

**WRITTEN RESOLUTION
OF**

CRH LIMITED

(Company number: (3252624))

Passed 13th . February 1997

We, the undersigned, being the members for the time being of the above named Company entitled to attend and vote at general meetings thereof **HEREBY PASS** the following resolutions as ordinary and special resolutions of the Company as specified below pursuant to section 381A Companies Act 1985 and confirm that such resolutions shall be as valid and effectual as if they had been passed at an extra-ordinary general meeting of the Company duly convened and held.

ORDINARY RESOLUTION

1. That the 40 issued ordinary shares of £1 each in the capital of the Company be and are reclassified as B Ordinary Shares of £1 each (the "B Ordinary Shares") and the 60 unissued ordinary shares of £1 each in the capital of the Company be and are reclassified as A Ordinary Shares of £1 each (the "A Ordinary Shares") having the rights and restrictions set out in the new articles of association proposed to be adopted by the resolution numbered 5 below.
2. That the authorised share capital of the Company be increased from £100 to £907,300 by the creation of 1,120,000 cumulative redeemable preference shares of 81p each (the "Preference Shares") each having the rights and restrictions set out in the new articles of association proposed to be adopted by the resolution numbered 5 below
3. The Directors shall have unconditional authority to allot, grant options over, offer or otherwise deal with or dispose of any relevant securities (as defined in section 80(2) of the Companies Act 1985) of the Company to such persons at such times and

generally on such terms and conditions as the Directors may determine. The authority hereby conferred shall be for a period expiring fourteen days from the date hereof unless previously renewed, varied or revoked by the Company in General Meeting and the maximum of such relevant securities as aforesaid which may be allotted pursuant to such authority shall be the authorised but as yet unissued share capital of the Company at the date and time of passing of this Resolution and as increased by the preceding Resolution.

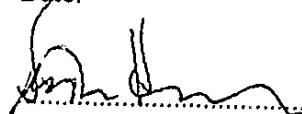
- 4 The Directors shall be entitled under the authority hereby conferred or under any renewal thereof to make at any time prior to the expiry of such authority any offer or agreement which would or might require relevant securities as aforesaid to be allotted after the expiry of such authority.

SPECIAL RESOLUTION

5. That the regulations attached to this resolution and initialled by the Chairman for the purposes of identification be and are hereby adopted as the new Articles of Association of the Company in substitution for and to the exclusion of all other articles of association.


ERIC BURLING

Date:


STEPHEN HELMSLEY

Date:


JOHN WARD

Date:


PHILIP BATCHELOR

Date:


STEPHEN MCKEOWN

Date:

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

CHEADLE ROYAL HOSPITAL LIMITED¹

(adopted by Special Resolution on 13th February, 1997)

Preliminary

1. In these Articles:-

- 1.1 'the Act' means the Companies Act 1985 and every statutory modification or re-enactment thereof for the time being in force;
- 1.2 'Table A' means Table A in the Companies (Tables A - F) Regulations 1985 as amended by the Companies (Tables A - F) (Amendment) Regulations 1985;

1.3 'Appropriate Offer' shall mean:-

- 1.3.1 in the case of the Ordinary Shares an offer in cash, open for acceptance for not less than 28 days, to purchase all of the 'A' Ordinary Shares and 'B' Ordinary Shares at a price per share equal to the price payable per share for those shares in accordance with the proposed sale of which gives rise to the making of such an offer ("Trigger Shares") and otherwise on substantially the same terms and conditions as such offer (which terms and conditions (save as to the value of any consideration for the sale of the shares) may be different as between the 'A' Ordinary Shares and 'B' Ordinary Shares as to the matters contemplated in this definition and Articles 11.3, 11.4, 11.5, 11.6 and 11.7) but provided that nothing in this definition or in Articles 11.3, 11.4, 11.5, 11.6 and 11.7 shall require the holders of the "A" Ordinary Shares or the holders of the Preference Shares to accept an Appropriate Offer containing terms and conditions which may give rise to any liability or obligation or restriction (whether material or not) (otherwise than as to price, title to the shares to be sold, delivery of the share certificate in respect of the shares to be sold, delivery of a duly executed stock transfer form in respect of the shares to be sold and as to capacity of the transferor of the shares) or any other material term or condition and provided that in connection with the sale the holders of 'B' Ordinary Shares shall not be obliged to accept in aggregate any liability or obligation (save for title to the shares to be sold, delivery of the share

