "D" Shares held by

him without restriction as to price or otherwise to a person or persons shown to the reasonable satisfaction of the Board to be:

- (i) a Family Member of his; or
- (ii) trustees to be held under a Family Trust of his; or
- (iii) a Trust Company of that Member

provided that, save with the prior written consent of the holders of 75 % in nominal value of the "A" Shares, no transfer may be made under subparagraphs (ii) and (iii) above if as a result 50 % or more of the aggregate number of votes being capable of being cast by the holders of Shares are held by trustees of one or more Family Trusts and/or by one or more Trust Companies together

- (b) No transfer of Shares shall be made under Article 10.1(a):

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- (i) to a bankrupt or trustee in bankruptcy; or
- (ii) by any person in respect of Shares which were previously transferred to him by way of Permitted Transfer.

- (c) Where Shares are held by trustees under a Family Trust:

- (i) those Shares may on any change of trustees be transferred by those trustees to any new trustee(s) of that Family Trust;
- (ii) those Shares may at any time be transferred by those trustees to the settlor of that Family Trust or any other person to whom that settlor could have transferred them under Article 10.1 if he had remained the holder of them;

- (iii) if and whenever any of those Shares cease to be held under a Family Trust (other than by virtue of a transfer made under Article 10.1(c)(ii)) the trustees shall forthwith and in any event within 28 days of the Shares ceasing to be so held give a Transfer Notice (as defined in Article 12.1) in respect of all the Shares then held by those trustees.
- (d) If one or more Family Trusts of a Relevant Director cease to own all the issued share capital of a Trust Company, the Trust Company shall forthwith, and in any event within 28 days of its share capital ceasing to be so held, give a Transfer Notice (as defined in Article 12.1) in respect of all Shares held by that Trust Company.
- (e) If any person ("**the acquiror**") has acquired Shares as a Family Member of a Member ("**the transferring member**") by way of a Permitted Transfer and the acquiror ceases to be a Family Member of the transferring member, the acquiror shall within 28 days of the cessation transfer all Shares then held by him back to the transferring member for such consideration as they shall agree provided that:
 - (i) if such Shares are not so transferred the acquiror shall be deemed to have given a Deemed Transfer Notice in respect of all such Shares;
 - (ii) if such transferring member is not then an Employee the acquiror shall be deemed to have given a Deemed Transfer Notice in respect of all such Shares.
- (f) Where the approval of holders of 75% in nominal value of the "A" Shares is required in order for a family trust to be a Family Trust, such approval shall be given when such holders are satisfied:

- (i) with the terms of the trust instrument and in particular with the powers of the trustees;
- (ii) with the identity of the proposed trustees; and
- (iv) that no costs incurred in connection with the setting up or administration of the Family Trust in question or any related Trust Company are to be paid by the Company.

10.2 Transfers within Groups of Companies

- (a) Any Member (other than a Trust Company) which is a body corporate may at any time transfer any Shares held by it to a Member of the same Group without restriction as to price or otherwise.
- (b) Where Shares have been transferred under Article 10.2(a) (whether directly or by a series of such transfers) from a Member ("**the Transferor**" which expression shall not include a second or subsequent transferor in such a series of transfers) to a Member of the same corporate group ("**the Original Group**") as the Transferor ("**the Transferee**") and subsequently the Transferee ceases to be a Member of the same Group to which it belonged at the Investment Date the Transferee shall forthwith transfer all Shares held by it to the Transferor (or in the event that the Transferor is no longer a member of the Original Group to such other company who is still a member of the Original Group) at such consideration as they shall agree within 28 days of the cessation. (In the event of disagreement as to the consideration such dispute may be referred on the application of either party to the Valuers whose decision shall be final and binding on the parties and whose costs shall be borne as he shall in his sole discretion determine.)
- (c) If a Member being a company ceases to be within the control (as such

term is defined by section 840) of the Income and Corporation Taxes Act 1988) of the person(s) who control such company on the date on which it became a Member or on the date of adoption of these Articles (whichever shall be the later) it shall be deemed immediately to have given a Transfer Notice in respect of all the Shares as shall then be registered in its name; provided that (subject where applicable to Article 10.3) this sub Article shall have no application to an Investor or to any member of an Investor's Group.

10.3 Transfers between Funds

Any Shares may be transferred without restriction as to price or otherwise;

- (a) between an Investor (or a nominee of an Investor) who is an Investment Manager or an Investment Fund or a nominee of an Investment Manager or an Investment Fund; and
 - (i) where the Investor is an Investment Manager or a nominee of an Investment Manager:-
 - (A) any Investment Fund whose business is managed by the Investment Manager who is or whose nominee is the transferor;
 - (B) any other Investment Manager who manages the business of the Investment Fund in respect of which the Shares are held;
 - (ii) where that Investor is an Investment Fund or a nominee of an Investment Fund:-
 - (A) any other Investment Fund whose business is managed

by the same Investment Manager as the Investment Fund which is or whose nominee is the transferor;

(B) the Investment Manager who manages the business of the Investment Fund which is or whose nominee is the transferor

(or, in any such case, a nominee on behalf thereof).

(b) by NatWest Ventures Nominees Limited (or any person to whom it may have transferred shares pursuant to this paragraph):

(i) to the beneficial owner or owners in respect of which the transferor is a nominee or custodian or any other nominee or custodian for such beneficial owner or owners; or

(ii) to any unitholder, shareholder, partner, participant, Investment Manager or adviser (or any employee of such Investment Manager or adviser) in any Investment Fund or co-investment plan in respect of which the transferor is a nominee or custodian; or

(iii) to any other Investment Fund managed or advised by the same Investment Manager or adviser as the Investment Fund in respect of which the transferor is a nominee or custodian; or

(iv) to any other Investment Fund; or

(v) to a nominee, custodian or to a Member of the same Group of any of the persons referred to in sub-paragraph (i), (ii), (iii) or (iv) of this paragraph (b).

(c) by Lloyds Ventures Nominees Limited (or any person to whom it may

have transferred shares pursuant to this paragraph):

- (i) to Lloyds Development Capital Limited; or
- (ii) to the beneficial owner or owners in respect of which the transferor is a nominee or custodian or any other nominee or custodian for such beneficial owner or owners; or
- (iii) to any unitholder, shareholder, partner, participant, Investment Manager or adviser (or any employee of such Investment Manager or adviser) in any Investment Fund or co-investment plan in respect of which the transferor is a nominee or custodian; or
- (iv) to any other Investment Fund managed or advised by the same Investment Manager or adviser as the Investment Fund in respect of which the transferor is a nominee or custodian; or
- (v) to any other Investment Fund; or
- (vi) to a nominee, custodian or to a Member of the same Group of any of the persons referred to in sub-paragraphs (i), (ii), (iii), (iv) or (v) of this paragraph (c).

(d) between 3i and any Syndicatee

Provided that in relation only to Permitted Transfers under this Article 10.3:

- (a) No transferee shall be selected without prior consultation with the Relevant Directors;
- (b) Any transferee shall not directly compete with any business carried on by any Group Company;

- (c) members of the 3i Group shall retain not less than 50% of the "A" Shares and the Preference Shares.

