

Registered No. 3053545

MEMORANDUM OF ASSOCIATION OF

LEO ELECTRON MICROSCOPY LIMITED



1. NAME

The name of the company is "LEO Electron Microscopy Limited"¹.

2. TYPE OF COMPANY

The company is to be a private company limited by shares.

3. REGISTERED OFFICE

The company's registered office is to be situated in England and Wales.

4. OBJECTS

The objects for which the company is established are:

- (A) To carry on business as a general commercial company and to carry on any trade or business whatsoever.
- (B) To acquire any estate or interest in and to take options over, construct, develop or exploit any property, real or personal, and rights of any kind and the whole or any part of the undertaking, assets and liabilities of any person and to act as a holding company.
- (C) To provide services of all descriptions.
- (D) To lend money and grant or provide credit and financial accommodation to any person and to deposit money with any person.
- (E) To invest money of the company in any investments and to hold, sell or otherwise deal with investments or currencies or other financial assets.
- (F) To enter into any arrangements with any government or authority or person and to obtain from any government or authority or person any legislation, orders, rights, privileges, franchises and concessions.
- (G) To borrow and raise money and accept money on deposit and to secure or discharge any debt or obligation in any manner and in particular

¹ The Company was incorporated under the name Trushelfco (No. 2099) Limited which changed by Special Resolution on 30th August, 1995 to Leica SEM Limited which changed by Special Resolution on 29th September, 1995 to LEO Electron Microscopy Limited.

(without prejudice to the generality) by mortgages of or charges upon all or any part of the undertaking, property and assets (present and future) and uncalled capital of the company or by the creation and issue of securities.

- (H) To enter into any guarantee, contract of indemnity or suretyship and in particular (without prejudice to the generality) to guarantee, support or secure, with or without consideration, whether by personal obligation or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) and uncalled capital of the company or by both such methods or in any other manner, the performance of any obligations or commitments of, and the repayment or payment of the principal amounts of and any premiums interest dividends and other moneys payable on or in respect of any securities or liabilities of, any person, including (without prejudice to the generality) any company which is for the time being a subsidiary or a holding company of the company or another subsidiary of a holding company of the company or otherwise associated with the company.
- (I) To amalgamate or enter into partnership or any profit-sharing arrangement with, or to co-operate or participate in any way with, or to take over or assume any obligation of, or to assist or subsidise any person.
- (J) To sell, exchange, mortgage, charge, let, grant licences, easements, options and other rights over, and in any other manner deal with, or dispose of, all or any part of the undertaking, property and assets (present and future) of the company for any consideration and in particular (without prejudice to the generality) for any securities or for a share of profit or a royalty or other periodical or deferred payment.
- (K) To issue and allot securities of the company for cash or in payment or part payment for any real or personal property purchased or otherwise acquired by the company or any services rendered to the company or as security for any obligation or amount (even if less than the nominal amount of such securities) or for any other purpose, and to give any remuneration or other compensation or reward for services rendered or to be rendered in placing or procuring subscriptions of, or otherwise assisting in the issue of, any securities of the company or in or about the formation of the company or the conduct or course of its business.
- (L) To establish or promote, or concur or participate in establishing or promoting, any company, fund or trust and to subscribe for, underwrite, purchase or otherwise acquire securities of any company, fund or trust and to act as director of and as secretary, manager, registrar or transfer agent for any other company and to act as trustee of any kind and to undertake and execute any trust and any trust business (including the business of acting as trustee under wills and settlements and as executor and administrator).
To pay all the costs, charges and expenses preliminary or incidental to the promotion, formation, establishment and incorporation of the company, and to procure the registration or incorporation of the company in or under the laws of any place outside England.

- (M) To grant or procure the grant of donations, gratuities, pensions, annuities, allowances or other benefits, including benefits on death, to, or purchase and maintain any type of insurance for or for the benefit of, any directors, officers or employees or former directors, officers or employees of the company or any company which at any time is or was a subsidiary or a holding company of the company or another subsidiary of a holding company of the company or otherwise associated with the company or of any predecessor in business of any of them, and to the relations, connections or dependants of any such persons, and to other persons whose service or services have directly or indirectly been of benefit to the company or whom the board of directors of the company considers have any moral claim on the company or to their relations, connections or dependants, and to establish or support any funds, trusts, insurances or schemes or any associations, institutions, clubs or schools, or to do any other thing likely to benefit any such persons or otherwise to advance the interests of such persons or the company or its members, and to subscribe, guarantee or pay money for any purpose likely, directly or indirectly, to further the interests of such persons or the company or its members or for any national, charitable, benevolent, educational, social, public, political, general or useful object.
- (N) To cease carrying on or to wind up any business or activity of the company, and to cancel any registration of and to wind up or procure the dissolution of the company in any state or territory.
- (O) To distribute any of the property of the company among its creditors and members or any class of either in cash, specie or kind.
- (P) To do all or any of the above things or matters in any part of the world and either as principals, agents, contractors, trustees or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with others.
- (Q) To carry on any other activity and do anything of any nature which in the opinion of the board of directors of the company is or may be capable of being conveniently carried on or done in connection with the above, or likely directly or indirectly to enhance the value of or render more profitable all or any part of the company's undertaking property or assets or otherwise to advance the interests of the company or of its members.
- (R) To do any other thing which in the opinion of the board of directors of the company is or may be incidental or conducive to the attainment of the above objects or any of them.