¹ Name changed from CRH Limited on 13 February 1997
cag02044.sja (efd/wd)

certificate in respect of the shares to be sold, delivery of a duly executed stock transfer form in respect of the shares to be sold and as to capacity of the transferor of the shares or any other non-material obligation) whether present, future, contingent, potential or otherwise the value of which might exceed the value of the aggregate consideration paid for all such shares to such holders of 'B' Ordinary Shares unless the payment of the full amount of such excess is indemnified in an indemnity given by the holders of the "A" Ordinary Shares (or given by the recipient of the consideration if that is not the holder of the "A" Ordinary Shares) in favour of the holders of the 'B' Ordinary Shares, and provided that;

- (a) other than Dr Stephen McKeown, such holders of 'B' Ordinary Shares shall not be obliged to accept any form of restrictive covenant which may remain in force for a period exceeding 4 years; and
- (b) Dr Stephen McKeown shall not be obliged to accept any form of restrictive covenant which is any more onerous than that accepted by him in the Subscription Agreement (other than as to length of period) or which may remain in force for a period exceeding 4 years; and
- (c) no holder of 'B' Ordinary Shares shall be obliged to make or accept any warranty, representation, covenant or undertaking which any of them is aware at such time is or is reasonably likely to be either untrue, fraudulent or a misrepresentation or may otherwise cause any holder of 'B' Ordinary Shares to be liable to be found to have acted unlawfully or found guilty of a criminal offence (except to the extent that such warranty, representation, covenant or undertaking is qualified by disclosure so that it is not such).

- 1.3.2 in the case of the Preference Shares an offer in cash of not less or more than the redemption price per Preference Share specified in Article 3.4.6;

together with, in each of the foregoing cases, to the extent not already included all dividends in arrears or accrued (and, if applicable interest thereon) on the Ordinary Shares and the Preference Shares; and

- 1.3.3 in the case of the Ordinary Shares the making of an offer of an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Trigger 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 the Trigger Shares and in the

event of disagreement, the calculation of the relevant price shall be referred at the request of any member to an independent chartered accountant (acting as an expert and not as an arbitrator) nominated by the President (for the time being) of the Institute of Chartered Accountants in England and Wales whose decision shall be final and binding who shall certify the relevant price as set out in Article 9.1;

- 1.4 'Listing' means the date upon which any of the equity share capital of the Company is admitted to the Official List of the London Stock Exchange Limited or permission for any of the equity share capital of the Company to be dealt in on the Alternative Investment Market of the London Stock Exchange Limited or any other recognised investment exchange (as defined in Section 207 of the Financial Services Act 1986) becomes effective and for the avoidance of doubt this shall not include any such admission or permission in relation to the equity share capital of any company other than the Company;
- 1.5 'a Member of the same Group' means in relation to a company, all or any associated, subsidiary or holding companies for the time being of that company and any associated or subsidiary company for the time being of any such holding company;
- 1.6 'Privileged Relation' means any spouse, adult child or adult grandchild (from time to time) of the subscribers for the 'B' Ordinary Shares (such subscribers being hereinafter referred to as "Original 'B' Members") or the trustee or trustees of a family trust set up wholly for the benefit of one or more of the Original B Member or any such spouse, adult child or adult grandchild (from time to time).
- 1.7 'Service Agreements' means one or more of the service agreements dated the date of adoption of these Articles between the Company and each of the Original 'B' Members ;
- 1.8. 'Subscription Agreement' means an agreement of the same date as adoption of these Articles between Healthcare Scotland Limited (1) the Company (2) and Dr E Burling and others (3) relating to the subscription by Healthcare Scotland Limited for shares in the Company.
- 2.1 The regulations contained in or incorporated in Table A shall apply to the Company save in so far 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 54, 73-80 (inclusive), 85, 86, 94-98 (inclusive) and 118 of Table A shall not apply to the Company.
- 2.3 Unless the context otherwise requires words and expressions used or defined in the Act shall bear the same meanings in these Articles of Association.