10.4 Transferee transfers with consent

Notwithstanding the other provisions of these Articles, a Member may transfer Shares to any person at any time with the prior written consent of all Members entitled to attend and vote at general meetings of the Company.

10.5 Transfers of entire interest

A Transfer of any Share pursuant to this Article 10 shall only be treated as a Permitted Transfer for the purposes of these Articles if it is a transfer of the entire legal and beneficial interest in such Share free from any lien charge or other encumbrance (save for any interest of beneficiaries under the relevant Family Trust where applicable), provided that this Article shall have no application to Shares held by an Investor.

10.6 Cessation of Office - Relevant Director

10.6.1 Where a Deemed Transfer Notice is deemed to be given in relation to a Relevant Director pursuant to Article 13.2, 13.2A, 10.1.(e) or Article 9.4, the Board shall in its sole discretion (following consultation with the Investor) offer the Sale Shares (the "**Directors Shares**") either

(a) to such replacement Director as shall be selected by the Board; or

(b) such holder(s) of "B" Shares as shall be agreed by the Board.

10.6.2 The Board in its sole discretion shall offer the Directors Shares for sale pursuant to Article 10.6.1 either during the Transfer Period next following deemed service of the Deemed Transfer Notice or prior to that

Transfer Period.

- 10.6.3 Save in relation to the Sale Price of the Directors Shares all aspects of such sale shall be determined in the sole discretion of the Board.
- 10.6.4 If, following the offer referred to at Article 10.6.2, there shall remain unsold any Directors Shares, the Board in its sole discretion, may offer the balance of such Directors' Shares for sale to the other Members in accordance with the pre-emption rights laid down in Article 12.9 and in such case the balance of such Directors Shares shall be offered for sale pursuant to Article 12.4. Where such balance of the Directors Shares are offered pursuant to Article 12.4 by the Board, a Deemed Transfer Notice for the purpose of Article 13.2B shall apply in relation to the balance of such Sale Shares.

10.7 The EBT Trustees

- (a) Any "D" Share may at any time be transferred without restriction as to price or otherwise:
- (i) to the new trustee or trustees of the EBT upon a change of trustees of the EBT;
 - (ii) by the EBT Trustees to any person eligible to receive the same or entitled thereto in accordance with the EBT.
- (b) Any "D" Share which is a Family Share may, if the Board in its absolute discretion so resolves, be transferred without restriction as to price or otherwise to the EBT Trustees.

Restrictions on Transfers

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11.1 Save as permitted or required by other provisions of these Articles, no Member shall transfer any "B" Shares whilst he is employed by a Group Company unless, in the sole and absolute discretion of the Board, such Member is subject to financial hardship. Any "B" Shares which become available for transfer under this Article 11.1 shall be offered for sale under Article 12 (Voluntary Transfers).

11.2 Save as permitted under Articles 10 or 21 and not otherwise restricted under Article 11 or save as required under Article 13 but subject to Article 4.2:

11.2.1 no Preference Shares or "A" or "B" Shares shall be transferred; and

11.2.2 no Sale or other Exit Event shall occur;

for a period of 18 calendar months from the Investment Date without the prior consent of the holders of 75 % in nominal value of the "C" Shares

11.3 Save as permitted under Articles 10 or 21 or required under Articles 13 and 14 or otherwise restricted under this Article 11, no Preference Share or "A" or "B" Shares shall be transferred and no Exit Event shall otherwise occur without the consent of the holders of 75 % in nominal value of "C" Shares unless:

- (a) there is no actual or contingent liability of the Retained Group outstanding under any Support Undertaking or clause 13 of the Acquisition Agreement which has not been extinguished, released or discharged to the reasonable satisfaction of the holders of 75 % in nominal value of the "C" Shares or counter-indemnified or otherwise secured by a third party insurance company or other financial institution of good financial standing and repute to the satisfaction of the holders of 75 % in nominal value of the "C" Shares; and

- (b) the transfer or Exit Event comprises a Sale or a Listing; and
 - (c)(i) the holders of "C" Shares are able to transfer all "C" Shares on the same terms as apply to all other Equity Shares being sold and provided that Preference Shares are sold pursuant to such arrangements at no more than their original subscription price plus all arrears or accruals of the Preference Dividend grossed up at the rate of corporation tax then in force; or
 - (ii) all "C" Shares can as part of such transfer or other Exit Event be transferred on the same terms as any other Equity Shares and such transfer of "C" Shares can be demonstrated to the reasonable satisfaction of 75 % in nominal value of the "C" Shares to represent their fair market value.
- 11.4.1 Save as permitted under Articles 10 or required under Articles 13 and 14 or unless otherwise restricted under this Article 11 no "C" Shares shall be transferred prior to the fifth anniversary of the Investment Date unless the written consent of Members holding a majority in value of the total moneys subscribed for Shares is obtained.
- 11.4.2 Any Shares proposed to be transferred pursuant to Article 11.4.1 shall be offered for purchase under Article 12.
- 11.4.3 At any time after the fifth anniversary of the Investment Date, the holders of the "C" Shares may offer their Shares for transfer under Article 12 provided that the transferee is not a competitor of any member of the ITnet Group and such transfer will not occur without prior consultation by the holder of 75 % in nominal value of the "C" Shares with the Relevant Directors.
- 11.5 Unless the Board in its absolute discretion otherwise resolves, each Employee who is a holder of "D" Shares shall at all times remain the holder of not less than one

"D" Share (unless and until the provisions of Article 13 apply to him).

Voluntary Transfers

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12.1 Except as permitted under Article 10 (Permitted Transfers) or required or permitted under Articles 13 and 14 and subject to Article 11, any Member who wishes to transfer any Share (a "**Vendor**" and the expression "**Vendors**" shall be construed accordingly) shall serve notice in writing (a "**Transfer Notice**") on the Company of his wish to make that transfer.

12.2 In the Transfer Notice, the Vendor shall:

- (a) specify the number of Shares ("**Sale Shares**") which he wishes to transfer; and
- (b) indicate whether the Transfer Notice is conditional upon all (and not part only) of his Sale Shares being sold pursuant to the following provisions of this Article 12 (a "**Total Transfer Condition**"). Such a condition may not be imposed in relation to a compulsory transfer under Article 13; and
- (c) if it is served in relation to "C" Shares after the fifth anniversary of the Investment Date specify the identity of any Third Party Purchaser who has offered to purchase Sale Shares and the price offered by that proposed Third Party Purchaser.