In this clause "company", except where used in reference to this company, shall include any partnership or other body of persons, whether incorporated or not incorporated, and whether formed, incorporated, domiciled or resident in the United Kingdom or elsewhere, "person" shall include any company as well as any other legal or natural person, "securities" shall include any fully, partly or nil paid or no par value share, stock, unit, debenture, debenture or loan stock, deposit receipt, bill, note, warrant, coupon, right to subscribe or convert, or similar right or obligation, "and" and "or" shall mean "and/or" where the context so permits, "other" and "otherwise" shall not be construed ejusdem generis

where a wider construction is possible, and the objects specified in the different paragraphs of this clause shall not, except where the context expressly requires, be in any way limited or restricted by reference to or inference from the terms of any other paragraph or the name of the company or the nature of any trade or business carried on by the company, or by the fact that at any time the company is not carrying on any trade or business but may be carried out in as full and ample a manner and shall be construed in as wide a sense as if each of those paragraphs defined the objects of a separate distinct and independent company.

5. LIABILITY OF MEMBERS

The liability of the members is limited.

6. SHARE CAPITAL

The company's share capital is £2,700,000 divided into 100,000 'A' shares of £1 each, 100,000 'B' shares of £1 each and 2,500,000 cumulative redeemable preference shares of £1 each and the company shall have the power from time to time to divide the original or any increased capital into classes, and to attach thereto any preferential, deferred, qualified or other special rights, privileges, restrictions or conditions².

² The share capital of the Company was increased to its current amount from 100 ordinary shares of £1 each by a special resolution passed on 29th September, 1995.

We, the subscribers of this memorandum of association, wish to be formed into a company pursuant to this memorandum; and we agree to take the number of shares shown opposite our respective names.

<u>Subscribers</u>	<u>Number of shares taken by each subscriber</u>
Trucidator Nominees Limited 35 Basinghall Street London EC2V 5DB	1
Trexco Limited 35 Basinghall Street London EC2V 5DB	1

ARTICLES OF ASSOCIATION OF

LEO ELECTRON MICROSCOPY LIMITED

(Articles adopted on 29th September, 1995 and amended by special resolution passed on 10th July 1998)

1. INTERPRETATION

(A) In these articles:

"A Directors" has the meaning given in article 15 (Appointment and removal of A and B Directors);

"B Directors" has the meaning given in article 15 (Appointment and removal of A and B Directors);

"A Shares" has the meaning given in article 3 (Share capital);

"B Shares" has the meaning given in article 3 (Share capital);

"A Shareholder" means the holder of the A Shares;

"B Shareholder" means the holder of the B Shares;

"Group Company" means a wholly-owned subsidiary or holding company of either of Lancet Holding B.V. or Carl Zeiss B.V. as the case may be or a wholly-owned subsidiary of such holding company, "Group" shall be construed accordingly and for these purposes Carl Zeiss Stiftung shall be deemed to be a Company;

"Offer Period" has the meaning given in article 8 (Compulsory Transfer);

"Offered Shares" has the meaning given in article 8 (Compulsory Transfer);

"Offerer" has the meaning given in article 8 (Compulsory Transfer);

"Ordinary Shares" means the "A" Shares and the "B" Shares;

"Preference Shares" means the cumulative redeemable preference shares of £1 each referred to in Article 3(A)

"Recipient" has the meaning given in article 8 (Compulsory Transfer);

"Sale Price" has the meaning given in article 8 (Compulsory Transfer);

"Table A" means Table A scheduled to the Companies (Tables A to F) Regulations 1985 as amended prior to the date of adoption of these articles;

"Transfer" means, in relation to any share, to transfer the entire legal and beneficial interest in that share free from all claims, liens, charges, encumbrances and equities and together with all rights attached or accruing to the share; and any derivative term, as well as any reference to a "Transfer", shall have the corresponding meaning; and

"Transfer Notice" has the meaning given in article 8 (Compulsory Transfer).

- (B) In these articles, unless otherwise specified:
- (a) words and expressions which bear particular meanings in Table A shall bear the same meanings in these articles;
 - (b) references to "writing" include references to any method of representing or reproducing words in a legible and non-transitory form; and
 - (c) headings are for convenience only and shall not affect construction.

2. TABLE A

- (A) The regulations contained in Table A shall, except where they are excluded or modified by these articles, apply to the company and, together with these articles, shall constitute the articles of the company. No other regulations set out in any statute concerning companies, or in any statutory instrument or other subordinate legislation made under any statute, shall apply as the regulations or articles of the company.
- (B) Regulations 2, 8 to 22 (inclusive), 24, 26, 30, 32, 33, 40, 41, 50, 54, 57, 58, 60, 61, 62, 64, 65, 73 to 80 (inclusive), 88 to 90 (inclusive), 94, 110, 112, and 115 of Table A shall not apply to the company.