Share Capital

3. The share capital of the Company is Nine hundred and seventousand and three hundred pounds sterling (£907,300) divided into 1,120,000 Cumulative Redeemable Preference Shares of Eighty one Pence each ("the Preference Shares"), 60 'A' Ordinary Shares of One Pound each ("the 'A' Ordinary Shares"), and 40 'B' Ordinary Shares of One Pound each ("the 'B' Ordinary Shares") (the 'A' Ordinary Shares and the 'B' Ordinary Shares together, "the Ordinary Shares").

The rights attaching to the respective classes of shares shall be as follows:-

3.1 Income

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') of 6.15 *per centum per annum* on the subscription price per Preference Share (£1.00) on each Preference Share accruing from 1st July 1998 and payable half yearly on 30th June and 31st December in each year in respect of the half years ending on those dates, the first such payment to be made on 31st December 1998 in respect of the period from 1st July 1998 to that date;

3.1.2 Second, in paying to the holders of the Preference Shares a fixed cumulative preferential net cash dividend (hereinafter in these Articles referred to as 'the Special Preference Dividend') of 7.466 *per centum per annum* on the subscription price per Preference Share (£1.00) on each Preference Share accruing from the date of subscription for the Preference Shares until 1st July 1998 but only payable on 30th June 2000, provided that the Special Preference Dividend on each Preference Share shall not be less than or more than £0.1031 on each Preference Share payable on 30th June 2000;

3.1.3 No dividend shall be declared or paid to the holders of Ordinary Shares in respect of any financial year of the Company :-

3.1.3.1 unless and until the Preference Dividend, has been paid in full in respect of that financial year and in respect of all previous financial years of the Company; and

3.1.3.2 after 30 June 2000, unless and until the Special Preference Dividend has been paid in full;

3.1.3.3 unless and until all Preference Shares which have fallen due for redemption have been redeemed in respect of that financial year and in respect of all previous financial years of the Company;

but subject thereto the profits which the Company may determine to distribute in respect of any financial year shall be applied, in distributing the balance of such profits amongst the holders of the Ordinary Shares (pari passu as if the same constituted one class of share).

3.1.4 Every dividend shall be distributed to the appropriate Shareholders pro rata according to the amounts paid up or credited as paid up on the Shares held by them respectively and shall accrue on a daily basis.

3.1.5 Unless the Company has insufficient profits available for distribution and the Company is thereby prohibited from paying dividends by the Act or unless it would otherwise be unlawful to declare or pay such dividends, the Preference Dividend and the Special Preference 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 or resolution of the directors or resolution of the Company in general meeting) be paid immediately on the due date and if not then paid shall notwithstanding the foregoing, be debts due by the Company.

3.1.6 The Company shall procure that each of its subsidiaries which has profits available for distribution shall from time to time and to the extent that it may lawfully do so declare and pay to the Company such dividends as are necessary to permit lawful and prompt payment by the Company of any redemption moneys due on the Preference Shares and the Preference Dividend and the Special Preference Dividend.

3.1.7 If the Preference Dividend or the Special Preference Dividend are not paid on the dates specified for payment in these Articles then the amount of such unpaid Preference Dividend or Special Preference Dividend will be increased by ten *per centum per annum* net in respect of the period from the due date for payment

until actually paid such increase to accrue daily from the date specified for payment in these Articles irrespective of whether the Preference Dividend or the Special Preference Dividend may be lawfully paid on such dates.

3.2 Capital

On a return of assets on liquidation or capital reduction or capital distribution of any kind or buy back of shares 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 the subscription price per share (£1.00) together with a sum equal to any arrears or accruals of the Preference Dividend or the Special Preference Dividend calculated down to the date of the return of capital;

3.2.2 Secondly, in paying to the holders of the Ordinary Shares £1 per share together with a sum equal to any arrears or accruals of any other dividend declared, but not paid on the Ordinary Shares;

3.2.3 Finally, the balance of such assets shall be distributed amongst the holders of the Ordinary Shares (pari passu as if the same constituted one class of share) in proportion to the nominal amounts paid up or credited as paid up on the Ordinary Shares held by them respectively.

3.3 Voting

3.3.1 On a show of hands every member who is a holder of 'A' Ordinary Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a representative or by proxy 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 have one vote for every 'A' Ordinary Share of which he is the holder.