12.3 Each Transfer Notice shall:

- (a) relate to one class of Shares only;
- (b) constitute the Company as agent of the Vendor for the sale of the Sale Shares on the terms of this Article 12;

- (c) save as provided in Article 12.6, be irrevocable;
- (d) not contain or be deemed to contain a Total Transfer Condition unless expressly stated otherwise therein; and
- (e) if issued in relation to "D" shares may be in such form as the Board shall in its absolute discretion specify as appropriate or suitable including without limitation being conditional and/or relating to an aggregate number or value of shares

and without prejudice to Article 13 in the case of a Deemed Transfer Notice a Transfer Notice (in the form referred to in Article 12.3(e)) may if considered necessary or desirable in the absolute discretion of the Board, be executed by any director or employee of the Company (or any other appointee of the Company) as agent and attorney for and on behalf of the Member who is deemed to have transferred his shares pursuant to Article 13, but nothing contained in this Article shall require such a Transfer Notice to be signed or served in such circumstances where a Deemed Transfer Notice has been deemed to be served.

- 12.4 (a) Subject to Article 12.4(b), (c) and (d), Sale Shares shall be offered for purchase in accordance with this Article 12 in the Transfer Period next following service of the Transfer Notice in respect thereof or (if the Transfer Notice was served less than 7 days before the commencement of that Transfer Period (or such longer period before the commencement of the Transfer Period as the Board in its absolute discretion shall determine and notify to the holders of "D" shares but not exceeding 28 days)) in the Transfer Period next following that Transfer Period.
- (b) The Board may in its absolute discretion and without assigning any reason therefor reject any Transfer Notice in respect of all or part of the "D" Shares comprised therein.

- (c) Members holding Shares (other than "D" Shares) may require the Board to offer Sale Shares for purchase prior to the Transfer Period next following service of the Transfer Notice in accordance with Article 12.7B. This provision shall not apply to any Member deemed to have served a Deemed Transfer Notice under Article 13.
 - (d) The Board may in its absolute discretion offer any Sale Shares being "B" Shares for purchase prior to the Transfer Period next following service of the Transfer Notice relating to such "B" Shares.
- 12.5 The Board shall procure that not later than 31st March 1997 and thereafter, not less frequently than once every 12 months, the Valuers shall determine as soon as possible and notify to the Board in accordance with Article 12.15 the Sale Price as at the date of notification to the Board and the Board shall announce the Sale Price so notified to all Members (in such manner as the Board considers in its absolute discretion to be most appropriate or suitable) not later than seven days thereafter. Notwithstanding the foregoing the board shall not be required to announce the Sale Price until such time as the Valuers have announced the Valuation Price to the Board. For the avoidance of doubt a Transfer Period shall not commence under this Article 12.5 where the valuation is effected by operation of Articles 12.4(c) and (d) and Article 12.7 B applies.
- 12.5A On the 14th day after the notification of the Sale Price to the Board (or after such longer period determined in the absolute discretion of the Board and notified to the holders of "D" Shares but not exceeding 35 days) a period of such length as shall be determined in the absolute discretion of the Board shall commence during which (subject to the provisions of these Articles) transfers of Sale Shares may be made at the Sale Price (which shall be the Sale Price applicable for that Transfer Period).
- 12.6 If a Vendor has served a Transfer Notice before the announcement by the Board under Article 12.5 of the Sale Price applicable for the Transfer Period in which

12.7 Where the Board offers Sale Shares pursuant to Article 12.4(a), the Board shall offer the Sale Shares which are not "D" Shares for purchase at the Sale Price by a written offer notice (the "**Offer Notice**") served on all Members within 7 days of the commencement of the Transfer Period.

12.7B Where the Board is required under Article 12.4(c) or elects under Article 12.4(d) to offer Sale Shares (other than "D" Shares) for purchase prior to the Transfer Period next following service of the Transfer Notice, the Board shall offer the Sale Shares for purchase by Offer Notice in accordance with Article 12.8 and the provisions of Articles 12.6, 12.7, 12.7(D) and (E), 12.9, 12.10, 12.10B, 12.11, 12.12, 12.13, 12.14, 12.17, 12.18, 12.19 and 12.20 shall apply.

1. Subject to 3 below where Members are offering their Sale Shares for purchase during a Transfer Period, the Sale Price announced by the Board pursuant to Article 12.5.

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outside a Transfer Period, the Sale Price determined and notified by the Valuers pursuant to Article 12.15 following an instruction from the Board pursuant to Article 12.7D.

3. Where a Member holding "C" Shares is offering all or part of its "C" Shares for purchase after the 5th anniversary of the Investment Date and the applicable Transfer Notice specified a Third Party Purchaser and price the Sale Price shall be the price offered by such Third Party Purchaser.

4. Without prejudice to Article 12.4(c), where "B" Shares are offered for sale pursuant to Article 10.6 the Board and the transferor may agree the Sale Price as that given in the then most recent valuation of the Valuers pursuant to Article 12.15. If not agreed, the provisions of 1 and 2 above shall apply.

12.7D Where pursuant to Article 12.4(c) the Board is required or, pursuant to Article 12.4(d), the Board elects to permit Sale Shares to be offered for purchase outside a Transfer Period, the Board shall save where Article 12.7C3 applies procure that the Valuers determine and notify the Sale Price to the Board as soon as possible in accordance with Article 12.15 as at the date of notification.

12.7E The fees of the Valuers acting under Article 12.7.D shall be borne by the Transferor.

12.8 An Offer Notice or D Offer Notice shall expire 7 days before the expiry of the Transfer Period or if sooner or in the case of Sale Shares offered for sale outside a Transfer Period 28 days after its service (unless extended in the Board's sole discretion) and shall:

- (a) specify the Sale Price;
- (b) specify the total number of Sale Shares or (as the case may be) "D" Sale Shares; and

- (c) invite the recipient to apply in writing, before expiry of the Offer Notice and D Offer Notice (as appropriate), to purchase the numbers of Sale Shares specified by him in his application (which may be greater than the number offered to him) such application to be made in such manner and form that the Board shall in its absolute discretion specify as appropriate or suitable.

12.9 Sale Shares of a particular class specified in column (1) of the table below shall be treated as offered:

- (a) in the first instance to all persons in the category set out in the corresponding line in column (2) in the table below;
- (b) to the extent not accepted by persons in column (2), to all persons in the category set out in the corresponding line in column (3) in the table below;
- (c) to the extent not accepted by persons in columns (2) and (3), to all persons set out in the corresponding line in column (4) in the table below;
- (d) to the extent not accepted by persons in columns (2) (3) and (4), to all persons set out in the corresponding line in column (5) in the table below;
- (e) to the extent not accepted by persons in columns (2) (3) (4) and (5), to all persons set out in the corresponding line in column (6) in the table below;
- (f) to the extent not accepted by persons in columns (2) (3) (4) (5) and (6) to all persons set out in the corresponding line in column (7) in the table below;

but:

- (i) where no person is specified in a column no further offer shall be treated as made;
- (ii) no Sale Shares shall be treated as offered to any Member who is a Vendor or to any Member who is a Family Member or Family Trust or Trust Company of such a Member or to any Member who is then bound to give or is then deemed to have given a Transfer Notice.