3. SHARE CAPITAL

- (A) The authorised share capital of the company at the date of adoption of these articles is £2,700,000 divided into 100,000 A shares of £1 each, 100,000 B shares of £1 each and 2,500,000 cumulative redeemable preference shares of £1 each. The authorised equity share capital shall consist only of A shares of £1 each and B shares of £1 each in equal proportions.
- (B) The company may by ordinary resolution:
- (a) increase its authorised share capital by creating new shares of such amount as the resolution prescribes; and
 - (b) cancel shares which, at the date of passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.

PROVIDED THAT these powers and the other powers set out in these articles are only exercised consistently with the provisions of this article.

- (C) The issued A shares of £1 each in the capital of the company (the "A Shares") and the issued B shares of £1 each in the capital of the company (the "B Shares") shall carry the respective voting rights and rights to appoint and remove directors and be subject to the restrictions on transfer set out in these articles but in all other respects shall be identical and rank *pari passu*. The issued equity share capital of the company shall always consist of A Shares and B Shares in equal proportions. For the purposes of determining the amount of any payment by way of dividend, return of capital or otherwise in respect of Ordinary Shares, any share premium paid in respect of such shares shall be disregarded.
- (D) The Preference Shares shall have the following rights and privileges and be subject to the following restrictions.
- (E) (i) The holders of any Preference Shares shall, subject to the provisions of the statutes and save as the board may otherwise determine, be entitled, in priority to any payment of dividend on any other class of shares, to be paid a cumulative preferential dividend (the "Preferential Dividend") accruing from and including the date on which such Preference Share is issued (the "Subscription Date") at the rate of six per cent per annum (such rate being exclusive of any imputed tax credit available to the holder of such Preference Shares) on the aggregate of the nominal value thereof and any premium paid on their issue (in relation to any Preference Shares of the Company, (the "Paid Up Value") calculated on the basis of actual days elapsed in a 365 day year (the Preferential Dividend").
- (ii) The Preferential Dividend shall be payable six monthly on 31st March and 30th September in each year in immediately available funds in respect of the period ending on but excluding that date (each such date being hereafter referred to as a "Dividend Payment Date"). If any such day is not a Banking Day the relevant payment shall instead be made on the next following Banking Day.
- (iii) The Preferential Dividend shall be deemed to accrue from day to day. The Preferential Dividend shall (subject as provided below) *ipso facto* and without any resolution of the directors or the company in general meeting become a debt due from and immediately payable by the company to the registered holder of each Preference Share on the Dividend Payment Date concerned.
- (iv) The Preferential Dividend shall be cumulative and, accordingly, if and to the extent that the profits of the company available for distribution by way of dividend are not sufficient to pay the full amount of the Preferential Dividend due for payment on a particular Dividend Payment Date then each Preferential Dividend which would have been payable on such date (or so much thereof as cannot therefore be paid) shall, as soon thereafter as sufficient distributable profits are available, become

a debt due from the Company and shall become payable in accordance with paragraph (iii) above.

- (v) Save as provided in this article the holders of the Preference Shares shall not be entitled to any further rights of participation in the profits of the company.
 - (vi) The term "Banking Day" shall mean in these Articles a day on which banks generally are open for banking business in the City of London (excluding Saturdays and Sundays).
- (F) (i) On a return of capital on a winding-up or (other than a redemption of shares) otherwise the assets of the company available for distribution to its members shall be applied:
- (a) first, in paying to the holders of the Preference Shares a sum equal to any arrears, deficiency or accruals of the Preferential Dividend thereon, calculated up to and including the date of the commencement of the winding up (in the case of a winding up) or the return of capital;
 - (b) secondly, in repaying the capital paid up on the Preference Shares together with the premium paid at the time of issue;
 - (c) thirdly in distributing any balance of surplus assets then remaining rateably amongst the holders of the Ordinary Shares according to the amounts paid up (exclusive of any share premium) thereon; and
- (ii) the holders of the Preference Shares shall not be entitled to any further rights of participation in the assets of the company other than as provided in paragraph (i) above.
- (G) (i) The holder or holders of the Preference Shares shall, by virtue of or in respect of its or their holdings of Preference Shares, have no right to receive notice of, nor to attend and speak at, nor vote at any general meeting.
- (ii) The Preference Shares shall be redeemed on such date (if any) as the company and all the holders of Preference Shares may agree. Upon the agreed date of redemption the "Redemption Date" each of the holders of the relevant Preference Shares shall be bound to deliver to the company at such place the certificates for such Preference Shares concerned as are held by it. Upon such delivery the company shall pay to (or to the order of) such holder the amount due to it in respect of such redemption. If any holder of Preference Shares whose shares are liable to be redeemed under this paragraph shall fail or refuse to deliver up the certificate for his shares the company may retain the redemption money until delivery up of the certificate or of an indemnity in respect thereof satisfactory to the company and shall within seven days thereafter pay the redemption moneys to (or to the order of) such holder.

- (iii) There shall be paid on each Preference Share so redeemed the Paid Up Value together with a sum equal to all arrears of the preferential dividend thereon to be calculated down to and including the Redemption Date and to be payable irrespective of whether or not such dividend has been earned or become due and payable.
- (iv) As from the relevant Redemption Date the dividend shall cease to accrue on the Preference Shares due for redemption.
- (v) The receipt of the registered holder for the time being of any Preference Shares or in the case of joint registered holders the receipt of any of them for the moneys payable on redemption thereof shall constitute an absolute discharge to the company.