3.3.2 The holders of the Preference Shares shall be entitled to receive notice of and to attend all general meetings but shall not be entitled to vote thereat unless at the date of the notice convening the meeting:-

3.3.2.1 any Preference Dividend which is due to be paid pursuant to Article 3.1 or the Special Preference Dividend which is due to be paid pursuant to Article 3.2 is more than 90 days in arrears; or

3.3.2.2 the Preference Shares which have fallen due for redemption pursuant to Article 3.4.1 have not been redeemed within 90 days of the date specified in

that Article save in respect of the redemption of those Preference Shares due on 30 June 2004 where consent of the Company's bankers is required at such time to such redemption and such consent has been requested but declined in circumstances where the Company could otherwise effect lawfully such redemption; or

- 3.3.2.3 the resolution is one which varies, modifies, alters or abrogates any of the rights, privileges, limitations or restrictions attaching to the Preference Shares;

in which case on a show of hands every member who is a holder of Preference Shares who (being an individual) is present in person or (being a corporation) is present by a representative 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 have one vote for every Preference Share of which he is the holder.

- 3.3.3 The holders of the 'B' Ordinary Shares shall be entitled to receive notice of and to attend and speak at all general meetings but shall not be entitled to vote thereat unless at the date of the notice convening the meeting any holder of the 'B' Ordinary Shares is an Original 'B' Member who is a party to one of the Service Agreements with the Company and the resolution is one which the effect of which if passed would be to terminate the holder of the 'B' Ordinary Shares' directorship or employment with the Company otherwise than under or in respect of Clause 2.1 (Termination/Notice) provided that the notice to terminate expires on or after the initial eighteen month term of the Service Agreements, Clause 13 ('Grounds for Termination') or Clause 14 ('Absence/Sickness/Medical Examination) of the relevant Service Agreement between the Company and him or to amend this Article 3.3.3 or otherwise to amend these Articles the effect of which would be to abrogate or vary the rights of any holder of 'B' Ordinary Shares pursuant to this Article 3.3.3, in which case on a show of hands that member who is a holder of 'B' Ordinary Shares who is present in person shall have one vote and shall have the right to demand a poll, and on a poll that member who is a holder of 'B' Ordinary Shares who is present in person or by proxy shall have one vote in excess of 75% of the votes exercisable at the general meeting at which such resolution is proposed in respect of such proposed resolution and in respect of any written resolution having the same effect; provided that this Article 3.3.3 shall not confer any such rights to vote at any time after the period of eighteen months following the date of adoption of these Articles.

3.4 Redemption

- 3.4.1 Subject to the provisions of the Act the Preference Shares shall be redeemed at £1.00 per share in the numbers (*pro rata* between or among the holders thereof according to the amount of their respective holdings) and on the dates set out below:

<u>Redemption Date</u>	<u>Number of Preference Shares Redeemable</u>
31st December 2000	273,333
31st December 2001	273,333
31st December 2002	273,334
30th June 2004	300,000

and any shares not redeemed on the due date shall be redeemed forthwith upon redemption being permissible under the Act.

- 3.4.2 Subject as aforesaid the Company may (to the extent that it is then lawful for the Company and the directors to do so) redeem (*pro rata* as aforesaid) all or (in instalments of not less than 100,000 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 shares falling due for redemption in inverse order of maturity.

- 3.4.3 Subject as aforesaid all of the Preference Shares shall (unless the holders of the Preference Shares give notice in writing to the Company to the contrary) be redeemed immediately upon any of the following dates:

- (1) the date upon which any of the equity share capital of the Company is admitted to the Official List of the London Stock Exchange Limited or permission for any of the equity share capital of the Company to be dealt in on the Alternative Investment Market of the London Stock Exchange Limited or any other recognised investment exchange (as defined in Section 207 of the Financial Services Act 1986) becomes effective; or
- (2) the date upon which a successful offer to purchase 90% or more of the issued equity share capital of the Company (or 90% or more of all such capital including any already held by the offeror) is completed.

3.4.4 Subject as aforesaid and unless the holders of the Preference Shares give notice in writing to the Company to the contrary, on the disposal by the Company (or any of its subsidiaries) of any of its subsidiaries, businesses or parts of business or heritable properties, in each case for a cash sum in excess of £250,000 the Company shall on the date of such disposal and subject to sufficient distributable profits arising from such disposal apply 80% of such cash sum (net of express of disposal) in redemption of Preference Shares pursuant to Article 3.4.2 notwithstanding that such Preference Shares are not due for redemption pursuant to Article 3.4.1.