(1) Class of Sale Shares	(2) Offered first to	(3) Offered second to	(4) Offered third to	(5) Offered fourth to	(6) Offered fifth to	(7) Offered sixth to
"A" Shares	Members holding "A" Shares	Members holding Preference Shares	Members holding "B" Shares	Members holding "D" Shares	EBT Trustees	Members holding "C" Shares
Preference Shares	Members holding Preference Shares	Member holding "A" Shares and "C" Shares pro rata to their holdings of "A" Shares and "C" Shares respectively	Members holding "B" Shares	Members holding "D" Shares	EBT Trustees	
"B" Shares	Members holding "B" Shares	EBT Trustees	Members holding "D" Shares	Members holding "A" Shares and "C" Shares pro rata to their holdings of "A" Shares and "C" Shares respectively		

(1) Class of Sale Shares	(2) Offered first to	(3) Offered second to	(4) Offered third to	(5) Offered fourth to	(6) Offered fifth to	(7) Offered sixth to
"C" Shares	Members holding "C" Shares	50% to Members holding "A" Shares and 50% to Members holding "B" Shares	EBT Trustees	Members holding "D" Shares		
"D" Shares	Members holding "D" Shares	Relevant Employees	EBT Trustees	Members holding "B" Shares		

12.10 After the expiry date of the Offer Notice the Board shall, in the priorities and in respect of each class of persons set out in the columns in the table in Article 12.9, allocate Sale Shares in accordance with the applications received, subject to the other provisions of these Articles and Table A, save that:

- (a) if there are applications from any class of Members for more than the number of Sale Shares available for that class of Members, they shall be allocated to those applicants in proportion (as nearly as possible but without allocating to any Member more Sale Shares than the maximum number applied for by him) to the number of Shares of the relevant class then held by them respectively;
- (b) where the number of Sale Shares is more than the number of Sale Shares for which applications are made, the applications shall be allocated to the Vendors (as nearly as possible) in proportion to the number of Shares of the relevant class then held by them respectively.

12.10A After the expiry date of the D Offer Notice (or, if earlier, upon valid applications being received for all D Sale Shares in accordance with Article 12.8(c)) the Board shall, in the priorities and in respect of each class of

persons set out in the columns in the table in Article 12.9, allocate D Sale Shares in accordance with the applications received, subject to the other provisions of these Articles and Table A, save that:

- (a) if there are applications from any class of persons for more than the number of D Sale Shares available for that class of persons, they shall be allocated to any one or more of those applicants (in any proportions inter se and to the exclusion of the other or others of them) as the Board shall in its absolute discretion decide;
- (b) where the number of D Sale Shares exceeds the number of D Sale Shares for which applications are made, the applications shall be allocated to such one or more of the Vendors (in any proportions inter se and to the exclusion of the other or others of them) as the Board shall in its absolute discretion decide;
- (c) the Board may in its absolute discretion refuse an application by a Member holding "D" Shares for further "D" Shares where in the opinion of the Board that applicant (and any of his Permitted Transferees under Article 10) holds more than such percentage of the total issued "D" Shares as shall from time to time be determined by the Board in its absolute discretion.

12.10B(a) If it is not possible to allocate any of the Sale Shares or applications for Sale Shares without involving fractions, they shall be allocated amongst the applicants or Vendors of each class in such manner as the Board shall think fit.

- (b) If a Transfer Notice contained a Total Transfer Condition, no allocation of Sale Shares comprised therein shall be made unless all such Sale Shares are allocated.

12.11A The Board shall, within 7 days of the expiry date of an Offer Notice or (as the case may be) give notice in writing (a "Sale Notice") to each Vendor and to each person to whom Sale Shares have been allocated (each a "Purchaser") specifying:

- (a) in the case of a Sale Notice given to a Vendor, the name and address of each Purchaser of his Sale Shares, the number of Sale Shares agreed to be purchased by each such Purchaser and the aggregate price payable for them; and
- (b) in the case of a Sale Notice given to a Purchaser, the name and address of each Vendor whose Sale Shares he is to purchase, the number of Sale Shares of each such Vendor which he is to purchase and the aggregate price payable for them.

12.11(B) The Board shall within 7 days of the expiry of a D Offer Notice, give notice in writing (a "Sale Notice") to each Vendor and to each person to whom Sale Shares have been allocated (each a "Purchaser") specifying:

- (a) in the case of a Sale Notice given to a Vendor the number of his Sale Shares agreed to be purchased by Purchasers and the aggregate price (and related charges) payable for them; and
- (b) in the case of a Sale Notice to be given to a Purchaser, the number of Sale Shares of the relevant Purchasers which he is to purchase, the Valuation Price and the aggregate price payable for them, charges and stamp duty;
- (c) in the case of both Articles 12.11B(a) and 12.11B(b) above shall specify the date on which formal completion of the relevant transfers to give effect to the above allocations shall take place subject only to stamping and formal approval by the Board.

12.12 Completion of a sale and purchase of Sale Shares pursuant to a Sale Notice shall

take place at the registered office of the Company at the time specified in the Sale Notice (but in any event before the expiry of the Transfer Period where such Sale Shares are offered for sale pursuant to Article 12.7 or 12.7A) when the Vendor shall, upon payment to him by a Purchaser of the Sale Price in respect of the Sale Shares allocated to that Purchaser, deliver an executed transfer of those Sale Shares and the relevant share certificates to that Purchaser.

12.13 If any Sale Shares remain unsold then:

- (a) in the case of "C" Shares after the fifth anniversary of the Investment Date such Sale Shares may be transferred to the relevant Third Party Purchaser referred to at Article 12.2(c) at no less than the Sale Price for those Sale Shares;
- (b) in the case of an Investment Fund being dissolved or wound up or otherwise proposing to distribute its assets such Sale Shares may be transferred to another Investment Fund at no less than the Sale Price for those Shares.

If any Purchaser fails to complete a purchase of Sale Shares within 14 days of the time specified as provided in Article 12.12, the Board may in its absolute discretion make arrangements for the purchase by the Company at the Sale Price of such Sale Shares, subject to the Act. If Sale Shares are not transferred in a Transfer Period, or outside a Transfer Period when offered for sale pursuant to Articles 12.4(c) and 12.4(d), any Transfer Notice which is irrevocable or Transfer Notice which is not revoked and any Deemed Transfer Notice in respect thereof shall remain valid and outstanding and the Sale Shares shall be offered for purchase in the succeeding Transfer Period or Transfer Periods. Any Transfer Notice which is revocable and is revoked shall be of no further effect.

12.14 If a Vendor fails to transfer any Sale Shares when required to do so pursuant to this Article 12, the Board may authorise any person (who shall be deemed to be

the agent and attorney of the Vendor for the purpose) to execute the necessary transfer of such Sale Shares on behalf of the Vendor and to deliver it on the Vendor's behalf to the Purchaser thereof. The Company may receive the purchase money for such Sale Shares from the Purchaser and shall upon receipt (subject to the transfer being duly stamped and notwithstanding that the relevant share certificates are not produced) register the Purchaser as the holder of such Sale Shares. The Company shall hold such purchase money in a separate bank account on trust for the Vendor but shall not be bound to earn or pay interest on any money so held. The Company's receipt for such purchase money shall be a good discharge to the Purchaser who shall not be bound to see to the application of it, and after the name of the Purchaser has been entered in the register of Members in purported exercise of the power conferred by this Article 12.14, the validity of the proceedings shall not be questioned by any person.