4. UNISSUED SHARES

- (A) No A Share nor any right to subscribe for or convert any security into an A Share shall be allotted otherwise than to the A Shareholder and no B Share nor any right to subscribe for or convert security into a B Share shall be allotted otherwise than to the B Shareholder UNLESS within one month before the allotment the A Shareholder for the time being and the B Shareholder for the time being has consented in writing to that allotment and its terms and to the allottee.
- (B) Unissued share capital of the company for the time being may, however, only be issued in such manner as to maintain equal proportions of A Shares and B Shares and so that on each occasion A Shares and B Shares are issued at the same price and on the same terms as to payment and otherwise.
- (C) Section 89(1) of the Act shall not apply to an allotment of any equity security PROVIDED THAT that allotment conforms to the requirements of these articles.
- (D) Shares in the capital of the company must be issued fully paid.

5. INITIAL AUTHORITY TO ISSUE RELEVANT SECURITIES

The directors are authorised to exercise all powers of the company to allot relevant securities PROVIDED THAT the consent of the A Shareholder for the time being and the B Shareholder for the time being to that allotment has been obtained if required by these articles and the allotment otherwise conforms to the requirements of these articles. The maximum nominal amount of relevant securities that may be allotted under this authority shall be the nominal amount of the unissued share capital at the date of adoption of this article or such other amount as may from time to time be authorised by the company in general meeting. The authority conferred on the directors by this article shall remain in force for a period of five years from the date of adoption of this article but may be revoked, varied or renewed from time to time by the company in general meeting in accordance with the Act.

6. TRANSFER OF SHARES

(A) The directors shall be bound to register a transfer of legal title to any share if:

- (a) the transfer is in accordance with paragraph (C); and
- (b) a form of transfer is lodged at the registered office or such other place as the directors may appoint and is accompanied (if the directors so require) by a certificate for the shares to which it relates and by such other evidence as the directors may reasonably require to show the right of the transferring shareholder to make the transfer,

but shall refuse to register any transfer which does not satisfy such requirements.

(B) Neither the A Shareholder nor the B Shareholder shall, otherwise than in accordance with paragraph (C);

- (a) sell, transfer or otherwise dispose of any share or any legal or beneficial interest in that share;
- (b) pledge, mortgage (whether by way of fixed or floating charge) or otherwise encumber any share or any legal or beneficial interest in that share;
- (c) enter into any agreement in respect of the votes attached to any share;
- (d) renounce or assign any right to receive any share or any legal or beneficial interest in that share; or
- (e) agree, whether or not subject to any condition precedent or subsequent, to do any of the foregoing,

and any attempt to do any of the above shall be void.

(C) Any shareholder may Transfer all (but not some only) of its shares if:

- (i) it obtains, not more than 30 days prior to the date of the Transfer, the consent in writing of the other shareholder to the Transfer, its terms and the person to whom the Transfer will be made;
- (ii) the Transfer is to a Group Company (provided that if such transferee subsequently leaves the Group, it shall first procure that the shares are transferred to another company in its Group);
- (iii) the Transfer is in accordance with article 7 (Russian Roulette); or
- (iv) the Transfer is in accordance with article 8 (Compulsory Transfer).

- (D) A holder of Ordinary Shares shall not transfer any Ordinary Shares unless the transfer is accompanied by a simultaneous transfer to the transferee of its entire holding of Preference Shares and a holder of Preference Shares shall not transfer any Preference Shares unless the transfer is accompanied by a simultaneous transfer to the transferee of its entire holding of Ordinary Shares.

7. RUSSIAN ROULETTE

- (A) At any time after the second anniversary of the adoption of this article and for any reason, the A Shareholder or the B Shareholder (in either case, the "Offeror") may serve on the shareholder of the other class (the "Recipient") a written notice signed by or on behalf of the Offeror (a "Roulette Notice") offering to sell the entire legal and beneficial interest in all (but not some only) of its shares to the Recipient, or to buy the entire legal and beneficial interest in all (but not some only) of the shares held by the Recipient, in each case free from all claims, liens, charges, encumbrances and equities and together with all rights attached or accruing to those shares, at the aggregate price specified in the notice, but otherwise subject to no other condition whatsoever.
- (B) The offer in the Roulette Notice shall be deemed to be open for 45 days from the date of service of the Roulette Notice and shall be irrevocable without the consent of the Recipient.
- (C) The Recipient may, within 45 days after service of the Roulette Notice, serve a written notice on the Offeror signed by or on behalf of the Recipient:
- (i) accepting the offer, in which case the Offeror (or the Recipient, as appropriate) shall be bound to sell its shares and the Recipient (or the Offeror, as appropriate) to purchase them in accordance with the Roulette Notice; or
 - (ii) notifying the Offeror that the Recipient does not accept the offer, but if the offer was for the sale of the shares held by the Offeror, the Recipient will instead sell its shares to the Offeror, or that if the offer was for the purchase of the shares held by the Recipient, the Recipient will instead buy the shares held by the Offeror, in each case free from all claims, liens, charges, encumbrances and equities and together with all rights attached or accruing to those shares, but otherwise subject to no other condition whatsoever, at the price per share specified in the Roulette Notice, and the Recipient shall be bound to sell its shares (or as appropriate buy those of the Offeror) and the Offeror to purchase them (or as appropriate to sell its own) on those terms,

PROVIDED THAT if a valid written notice under this paragraph is not received by the Offeror within the specified time limit, the Recipient will be deemed to have served a notice under sub-paragraph (i).