3.4.5 On the dates fixed for any redemption the Company shall pay to each registered holder of Preference Shares the amount payable pursuant to Article 3.4.6 in respect of such redemption subject to each such holder surrendering 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.

3.4.6 The Company shall pay on each of the Preference Shares so redeemed the sum of £1.00 together with any arrears and accruals of the Preference Dividend and the Special Preference Dividend (and, if applicable, interest thereon) relating to any Preference Shares to be redeemed calculated to the date of redemption and in the absence of any direction to the contrary by the holder of the relevant Preference Share to be redeemed any moneys paid on redemption of such share shall relate first to the said arrears and accruals of Preference Dividend relating to the Preference Shares and the Special Preference Dividend to be redeemed. The Preference Dividend and the Special Preference Dividend relating to any Preference Shares to be redeemed shall cease to accrue from the date of payment of the redemption moneys.

3.5 Distribution of Profits and Income and Capital and Redemption of Preference Shares

Subject only to Articles 3.1, 3.2 and 3.4, the distribution of profits or income or the distribution of capital and the redemption of the Preference Shares shall be a matter to be determined by the holders of the 'A' Ordinary Shares and the Investor Directors, and for the avoidance of doubt this shall be a matter contemplated in this Article 3.

Class Rights

4.1 Subject to Articles 4.2 and 4.3, 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% of the issued shares of that class.

- 4.2 Without prejudice to the generality of Article 4.1, the special rights attached to the Preference Shares shall be deemed to be varied or abrogated and accordingly require consent:-
- 4.2.1 by the grant of any option or other right to subscribe for shares or by any alteration or increase or reduction or sub-division or consolidation of the authorised or issued share capital of the Company or any of its subsidiaries, or by 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; or
 - 4.2.2 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
 - 4.2.3 by the acquisition of any interest in any share in the capital or any loan capital of any company by the Company and or any of its subsidiaries; or
 - 4.2.4 by the application by way of capitalisation of any sum in or towards paying up any debt or debenture or debenture stock of the Company; or
 - 4.2.5 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
 - 4.2.6 by the winding up of the Company; or
 - 4.2.7 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
 - 4.2.8 by any alteration of the Company's Memorandum or Articles of Association; or
 - 4.2.9 by any alteration of the Company's accounting reference date; or
 - 4.2.10 by the entering into of a written service agreement with any director of the Company or connected person (as defined by Section 839 of the Income and Corporation Taxes Act 1988) or the material variation of any such existing service agreement with any such person; or
 - 4.2.11 make any distribution other than pursuant to Article 3.
- 4.3 Notwithstanding the generality of Article 4.1, the only special rights or other rights whatsoever that shall be deemed to be attached to the 'B' Ordinary Shares shall be those referred to in the various Articles specified in this Article

4.3 and shall only be deemed to be varied or abrogated and accordingly require consent of the holders of the 'B' Ordinary Shares pursuant to Article 4.1 in the event of any of the following:

- 4.3.1 by the grant of any option or other right to subscribe for shares or by any alteration or increase or reduction or sub-division or consolidation of the authorised or issued share capital of the Company;
- 4.3.2 by the alteration of any or all of Articles 3, 4, 8, 9, 10, 11 and 13.2 or any other amendment to, addition to or other variation whatsoever of the Articles which would have the effect of a fundamental variation, modification, alteration or abrogation of the rights attaching to the 'B' Ordinary Shares which rights are set out in any or all of Articles 3, 4, 8, 9, 10, 11 and 13.2;
- 4.3.3 by the direct or indirect disposal of the undertaking or any of the assets of the Company or any direct or indirect interest therein (or the entering into of any agreement to do any of the foregoing) or of any of its subsidiaries or any part thereof where the said disposal is not on arms length terms including where any member who is a holder of 'A' Ordinary Shares or any member of the same Group as a member who is the holder of 'A' Ordinary Shares or any person connected to a member who is a holder of 'A' Ordinary Shares or a member of the same Group as a member who is a holder of 'A' Ordinary Shares is receiving any additional benefit, whether in kind, in cash or in any other way whatsoever, in connection with the said disposal; or is to a person who is a member who is a holder of 'A' Ordinary Shares or a member of the same Group as a member who is a holder of 'A' Ordinary Shares, or connected to either a member who is a holder of 'A' Ordinary Shares or a member of the same Group as a member who is a holder of 'A' Ordinary Shares or
- 4.3.4 by the transfer of any of the 'A' Ordinary Shares or the Preference Shares other than pursuant to Article 11;
- 4.3.5 Any Listing;
- 4.3.6 make any distribution of profits, income or capital save in accordance with or as contemplated in Article 3 (including Article 3.5);