12.15 Where, pursuant to Article 12.5 or Article 12.7D, the Board instructs the Valuers to determine and notify the Sale Price, the Valuers shall be instructed to determine and notify the amount which is in their opinion, the value of an Equity Share. In so doing they shall:

- (a) act as experts and not as arbitrators and their written determination shall be final and binding on the Members; and
- (b) proceed on the basis that the value of each Equity Share shall be the sum which a willing purchaser would agree with a willing vendor to be the purchase price for all Equity Shares in issue divided by the number of all issued Equity Shares with no discount for a minority holding.

12.16 Subject to Article 12.7E the Valuers' fees for determining and notifying the Sale Price shall be borne by the Company.

12.17 Any "B", "C" or "D" Share transferred to a Member holding "A" Shares shall (without further authority than is herein contained being necessary) forthwith on

such transfer be converted into an "A" Share having all the rights, privileges and restrictions attaching to the "A" Shares.

12.18 Any "A", "B" or "D" Share transferring to a Member holding "C" Shares shall (without further authority than is herein contained being necessary) forthwith on such transfer be converted into a "C" Share having all the rights privileges and restrictions attaching to "C" Shares.

12.19 Any "A" or "C" Share transferred to a Member holding "B" Shares shall (without further authority than is herein contained) forthwith on such transfer be converted into a "B" Share having all the rights, privileges and restrictions attaching to "B" Shares.

12.20 Any "A" or "C" Share transferred to a Member holding "D" Shares shall (without further authority than is herein contained) forthwith on such transfer be converted into a "D" Share having all the rights, privileges and restrictions attaching to the "D" Shares.

- 12.21 (a) The Board may delegate any of its powers and obligations directly or indirectly relating to the transfer of "D" shares to a Committee of the Board, comprising exclusively executive directors of the Company (not less than two in number) who shall not participate in any share scheme established by the Company;
- (b) The Committee and/or the Board may at any time appoint any person, body or company to assist it in its functions and to facilitate the operation of these Articles, insofar as the same relate to the transfers of "D" Shares, to such appointee and shall delegate such powers to such appointee and instruct it as it shall in its absolute discretion deem appropriate to assist it in carrying out such function.

Without limitation to the generality of the forgoing the provisions of Article 12.21

above shall extend to the following:

- (i) the Committee and/or the Board shall be entitled to appoint the appointee to receive "D" Shares on a temporary basis and to execute stock transfer forms relating to "D" Shares pursuant to Article 12.9, notwithstanding that such appointee is not specified therein as a person to whom shares can be offered;
- (ii) in the Transfer Notice to be served pursuant to Article 12.1 or the application to be served pursuant to Article 12.8(c) the Board and/or the appointee may when exercising its discretion pursuant to Article 12.3(e) or 12.8(c) (as appropriate) include in such specified form a provision to the effect that such appointee is irrevocably and unconditionally appointed to offer, sell or receive the relevant Sale Shares, or any lesser amount as they shall determine as the Vendor's or the Purchaser's agent and attorney and execute, complete and deliver any documents or matters considered by the appointee to be necessary or desirable to carry out the terms of such Transfer Notice or application served pursuant to Article 12.8(c) (as appropriate) or any contract resulting from it including any stock transfer form.

Compulsory Transfers

13

13.1 For the purpose of this Article 13, a "**Transfer Event**" happens in relation to any Member:

- (a) if that Member being an individual:
 - (i) becomes bankrupt; or

- (ii) dies; or
 - (iii) suffering from mental disorder is admitted to hospital or becomes subject to any court order referred to in regulation 81(c);
- (b) if that Member makes any arrangement or composition with his creditors generally;
- (c) if that Member being a body corporate:
 - (i) has a receiver, manager or administrative receiver appointed over all or a substantial part of its undertaking or assets; or
 - (ii) has an administrator appointed in relation to it; or
 - (iii) enters into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction);

and the relevant proceedings are not dismissed within 1 month;

- (d) if that Member, being a holder of either "B" Shares or "D" Shares, or a person from whom that Member has acquired "B" Shares or "D" Shares under a Permitted Transfer, or a person whose Trust Company that Member is, ceases to be a director or employee of a Group Company for whatever reason, (including, without limitation, his death) and as a consequence is no longer a director or an employee of any member of the ITnet Group and the Board resolves in its absolute discretion within the following three months that such event is a Transfer Event in relation to that Member for the purposes of this Article;
- (e) if that Member or any Family Member or any Family Trust of that

Member attempts to deal with or dispose of any Share or any interest in it otherwise than in accordance with the Article 10 (Permitted Transfers), Article 12 (Voluntary Transfers) and this Article 13 (Compulsory Transfers) or in contravention of Article 14 (Come Along Option or Article 11 (Restricted Transfers) and solely in the case of a member holding 'C' Shares such action or default is material and is not remedied to the Board's reasonable satisfaction within one calendar month of the Board notifying the Member of the applicable action or default;

- (f) if any Investment Fund is dissolved, wound up or otherwise distributes any Shares.

13.2 Upon the happening of any Transfer Event in relation to a Member the Member in question (or his personal representatives) and any other Member holding Family Shares of that Member shall be deemed (subject to Article 13.3(b)) to have immediately given a Transfer Notice in respect of all the Family Shares of that Member then held by such Member(s).

13.2A Upon any "D" Shares being acquired:

- (a) in pursuance of rights or interests obtained by any person as an employee (or former employee) or a director (or former director) of a Group Company, by a person who is not (or has ceased to be) an employee or director of a Group Company; or
- (b) by a person by reason of being a former employee of a Group Company or a relative of an employee or former employee of a Group Company (within the meaning of Section 417(4) Income and Corporation Taxes Act 1988); or
- (c) by any person (other than an Employee) by virtue of a transfer within Article 10.7(a)(ii)

and the Board resolves in its absolute discretion within the following three months that this Article shall apply to that person, that person shall be deemed (subject to Article 13.3(b)) to have immediately given a Transfer Notice in respect of all the D Shares so acquired.

- 13.2B A Transfer Notice deemed to have been given by reason of Article 9.4 or 10.1(e) or 10.2(c) or 13.2 or 13.2A is in these Articles referred to as a "Deemed Transfer Notice" and shall supersede and cancel any then current Transfer Notice in so far as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice.

Notwithstanding any other provision of these Articles, any Member holding Shares in respect of which a Deemed Transfer Notice is deemed given shall not be entitled to exercise any voting rights at general meetings of the Company or receive any dividend or other distribution or exercise or benefit from all or any other rights in respect of their Shares between the date of the relevant Deemed Transfer Notice and the earlier of either the entry in the register of members of the Company of another person as the holder of those Shares or as long as the facts which gave rise to the Deemed Transfer Notice deemed to be given in the absolute discretion of the Board persist and are not remedied to the Board's satisfaction.