If in the reasonable opinion of either the Offeror or the Recipient, any transaction contemplated hereunder requires the approval of any competition authority, such transaction shall be delayed until 7 days

after such consent is obtained. For this purpose the Offeror and the Recipient shall each use their reasonable endeavours to obtain such consent. If such consent has not been obtained within 6 months of the expiry of the time limit under paragraph (C) the Offeror and the Recipient shall (unless they agree otherwise) take all necessary steps to put the company into liquidation unless the Recipient notifies the Offeror within 30 days of the expiry of such six month period that the Roulette Notice is to be taken as withdrawn, in which case it shall be deemed never to have been served.

- (D) The parties shall be obliged to complete the sale and purchase of the relevant shares within seven days after the expiry of the time limit under paragraph (C), at such reasonable time and place as shall be specified by written notice from the shareholder who is bound to sell its shares pursuant to these provisions (the "Seller") to the shareholder who is bound to purchase shares pursuant to these provisions (the "Purchaser") served on the Purchaser not less than 48 hours before completion, or in the absence of such a notice at the registered office of the company PROVIDED THAT (a) neither party shall be obliged to complete unless the sale and purchase of all shares to be sold in accordance with these provisions is completed simultaneously (although completion of the sale and purchase of some shares will not affect the rights of any party with respect to the other shares); and (b) the Purchaser shall not be bound to complete until reasonably satisfied that the Seller has made suitable arrangements to repay prior to completion any sums owing by it to the Company or any of its subsidiaries and for the repayment of any sums owed by any member of its Group to the Company or any of its subsidiaries in accordance with paragraph (H).
- (E) Upon completion of the sale from the Seller to the Purchaser in accordance with paragraph (D):
- (i) the Seller shall deliver to the Purchaser a duly executed transfer or transfers in respect of the relevant shares in favour of the Purchaser, or such other person as it may nominate by written notice served on the Seller not less than 24 hours before completion, together with the relevant share certificates and, if requested by the Purchaser, a power of attorney in a form and in favour of a person nominated by the Purchaser not less than 24 hours before completion, so as to enable the Purchaser to exercise all rights of ownership in relation to the shares including, without limitation, the voting rights provided always that the Seller shall not be bound to complete until reasonably satisfied that the Company (or the Purchaser on its behalf) has made suitable arrangements to effect the payments required by it and/or its subsidiaries under paragraph (H);
 - (ii) against delivery in accordance with sub-paragraph (i), the Purchaser shall pay the aggregate transfer price to the Seller for value on the date of completion or in such other manner as shall be agreed by the parties before completion;
 - (iii) the parties shall procure (so far as they are able) that the transfer of shares is registered;

- (iv) the Seller shall do all such acts and/or execute all such documents in a form satisfactory to the Purchaser as the Purchaser may reasonably require to give effect to the transfer of shares pursuant to these provisions; and
 - (v) unless otherwise notified by the Buyer by notice received not less than 24 hours before completion, the Seller shall procure the removal, with effect from completion, of all directors appointed or designated by holders of the Seller's class of shares and the Seller shall indemnify the company and the Purchaser from any claims from directors so removed in relation to their removal.
- (F) If any sum payable under these provisions is not paid (otherwise than as a result of default by any party entitled to payment), the unpaid sum will carry interest calculated on a daily basis which may, without limiting the rights of any party entitled to payment, be claimed as a debt or liquidated demand, for the period from and including the due date up to the date of actual payment (after as well as before judgment) at a rate of 3 per cent. over the base rate from time to time of Barclays Bank PLC.
- (G) If the Seller fails or refuses to transfer its shares as required under these provisions:
 - (a) the company shall by written notice authorise some person to execute and deliver on the Seller's behalf the necessary instrument of transfer and to do any other acts and/or execute any other documents on the Offeror's behalf required in connection with the Transfer of shares under this article;
 - (b) the company may receive the aggregate transfer price in trust for the Seller and receipt of the company for the aggregate transfer price shall be good discharge for the Purchaser, who shall not be bound to see to its application;
 - (c) the company shall, subject to the instrument of transfer being duly stamped, cause the transferee to be registered as holder of the relevant shares; and
 - (d) once the transferee has been registered in purported exercise of this power, the validity of the proceedings shall not be questioned by any person.
- (H) Upon completion of the transfer of all the shares held by the Seller in accordance with these provisions:
 - (a) the Seller shall repay all loans, loan capital, borrowings and other indebtedness in the nature of borrowings outstanding to the company or any of its subsidiaries from it (together with any accrued interest) and procure the repayment of any such amounts owed to the Company or any of its subsidiaries by any other member of its Group;

- (b) the company shall repay all loans, loan capital, borrowings and indebtedness in the nature of borrowings outstanding to the Seller or any member of the Sellers Group (together with any accrued interest whether or not they are then payable) and shall procure the similar repayment of any such amounts due from any of its subsidiaries; and
- (c) the Purchaser shall use all reasonable endeavours (but without involving any financial obligation on its part) to procure the release of any guarantees given by the Seller to or in respect of the company and, pending release, shall indemnify the Seller in respect of any such guarantees.