provided that (save only to enforce the requirement to obtain consent pursuant to Article 4.1 as limited by the preceding provisions of this Article 4.3) these rights shall be in substitution for and not in addition to any other rights, whether general rights, class rights or otherwise, and whether under statute (including the Companies Act 1985), common law or otherwise, and to the fullest extent permissible by law, any such other rights, whether general rights, class rights or otherwise and whether under statute (including the Companies Act 1985), common law or otherwise are excluded and limited.

Further Issue of Shares

- 5.1 The provisions of Section 89 (1) and Section 90 (2) to 90 (6) of the Act shall not apply to the Company and unless in any particular case all the holders for the time being of the equity securities (as defined in Section 94 of the Act) in the capital of the Company otherwise agree, all equity securities (whether forming part of the original share capital of the Company or hereafter created) which it is determined to issue shall be offered in the first instance to all the holders of equity securities in the Company in proportion to the number of equity securities in the Company held by them respectively. The person to whom the offer is made may elect to accept such offer in respect of a lesser number of shares than his entitlement and to decline in respect of the balance. Such offer shall be made by notice specifying the number of shares to which each holder is entitled and prescribing a time (not being less than 21 days) after which the offer, if not previously accepted, shall be deemed to be declined. After the expiration of that time or on receipt of an intimation from the person to whom the offer is made that he declines to accept any or all of the shares offered those shares so deemed to be declined shall be offered in the proportion aforesaid to the persons who have within the prescribed time accepted all the shares offered to them. Such further offer shall be made in the same manner and limited by a like prescribed time as the original offer. Any shares not accepted pursuant to such offer or further offer as aforesaid shall be under the control of the directors who may dispose of such remaining shares in such manner as they think most beneficial to the Company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the shares which it is determined to issue bear to the shares held by a person entitled to receive notice as aforesaid) cannot in the opinion of the directors be conveniently offered under this Article. For the purposes of this Article the executors or administrators of a deceased member who was a sole holder shall be treated as the holders of the shares registered in the name of the deceased member.

Lien

6. 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

7. 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'.

Transfer of Shares

8. The directors shall refuse to register any transfer of shares made in contravention of the provisions of these Articles but (subject to regulation 24 of Table A and Article 9.5) shall not otherwise be entitled to refuse to register any transfer of shares. For the purpose of ensuring that a particular transfer of shares is permitted under the provisions of these Articles, the directors may request the transferor or the person named as transferee in any transfer lodged for registration to furnish the Company with such information and evidence as the directors may reasonably think necessary or relevant. Failing such information or evidence being furnished to the satisfaction of the directors within a period of twenty eight days after such request the directors shall be entitled to refuse to register the transfer in question. In any event no transfer shall be registered unless and until the transferee executes a deed of adherence in substantially the form set out in Part 7 of the Schedule to the Subscription Agreement ("Deed of Adherence") (other than a transfer contemplated in Articles 11.3, 11.4, 11.5 and 11.6).
- 9.1 Save as otherwise provided in these Articles every member who desires to transfer any shares (hereinafter called 'the Vendor') shall give to the Company notice in writing of such desire (hereinafter called a 'Transfer Notice'). Subject as hereinafter mentioned a Transfer Notice shall constitute the Company the Vendor's agent for the sale of the shares specified therein (hereinafter called 'the Sale Shares') in one or more lots at the discretion of the directors to all the holders of Ordinary Shares in the Company (such shares being hereinafter in this Article referred to as 'Equity Shares') other than the Vendor at the Sale Price. The Sale Price shall be the price agreed by the Vendor and the directors or if the Vendor and the directors are unable to agree a price within twenty eight days of the Transfer Notice being given the price which a chartered accountant (acting as an expert and not as an arbitrator) nominated by agreement between the Vendor and the Company or in default of such agreement by the President for the time being of the Institute of Chartered Accountants in England and Wales at the request of the Vendor or the Company shall by writing under his hand certify to be in his opinion a fair value thereof on a going concern basis as between a willing seller and a willing buyer ignoring any enhancement or reduction in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a majority or minority interest and on the assumption that the Sale Shares are capable of transfer without restriction and that the 'A' Ordinary Shares together comprise 60% and the 'B' Ordinary Shares together comprise 40% of the total value of the whole of the issued share capital of the Company (excluding the aggregate value of the Preference Shares, which shall be valued at a fixed sale value of the redemption price per share specified in Article 3.4.7). The Transfer Notice may contain a provision that unless all the shares comprised therein are sold by the Company pursuant to this Article none shall be sold (a 'Total Transfer Condition') and any such provision shall be binding on the Company.
- 9.2 If a chartered accountant is asked to certify the fair value as aforesaid his certificate shall be delivered to the Company and as soon as the Company receives the certificate it shall furnish a certified copy thereof to the Vendor and