- 13.3 The Sale Shares the subject of any Deemed Transfer Notice shall be offered for purchase in accordance with Article 12 as if they were Sale Shares in respect of which a Transfer Notice had been given save that:

- (a) The provisions of Article 10.6 shall apply in relation to "B" Shares.
- (b) A Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event or, in the case of the Transfer Events other than those specified in Article 13.1(d) and (e) and in the case of a Transfer Notice deemed to have been given by reason of Article 10.1(e), on the date

(c) a Deemed Transfer Notice and any Transfer Notice served by the Board pursuant to Article 10 shall be deemed not to contain a Total Transfer Condition and shall be irrevocable; and

(d) subject to Article 13.2 the Sale Shares shall be sold together with all rights, attaching thereto as at the date on which the Deemed Transfer Notice in respect thereof was deemed to have been served including the right to any dividend declared or payable on those Sale Shares after that date.

- (a) where a contract of employment is terminated by the employer by giving notice to the Employee of the termination of the employment, the date of that notice (whether or not a payment is made by the employer in lieu of all or part of the notice period required to be given by the employer in respect of such termination) or at the Board's sole discretion on the expiry of such notice;
- (b) where a contract of employment is terminated by the Employee by giving notice to the employer of the termination of the employment, the date of that notice or at the Board's sole discretion on the expiry of such notice;
- (c) where an employer or Employee wrongfully repudiates his contract of employment and the Employee or employer respectively accepts that the contract of employment has been terminated, the date of such acceptance

by the employee or employer respectively;

- (d) where a contract of employment is terminated under the doctrine of frustration, the date of the frustrating event;
- (e) where a contract of employment is terminated for any reason other than in the circumstances set out in (a) to (e) above, the date on which the action or event giving rise to the termination occurs; and
- (f) where an officer of a member of the ITnet Group who is not an employee of a member of the ITnet Group is dismissed or resigns from office or where such office terminates for any other reason the date of such termination event.

Piggy-Back Rights and Come Along Option

14

14.1 Without prejudice to Articles 11.2 and 11.3, no sale or transfer of the legal or beneficial interest in any Shares in the Company may be made or validly registered without the consent in writing of the holders of 75% in nominal value of the "A" Shares if, as a result of such sale or transfer and registration thereof, a Controlling Interest would be obtained in the Company:

- (a) by a company (other than a company to which Article 14.1.2 applies) or by a person or persons (other than a company) who are not Original Members (as hereinafter defined) unless the proposed transferee or transferees or his or their nominees are independent third parties acting in good faith and has or have offered to purchase all the "A" Shares at the Specified Price (defined below) and (if not redeemed) all the "A" Preference Shares at a price per share of at least £1 plus a sum equal to any arrears or accruals of the Preference Dividend grossed up at the rate of corporation tax then in force calculated down to the date of sale or transfer; or

- (b) by a company in which one or more of the members of the Company or persons acting in concert with any member of the Company has or as a result of such sale or transfer will have a Controlling Interest.

14.2 For the purpose of Article 14.1 (only):

- (a) the expression "Original Members" shall mean persons who were members of the Company on the date of the adoption of these Articles (including for the avoidance of doubt NatWest Ventures Nominees Limited and Lloyds Ventures Nominees Limited) and their Permitted Transferees;
- (b) the expressions "transfer" and "transferee" shall include respectively the renunciation of a renounceable letter of allotment and the renounce under any such letter of allotment; and
- (c) the expression "Specified Price" means at the option of the holders of 75 % of the 'A' Shares, either:
 - (i) a price per share of 10 pence; or
 - (ii) the consideration (in cash or otherwise) per share equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees for any other Shares plus the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of such other 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 for such other shares provided that if any part of the price per share is payable otherwise than by cash the holders of the 'A' Shares may at their option elect to take a price per share of such cash sum as may be agreed by them having regard to the substance of the transaction as a whole;

plus in either case a sum equal to any arrears or accruals of the dividends on such shares grossed up at the rate of corporation tax then in force calculated down to the date of sale or transfer. In the event of disagreement, the calculation of the Specified Price shall be referred to the Valuers (acting as experts and not as arbitrators) whose decision shall be final and binding.

- 14.3 Without prejudice to the restrictions in Articles 11.2, 11.3 and the provisions of Article 14.1 in the event that the holders of 75 % of the "A" Shares and 75 % of the "B" Shares ("**the Selling Shareholders**") propose to effect a Sale and such Members procure an offer is made by an arm's length terms Third Party Purchaser ("**the Offeror**") to all of the other holders of the Shares in the share capital of the Company to acquire their entire holding of Shares at the Equivalent Price (defined below) ("**the Offer**") the Selling Shareholders shall have the right (the "**Come Along Right**") to require all of the other holders of Shares (the "**Called Shareholders**") to accept in full the Offer.
- 14.4 The expression "**the Equivalent Price**" in Article 14.3 shall mean at the option of the holders of 75 % in nominal value of all Equity Shares (other than "D" Shares) save that in the case of the "C" Shares the Equivalent Price shall be at the option of the holder of 75 % in nominal value of the "C" Shares held by Called Shareholders either:-
- (a) the original subscription price in respect of "B", "C" and "D" Shares; or
 - (b) the consideration (in cash or otherwise) per Share equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees for any other Equity Shares plus the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of such other Equity 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 for such other shares provided that if any part of the price per share is payable otherwise than by cash the Called

Shareholders may at their option elect to take a price per share of such cash sum as may be agreed by them having regard to the substance of the transaction as a whole;

plus in either case a sum equal to any arrears or accruals of the dividends on such share grossed up at the rate of corporation tax then in force calculated down to the date of sale or transfer. In the event of disagreement on the calculation of the Equivalent Price pursuant to Article 14.4.1 or 14.4.2 such disagreement shall be referred to the Valuers (acting as experts and not as arbitrators) whose decision shall be final and binding.

14.5 The Come Along Right may be exercised by such Selling Shareholders serving notice to that effect (the "**Come Along Notice**") on the Called Shareholders within 14 days following, the making of the Offer as extended under 14.4. The Come Along Notice shall specify the following details:

- (a) the name of the proposed purchaser or purchasers;
- (b) its/their relationship (if any) with any Member of the Company;
- (c) precise details of the formulation of the price for the Shares to be acquired;
- (d) reasonable details of the proposed contractual terms of the acquisition

14.6 A Come Along Notice once given shall be irrevocable but shall lapse (and the obligations thereunder shall lapse) in the event that for any reason such Selling Shareholders do not transfer their entire holdings of Shares to the Offeror (or the Offeror's nominee) no later than the date specified as the date for completion of the sale and purchase of the Shares pursuant to acceptance of the Offer.

14.7 Upon the exercise of the Come Along right in accordance with this Article, each of the Called Shareholders shall be bound to accept the Offer made to it in respect

of its entire holding of Shares.