8. COMPULSORY TRANSFER

(A) Definitions

For the purposes of this article:

"Change of control" has the meaning given in paragraph (C) (Change of Control);

"Control" means the ability of one person, whether by virtue of rights attaching to shares or otherwise and whether alone or in conjunction with any associate (as that term is defined in section 435 Insolvency Act 1986) to ensure that the affairs of a company are conducted in accordance with that person's wishes; and

"Dissolution" in relation to any person, includes the liquidation, amalgamation, administration, administrative or other receivership, or dissolution of that person.

(B) Transfers

This article shall apply as set out in:

- (a) paragraph (C) (Change of Control); or
- (b) paragraph (D) (Dissolution).

(C) Change of Control

This article applies when a "Change of Control" occurs, that is, when a person which did not possess Control of a company (or of a company) which is a member of any holding company for the time being of such a company, immediately prior to a point in time does so after that time or when a person who has the ultimate control of a company, ceases to have it PROVIDED ALWAYS that the acquisition of Control by a company shall not be treated as involving a Change of Control if the person having ultimate Control still has it.

(D) Dissolution

This article applies in the event of:

- (a) the Dissolution of any company which is a member of the company;
- (b) any event analogous or equivalent to any of the above events, by whatever name known, occurs in any jurisdiction; or
- (c) any of the above events occurs in relation to any holding company for the time being of the member (other than a members' voluntary liquidation solely for the purposes of a bona fide scheme of solvent amalgamation or reconstruction).

(E) Deemed Transfer Notice

Where this article applies, the Shareholder in question ("the Offeror") shall be deemed to have served a transfer notice ("a Transfer Notice") on the company offering all of its shares ("the Offered Shares") for sale to the other Shareholder ("the Recipient") at the Sale Price. The deemed Transfer Notice shall be deemed to have been received by the company on the date on which the directors received actual notice of the event.

(F) Upon service of the Transfer Notice:

- (a) the Transfer Notice shall constitute the company the agent of the Offeror for the Transfer of the Offered Shares at the Sale Price in accordance with this article;
- (b) the Offeror shall not transfer the Offered Shares until the completion of procedures in this article except in accordance with the procedures in this article;
- (c) the Recipient may accept the offer by serving notice in writing to that effect on the company and the Offeror, but if it does not so accept within 90 days of the date on which it was deemed received by the company ("the Offer Period") then the offer will lapse at the expiry of the Offer Period;
- (d) during the Offer Period, the Transfer Notice shall be revocable only with the consent in writing of the Recipient.

(G) If the offer is duly accepted by the Recipient during the Offer Period, the parties shall be obliged to complete the sale and purchase of the relevant shares within seven days after the expiry of the Offer Period, at such reasonable time and place as shall be specified by written notice from the company to the Offeror and the Recipient served on them not less than 48 hours before completion or, in the absence of such a notice, at the registered office of the Company PROVIDED THAT neither party shall be obliged to complete unless the sale and purchase of all the Offered Shares to be sold in accordance with this provision is completed simultaneously (although completion of the sale and purchase of some shares will not affect the rights of either party with respect to the other shares).

(H) Upon completion of the sale from the Offeror to the Recipient in accordance with paragraph (G):

- (i) the Offeror shall deliver to the Recipient a duly executed transfer in favour of the Recipient, or such other person as it may nominate by written notice received by the Offeror not less than 24 hours before completion, together with the relevant share certificates and, if requested by the Recipient, a power of attorney in a form and in favour of a person nominated by the Recipient not less than (24) hours before completion, so as to enable the Recipient to exercise all rights of ownership in relation to the shares including, without limitation, the voting rights.
- (ii) against delivery in accordance with sub-paragraph (i), the Recipient shall pay the Sale Price as determined under Paragraph (L), to the Offeror by bankers' draft for value on the date of completion or in such other manner as may be agreed by the parties before completion;
- (iii) the parties shall procure (so far as they are able) that the transfer of shares is registered;
- (iv) the Offeror shall do all such acts and/or execute all such documents in a form satisfactory to the Recipient as the Recipient may reasonably require to give effect to the Transfer of shares pursuant to this article;
- (v) the Offeror shall forthwith procure the repayment of all loans, loan capital, borrowings or other indebtedness in the nature of borrowings owed to the company or any of its subsidiaries by the Offeror or any member of its Group (whether or not then payable) Provided Always that
 - (a) if the Recipient (in its absolute discretion) so elects and if the Offeror has not put in place arrangements for the repayment of all such amounts on completion, the Recipient may withhold all or part (as appropriate) of the purchase price of the shares and pay it to the company (or the relevant subsidiary) on behalf of the Offeror (or other member of its Group). Any such payment shall (to the extent thereof) extinguish the Offeror's obligation to procure repayment and the Recipient's obligation to pay for the shares.
 - (b) the Recipient's completion of any share purchase under this paragraph in circumstances in which the Offeror does not comply with its obligations under this paragraph shall not constitute a waiver of such obligations which shall remain in full force and effect until satisfied.
 - (c) unless otherwise notified by the Recipient by notice received not less than 24 hours before completion, the Offeror shall procure the removal, with effect from completion, of all directors appointed or designated by holders of the Offeror's class of shares, failing which all such directors shall be deemed to have automatically