the Vendor shall be entitled by notice in writing given to the Company within ten days of the service upon him of the certified copy to cancel the Company's authority to sell the Sale Shares. The cost of obtaining the certificate shall be borne by the Company unless the Vendor shall give notice of cancellation as aforesaid in which case the Vendor shall bear the cost.

- 9.3 Upon the price being fixed as aforesaid and provided the Vendor shall not give a valid notice of cancellation the Company shall forthwith offer the Sale Shares to all holders of Equity Shares (other than the Vendor) pro rata as nearly as may be in proportion to the existing numbers of Equity Shares held by such members giving details of the number and the Sale Price of such Sale Shares. The Company shall invite each such member as aforesaid to state in writing within twenty one days from the date of the notice whether he is willing to purchase any of the Sale Shares so offered to him and if so the maximum thereof which he is willing to purchase. If at the expiration of the said period of twenty one days there are any Sale Shares offered which any of the members hereinbefore mentioned have not so stated their willingness to purchase the Company shall offer such shares to such members as have stated in writing their willingness to purchase all the shares previously offered to them. Such remaining shares shall be offered pro rata as nearly as may be in proportion to existing numbers of Equity Shares then held by such members which offer shall remain open for a further period of twenty one days. Offers shall continue to be made on the same terms while any member continues to state in writing his willingness to purchase all the shares offered to him.
- 9.4 If the Company shall pursuant to the above provisions of this Article find a member or members of the Company willing to purchase all or if there is no Total Transfer Condition any of the Sale Shares the Vendor shall be bound upon receipt of the Sale Price to transfer the Sale Shares (or such of the same for which the Company shall have found a purchaser or purchasers if there is no Total Transfer Condition) to such persons. If the Vendor shall make default in so doing the Company shall if so required by the person or persons willing to purchase such Sale Shares receive and give a good discharge for the purchase money on behalf of the Vendor and shall authorise some person to execute transfers of the Sale Shares in favour of the purchasers and shall subject to such transfers being duly stamped enter the names of the purchasers in the Register of Members as the holder of such of the Sale Shares as shall have been transferred to them as aforesaid.
- 9.5 If the directors shall not have found a member or members of the Company willing to purchase all of the Sale Shares pursuant to the foregoing provisions of this Article the Vendor shall, for the avoidance of doubt, not then be at liberty to sell and transfer such of the Sale Shares as have not been so sold to any person.
- 10 Whenever any member of the Company who is a director or employee of the Company or a Member of the same Group (hereinafter called "the Employee Member") ceases to hold office as a director or to be employed by the Company or a Member of the same Group, the directors may at any time not later than six months after his ceasing to hold such office or to be so employed resolve that the Employee Member give a Transfer Notice in respect of all the

shares then registered in his name, and thereupon the Employee Member shall (notwithstanding that he may have already served a Transfer Notice, which shall be deemed to be superseded) be deemed to have served a Transfer Notice and to have specified therein the fair value to be certified in accordance with Article 9.1 as the Sale Price, unless the Employee Member so ceases to hold office or so ceases to be employed in any of the circumstances identified in Clause 13.1 of the Service Agreements (other than Clauses 13.1.1, 13.1.2 and 13.1.5 (but in respect of Clause 13.1.5 if it is due only to a circumstance specified in Clause 13.1.1 and/or 13.1.2) in which circumstance the Employee Member shall be deemed to have specified therein the lower of the nominal value of the Sale Shares and the fair value to be so certified. Notice of the passing of any such resolution shall forthwith be given to the Employee Member. The Employee Member shall not be entitled to cancel the Company's authority to sell the Sale Shares in the event of such a resolution being passed.