- 14.8 In the event that any Called Shareholder fails to accept the Offer made to him or, having accepted such Offer, fails to complete the sale of any of its Shares pursuant to the offer or otherwise fails to take any action required of it under the terms of the Offer, the Directors (or any of them) may authorise some person to accept the Offer on behalf of the Called Shareholders in question or undertake any action required under the terms of the Offer on the part of a Called Shareholder who has accepted the Offer. The Directors may in particular authorise some person to execute a transfer of any shares in favour of the Offeror (or its nominee) and the Company may give a good receipt for the purchase price of such Shares and may register the Offeror (or its nominee) as holder thereof and issue to it (or as it may direct) certificates for the same whereupon the Offeror (or its nominee) shall be indefeasibly entitled thereto. The Called Shareholder shall in such case be bound to deliver up its certificate for its shares to the Company whereupon the Called Shareholder shall be entitled to receive the purchase price for such shares, which purchase price shall in the meantime be held by the Company on trust for the Called Shareholder but without interest. After the name of the Offeror (or its nominee) has been entered in the register of members in purported exercise of these powers, the validity of the proceedings shall not be questioned by any person.

Appointment of Directors

15

- 15.1 Subject to the provisions of Article 15.2, the Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director. In addition, the holders of Shares carrying voting rights representing more than 50% of the voting rights attaching to all Shares in the capital of the Company may by notice in writing to the Company together appoint a person who is willing to act to be a Director either to fill a vacancy or as an additional Director.

- 15.2 The appointment of any Director pursuant to Article 15.1 may only be made with the previous consent in writing (such consent not to be unreasonably withheld or delayed), prior to the redemption of all the "A2" Ordinary Shares and "A2" Preference Shares of any Special Director for the time being and, following the redemption of all such Shares, of the holders of 75 % in nominal value of the "A" Shares.

Proceedings of Directors

- 16 At least ten meetings of the Board shall take place each calendar year. Seven days' notice of every meeting of the Directors shall be given to each Director at any address supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any Director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such meeting that notice was not given to him.
- 16.1 Subject to the provisions of the Act and provided that he has disclosed to the Board the nature and extent of any material interest of his, a Director notwithstanding his office:
- (a) may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested;
 - (b) may be a director or other officer of or employed by or be 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 in any way interested;
 - (c) may (and any firm or company of which he is a partner or member or director may) act in a professional capacity for the Company or any body corporate in which the Company is in any way interested;

- (d) shall not by reason of his office be accountable to the Company for any benefit which he derives from such office service 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; and
- (e) shall be entitled to vote and be counted in the quorum on any matter concerning the foregoing paragraphs of this Article.

16.2 For the purposes of this Article:

- (a) a general notice 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;
- (b) 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; and
- (c) an interest of a person who is for any purpose of the Act (excluding any statutory modification not in force when these Articles were adopted) connected with a Director shall be treated as an interest of the Director and in relation to an alternate Director an interest of his appointor shall be treated as an interest of the alternate Director without prejudice to any interest which the alternate Director has otherwise.

16.3 The Directors may operate by way of committee constituted by no less than 2 Directors. The Special Director must approve the constitution of a committee. Provision of a Support Undertaking by the Retained Group or pursuant to clause 13 of the Acquisition Agreement may only be considered, at a meeting of the full

Board at which the CS Director is present.

Directors' Borrowing Powers

- 17 Subject as hereinafter provided the Board may exercise all the powers of the Company (whether express or implied):
- 17.1 of borrowing or securing the payment of money;
- 17.2 of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts; and
- 17.3 of mortgaging or charging the property assets and uncalled capital of the Company and (subject to section 80 of the Act) of issuing debentures

but so that:

- 17.4 the Board shall procure that the aggregate amounts for the time being remaining undischarged by virtue of any of the foregoing operations by the Company and all subsidiaries of the Company excluding:
- (a) any counter-indemnity obligations or other contingent liability of the Company or ITnet Limited in respect of Support Undertakings or under 13 of the Acquisition Agreement; and
 - (b) the obligations of the Company or any subsidiary under a finance leases either incurred as agent or to the extent that the revenue streams under the back to back customer contract cover such finance lease liabilities

and by virtue of any like operations by the Company and all subsidiaries of the Company under any hire purchase, credit sale, conditional sale or leasing agreements (other than leases of real or heritable property) which can in

accordance with current accounting practice be attributed to capital but excluding inter-company loans, mortgages and charges) shall not without the previous sanction of the holders of

- (a) 75 % in nominal value of the "A" Shares;
- (b) 75 % in nominal of the Preference Shares; and
- (c) for so long as the total contingent liability of the Retained Group under Support Undertakings or clause 13 of the Acquisition Agreement exceeds £7.5m the previous sanction of the holders of 75 % in nominal value of the "C" Shares

exceed the sum of £25,000,000

- 17.5 no such sanction shall be required for the borrowing of any sum of money intended to be applied in the repayment (with or without premium) of any moneys then already borrowed and outstanding, notwithstanding that the same may result in such limit being exceeded;
- 17.6 no lender or other person dealing with the Company shall be concerned to see or enquire whether the limit imposed by this Article is observed and no debt or liability incurred in excess of such limit shall be invalid and no security given for the same shall be invalid or ineffectual except in the case of express notice to the lender or recipient of the security or person to whom the liability is incurred at the time when the debt or liability was incurred or the security given that the limit hereby imposed has been or was thereby exceeded;
- 17.7 except with the previous sanction of the holders of 75 % of the "A" Shares and the holders of 75 % of the Preference Shares, no mortgage or charge shall be created on any part of the undertaking property or assets of the Company or any subsidiary of the Company except for the purpose of securing moneys borrowed

from any member of an Investor's Group with interest thereon and all and any monies and other liabilities of whatever nature secured by any security from the Company in favour of the Company's bankers including without limitation the Royal Bank of Scotland plc with interest thereon and bank charges.

Special Director

- 18 Notwithstanding any other provisions of these Articles 3i Group plc shall be entitled to appoint as a director of the Company any person (such person herein referred to as a "Special Director") approved by the Board (whose approval shall not be unreasonably withheld) and to remove from office any individual so appointed and (subject to such approval) to appoint another person in his place. The Chairman shall be agreed by 3i and the Relevant Directors (such agreement not to be unreasonably withheld or delayed). The remuneration and reasonable expenses to be paid to the Special Director shall be payable by the Company and shall be such sum as may be agreed between him and the Company or failing agreement such reasonable sum as shall be fixed by 3i. Upon request by 3i the Company shall also procure that a Special Director be appointed a director of any subsidiary of the Company.