- (b) if the company is then carrying on business as a going concern, it will continue to do so;
 - (c) the Offered Shares are capable of being Transferred without restriction; and
 - (d) the value of each class of the Offered Shares is a rateable proportion of the total value of all the issued share capital of the company of that class and is not discounted or enhanced by reference to the number of Ordinary Shares;
- (ii) if any difficulty arises in applying any of these assumptions, then it shall be resolved by the expert in such manner as he, in his absolute discretion, thinks fit;
 - (iii) the company shall use all reasonable endeavours to procure that the expert determines the price under this paragraph within 28 days after the date he is requested to do so;
 - (iv) the expert shall act as an expert and not as an arbitrator;
 - (v) the expert shall act at the cost and expense of the Offeror;
 - (vi) the expert's certification shall be final and binding on all persons in the absence of fraud;
 - (vii) as soon as possible following its receipt of the expert's certification and in any event within seven days, the company shall notify the Sale Price to the Offeror and the Recipient.

9. SHAREHOLDERS

Shares in the company may not be held by individuals.

10. QUORUM AT GENERAL MEETINGS

No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on. The quorum at any general meeting or adjourned general meeting shall be two persons, of whom one shall be the A Shareholder present in person or by proxy and one shall be the B Shareholder present in person or by proxy. If within five minutes (or such longer time as the persons present may all agree to wait) from the time appointed for any general meeting a quorum is not present, the meeting shall be dissolved.

11. VOTES

At a general meeting, on a show of hands every holder of Ordinary Shares present in person shall have one vote, and on a poll every member present in person or by proxy shall have one vote for each share of which he is the holder EXCEPT THAT no shares of either class shall confer any right to vote upon a resolution for the removal from office of a director appointed or designated by the holder of shares of the other class.

resigned by operation of these Articles and the Offeror shall indemnify the Company and the Recipient from any claims from directors so removed or so deemed to have resigned in relation to their removal or deemed resignation.

- (I) If any sum payable under this article is not paid (otherwise than as a result of default by the party entitled to payment) the unpaid sum will carry interest calculated on a daily basis which may, without limiting the rights of the party entitled to payment, be claimed as a debt or liquidated demand, for the period from and including the due date up to the date of actual payment (after as well as before judgement) at a rate of 3 per cent, over the base rate from time to time of Barclays Bank Plc.
- (J) If an Offeror fails or refuses to Transfer any shares to the Recipient as required under this article:
 - (i) the company shall by written notice authorise some person to execute and deliver on the Offeror's behalf the necessary instrument of transfer and to do any other acts and/or execute any other documents on the Offeror's behalf required in connection with the Transfer of shares under this article;
 - (ii) the company may receive the purchase money in trust for the Offeror and receipt of the company for the purchase money shall be a good discharge for the Recipient, who shall not be bound to see to the application of the purchase money;
 - (iii) the company shall, subject to the instrument of transfer being duly stamped, cause the transferee to be registered as holder of the Offered Shares; and
 - (iv) once registration has taken place in purported exercise of the power contained in this paragraph, the validity of the proceedings shall not be questioned by any person.
- (K) The "Sale Price" shall be the price certified as the Sale Price by an independent expert as set out in paragraph (L)
- (L) To establish a Sale Price:
 - (i) the directors shall immediately, and in any event within seven days after the deemed receipt by the company of the Transfer Notice, request an independent expert to determine and certify the price considered to be the fair value of all the relevant shares as at the date of the certification on the basis of the following assumptions (and on the basis that if the directors do not reach agreement on the identity of such expert within such seven day period, such expert shall be such person as is appointed, on the application of any director of the company, by the President for the time being of the Institute of Chartered Accountants in England and Wales):
 - (a) the sale is at arm's length between a willing seller and a willing purchaser;

12. FORM OF PROXY

An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointor and in any common form or in such other form as the directors may approve and shall be deemed to include authority to vote on any amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy shall, unless the contrary is stated in it, be valid for any adjournment of the meeting as well as for the meeting to which it relates.

13. DELIVERY OF PROXIES

The instrument appointing a proxy and (if required by the directors) any authority under which it is executed or a copy of the authority, certified notarially or in any other manner approved by the directors, may be delivered to the office (or to some other place or to some person specified or agreed by the directors) before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to act or, in case of a poll taken subsequently to the date of the meeting or adjourned meeting, before the time appointed for the taking of the poll, and an instrument of proxy which is not so delivered shall be invalid. The directors may at their discretion treat a faxed or other machine made copy of an instrument appointing a proxy as such an instrument for the purpose of this article.

14. THE NUMBER AND AGE OF DIRECTORS

The number of directors shall not be less than two. No director shall be required to retire or vacate his office, and no person shall be ineligible for appointment as a director, by reason of his having attained any particular age. No shareholding qualification for directors shall be required.

15. NOMINATIONS, APPOINTMENT AND REMOVAL OF A AND B DIRECTORS

- (A) Subject to paragraph (H), no more than four directors shall at any time hold office as "A Directors", being directors appointed or designated by the A Shareholder and no more than four directors shall at any time hold office as "B Directors", being directors appointed or designated by the B Shareholder. The chairman of the company shall be such person as is from time to time appointed by the board of directors except that if the chief executive officer of the company from time to time has at any time in the past been an employee of either Shareholder or of any other member of its Group, the chairman shall instead be such director as is from time to time nominated by the other Shareholder.
- (B) Subject to paragraphs (A) and (H), the A Shareholder for the time being shall be entitled, from time to time, to appoint persons to be A Directors of the company or to designate as A Directors existing directors of the company who are neither A Directors nor B Directors.
- (C) Subject to paragraphs (A) and (H), the B Shareholder for the time being shall be entitled, from time to time, to appoint persons to be B Directors of the company or to designate as B Directors existing directors of the company who are neither A Directors nor B Directors.

- (D) Any A Director may at any time be removed from office by the A Shareholder and any B Director may at any time be removed from office by the B Shareholder.
- (E) Any appointment or removal or designation of a director pursuant to this article shall be in writing and signed by or on behalf of the A Shareholder or the B Shareholder (as the case may be) and served on the company. In the case of a corporation, the appointment or removal or designation may be signed on its behalf by a director or secretary of the corporation or by its duly appointed attorney or duly authorised representative.
- (F) The right to appoint and to designate and to remove A Directors or B Directors under this article shall be a class right attaching to the A Shares and the B Shares respectively.
- (G) No A Director or B Director shall be appointed or designated or removed otherwise than pursuant to this article, save as provided by law.
- (H) At the expiration of two years from the date of adoption of these Articles, the maximum number of Directors which may be appointed by either the A Shareholder or the B Shareholder shall be reduced to three. In addition, the chief executive officer (from time to time) of the company shall also thereafter be a director of the company, but after such period shall not be entitled to vote at any meeting of the Directors.

16. ALTERNATE DIRECTORS

Any director (other than an alternate director) may appoint any other director, or any other person who is willing to act, to be an alternate director and may remove from office an alternate director so appointed by him.

17. NOTICE OF DIRECTORS' MEETINGS

A director may, and the secretary, at the request of a director shall, call a meeting of directors. Notice of a meeting of the directors shall be deemed to be properly given to a director if it is given to him personally or by word of mouth or sent in writing to him at his last known address or any other address given by him to the company for this purpose, or by any other means authorised in writing by the director concerned. A director may waive notice of a meeting either prospectively or retrospectively.

18. PARTICIPATION IN MEETINGS OF DIRECTORS BY TELEPHONE

All or any of the directors or any member of a committee of directors may participate in a meeting of directors or the relevant committee, as the case may be, by means of a conference telephone or any communication equipment which allows all persons participating in the meeting to hear each other. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the chairman of the meeting then is.

19. PROCEEDINGS OF DIRECTORS

Subject as provided in these articles, the directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. No business shall be transacted at any meeting of the directors unless a quorum is present at the commencement of the meeting and also when that business is voted on. The quorum shall be two directors, of whom at least one of which shall be A Director or alternate directors appointed by A Directors and at least one B Director or alternate directors appointed by B Directors.

20. COMMITTEES OF DIRECTORS

A committee of directors must include at least one A Director and at least one B Director, and its quorum shall be the same as for a meeting of the directors.

21. DIRECTORS' INTERESTS

A director who to his knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company shall declare the nature of his interest at a meeting of the directors in accordance with the Act. Subject, where applicable, to such disclosure, a director shall be entitled to vote in respect of any contract or proposed contract in which he is interested and if he shall do so his vote shall be counted and he shall be taken into account in ascertaining whether a quorum is present.

22. DIRECTORS RIGHT TO REPRESENT SHAREHOLDERS

Each of the Directors shall be entitled to have regard to the wishes of the Shareholder who appointed him or her in deciding what action to take at any point, it being acknowledged that it is in the best interests of the Company for the view of its Shareholders to be represented in this manner.

23. NOTICES

Any notice or other document may be served on or delivered to any member by the company either personally, or by sending it by post addressed to the member at his registered address or by fax or telex to a number provided by the member for this purpose, or by leaving it at his registered address addressed to the member, or by any other means authorised in writing by the member concerned. In the case of joint holders of a share, service or delivery of any notice or other document on or to one of the joint holders shall for all purposes be deemed a sufficient service on or delivery to all the joint holders.

24. TIME OF SERVICE

Any notice or other document, if sent by post, shall be deemed to have been served or delivered 7 days after posting and, in proving such service or delivery, it shall be sufficient to prove that the notice or document was properly addressed, stamped and put in the post. Any notice or other document left at a registered address otherwise than by post, or sent by fax or telex or other instantaneous means of transmission, shall be deemed to have been served or delivered when it was so left or sent.