CS Director

- 19 Notwithstanding any other provisions of these Articles the holders of 75 % in nominal value of the "C" Shares (or where Article 19.2 applies the holders of 75 % in nominal value of the "C" Shares and Deferred Shares together) shall:
- 19.1 for so long as such "C" Shares represent no less than 7.5 % of the total issued Equity Shares together or;
- 19.2 whilst there remains outstanding any actual or contingent liability under Support Undertakings in pursuant to clause 13 of the Acquisition Agreement which has not been extinguished, released or discharged to the reasonable satisfaction of the

holders of 75 % in nominal value of the "C" Shares or counter-indemnified or otherwise secured by a third party insurance company or other financial institution of good financial standing and repute to the satisfaction of the holders of 75 % in nominal value of the "C" Shares

be entitled to appoint as a director of the Company and any subsidiary of the Company any person (such person being referred to as "a CS Director"). The identity of the CS Director or alternate must be approved by the Board (whose approval shall not be unreasonably withheld). The holders of 75 % in nominal value of the "C" Shares may remove from office any person so appointed and (subject to such approval) may appoint another person in his place. The reasonable out of pocket expenses (but not the remuneration) of the CS Director shall be met by the Company.

For the avoidance of doubt, the above right of appointment shall not apply where all "C" Shares have converted into Deferred Shares and Article 19.2 does not apply.

The CS Director shall also be entitled to sit on the Planning and Audit Committee of the Company provided that and for so long as either of the conditions set out at Article 19.1 and 19.1 are satisfied.

The CS Director shall be entitled to receive all papers to be tabled at any meeting of a committee of the Board or of the directors of ITnet Limited.

Indemnity

20

- 20.1 Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution of his duties or in relation thereto including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is

given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

- 20.2 The Company shall arrange and maintain at all times director's liability insurance on such terms as shall be agreed by the Board with the Special Director (such agreement not to be unreasonably withheld or delayed).

Syndication

21

- 21.1 Subject to the provisions of the Act, forthwith upon the issue by the Company to one or more Syndicatees of "A1" Ordinary Shares and "A1" Preference Shares, the Company shall redeem equal numbers of "A2" Ordinary Shares and "A2" Preference Shares respectively out of the proceeds of such issue. The Shares to be redeemed under this Article are herein referred to as "Redemption Shares."

- 21.2 Without prejudice to Article 21.4 the Company shall pay to each holder of Redemption Shares (or as it shall direct) upon redemption of such Shares a sum equal to the subscription price paid for such Shares. The redemption moneys shall be paid in accordance with the provisions of an Accession Agreement entered into pursuant to the Investment Agreement. Upon receipt of the redemption moneys each holder of Redemption Shares shall surrender to the Company the certificates for his Redemption Shares in order that they may be cancelled provided that if any certificate so surrendered includes any shares not redeemable at that time the Company shall issue to the holders a fresh certificate for the balance of the Shares not redeemable.

- 21.3 Subject to Article 21.4 upon redemption of the Redemption Shares all rights to any arrears, deficiency or accruals of dividends shall be extinguished.

21.4

- 21.4.1 Upon redemption of the "A2" Ordinary Shares the aggregate

amounts of any arrears, deficiency or accruals of dividends (in accordance with Article 3.1) to which all such shares would have been entitled if such shares had not been redeemed in accordance with Article 21 shall be payable to the holders of the "A1" Ordinary Shares in issue immediately prior to the issue of the "A1" Ordinary Shares to one or more Syndicatees referred to in Article 21.1, such aggregate amounts to be payable to the holders of such shares as a class on the dates such dividends would have been payable.

- 21.4.2 Upon redemption of the "A2" Preference Shares the aggregate amounts of any arrears, deficiency or accruals of dividends (in accordance with Article 3.1) to which all such shares would have been entitled if such shares had not been redeemed in accordance with Article 21 shall be payable to the holders of the "A1", Preference Shares in issue immediately prior to the issue of "A1" Preference Shares to one or more Syndicatees referred to Article 21.1, such aggregate amounts to be payable to the holders of such shares as a class on the dates such dividends would have been payable.

Share Certificates

Every member, upon becoming the holder of any shares shall be entitled without payment to one certificate for each class held by him (and upon transferring a part of his holding of shares of any class, to a certificate for the balance of such holding) or several certificates each for one or more of his shares upon payment for every certificate after the first of such reasonable sum as the directors may determine. Every certificate shall be issued in whatever form the directors may in their absolute discretion determine (including without limitation by way of computerised share certificates) and shall be signed by a director or the secretary of the Company (such signature being by way of facsimile or in computer generated form or such other form as the directors shall in their absolute discretion determine). Every share certificate shall specify the number and class of the

shares to which it relates and the amount or respective amounts paid up thereon. The Company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint holder shall be sufficient delivery to all of them.

23

Notice, Service and Delivery relating to "D" Shares

The provision of notices in relation to "D" Shares shall be governed by this article. Articles 112 and 115 of Table A shall not apply to notices served relating to the "D" Shares.

23.1 In the case of any notice or other document required to be served in relation to the "D" Shares (other than on those persons specified in Article 23.3 below), such notice or other document shall be served either personally or by sending it through the post in a prepaid cover addressed to such person at his usual or last known address, and in the case of personal service such notice or document shall be deemed to have been served on the actual date of service and where the notice or other document is served by first class post, such service shall be deemed to be effect as the expiration of 48 hours after the time when the cover containing the same was posted and in proving such delivery or service it shall be sufficient to prove that such cover was properly addressed, stamped and posted.

23.2 Without prejudice to Article 23.2 above where any person wishes to serve a notice or other document on any person specified in paragraph 23.1 or give a notification to any such person (including without limitation a D Offer Notice), service may alternatively be effected by displaying the same on staff notice boards at the premises of the Company or by such method that the Board may from time to time notify to such persons.

23.3 In the case of any notice or other document required to be served on the Company, any Committee, trustees or appointee such notice shall be served by one of the following methods:

(a) by personally delivering the same to the reception at the Company's

premises at Laburnum House, Laburnum Road, Birmingham, B30 2BD;

- (b) by sending the same by recorded delivery post to the Company Secretary at the address specified in article 23.3 above;
- (c) by delivering the same in accordance with the provisions set out in any written communication notified by the Board to such persons from time to time; and
- (d) by facsimile (in the case of a Transfer Notice only) to fax such number or numbers specified by the Board from time to time.

and such service shall be deemed to be effective:

- (i) if personally delivered in accordance with Article 23.3(a) above at the time and date specified in the receipt issued by reception;
- (ii) if sent by recorded delivery in accordance with Article 23.3(b) above at the time and date specified in the records of the Post Office;
- (iii) if served in accordance with a notification specified in Article 23.3(c) above at the time and date specified in the relevant notification;
- (iv) if (in the case of a Transfer Notice only) served by facsimile, the time such facsimile was actually received, providing always that the original documents specified therein shall be received by the Company within the period of three business days specified therein, and if such original documents are not received such service shall be deemed not to have taken place.

23.4 Service of any document by facsimile shall be at the parties risk and shall be subject to Article 23.3(iv). Notwithstanding this Article 23.4 an application served

pursuant to Article 12.8(c) shall not be effective unless the relevant cleared funds (including stamp duty, related costs and the purchase consideration) are received by the Board on or before the relevant date referred to in Article 23.3(iv).