- 11.1 Notwithstanding any other provision of these Articles a transfer of any shares in the Company held by any member at or within one week from the date of adoption of these Articles being a company ("Original 'A' Member") or a Member of the same Group as the Original 'A' Member may be made between that member and any other Member of the same Group as the Original 'A' Member without restriction as to price or otherwise and any such transfer shall be registered by the directors, subject to the transferee executing and delivering a Deed of Adherence which shall oblige the transferee to transfer the share to the Original 'A' Member or any company which is a Member of the same Group as the Original 'A' Member should the transferee cease at any time to be a Member of the same Group as the Original 'A' Member.
- 11.2 An Original B Member may transfer any 'B' Ordinary Shares to any Privileged Relation provided that if, at any time before or after such transfer, such Original B Member would, but for such transfer, have become obliged to transfer such shares pursuant to Article 10, Article 10 shall apply as if such Privileged Relation were such Original B Member and provided that such transferee executes and delivers a Deed of Adherence which shall oblige the transferee to transfer the shares to the relevant Original 'B' Member or any other person then a Privileged Relation of such Original 'B' Member should the transferee cease to be a Privileged Relation of the relevant Original 'B' Member.
- 11.3 If at any time a proposed transfer of shares made other than in accordance with Articles 11.1 and 11.2 would if completed enable any person or persons who were not members of the Company at or within one week from the date of adoption of these Articles to obtain control of 50% or more of the 'A' Ordinary Shares or otherwise obtain control of the Company the proposed transferor shall procure that an Appropriate Offer shall be made to all of the other members of the Company.
- 11.4 If at any time an Appropriate Offer is made which is accepted by the holders of a majority (in nominal value) of the 'A' Ordinary Shares, then (provided that the price payable for the shares and the terms of the sale are on an arms length basis and the sale is not to a member who is a holder of 'A' Ordinary Shares or a Member of the same Group as a member who is a holder of 'A' Ordinary Shares,

or to a person connected to either a member who is a holder of 'A' Ordinary Shares or a Member of the same Group as a member who is a holder of 'A' Ordinary Shares and by which any member who is a holder of 'A' Ordinary Shares or a Member of the same Group as a member who is a holder of 'A' Ordinary Shares or a person connected with a member who is a holder of 'A' Ordinary Shares or a Member of the same Group as a member who is a holder of 'A' Ordinary Shares is receiving any additional benefit whether in kind, for cash or in any other way whatsoever in connection with the sale and provided that in connection with the sale the holders of 'B' Ordinary Shares shall not be obliged to accept in aggregate any liability or obligation (save for title to the shares to be sold, delivery of the share certificate in respect of the shares to be sold, delivery of a duly executed stock transfer form in respect of the shares to be sold and as to capacity of the transferor of the shares or any other non-material obligation) whether present, future, contingent, potential or otherwise the value of which might exceed the value of the aggregate consideration paid for all such shares to such holders of 'B' Ordinary Shares unless the payment of the full amount of such excess is indemnified in an indemnity given by the holders of the 'A' Ordinary Shares (or given by the recipient of the consideration if that is not the holder of the "A" Ordinary Shares) in favour of the holders of the 'B' Ordinary Shares, and provided that:-

- 11.4.1 other than Dr Stephen McKeown, such holders of 'B' Ordinary Shares shall not be obliged to accept any form of restrictive covenant which may remain in force for a period exceeding 4 years; and
- 11.4.2 Dr Stephen McKeown shall not be obliged to accept any form of restrictive covenant which is any more onerous than that accepted by him in the Subscription Agreement (other than as to length of period) or which may remain in force for a period exceeding 4 years; and
- 11.4.3 no holder of 'B' Ordinary Shares shall be obliged to make or accept any warranty, representation, covenant or undertaking which any of them is aware at such time is or is reasonably likely to be either untrue, fraudulent or a misrepresentation or is incapable of being fulfilled or may otherwise cause any holder of 'B' Ordinary Shares to be liable to be found to have acted unlawfully or found guilty of a criminal offence (except to the extent that such warranty, representation, covenant or undertaking is qualified by disclosure so that it is not such).

the holders of shares in the Company who have not accepted the Appropriate Offer shall be obliged to accept the Appropriate Offer in respect of the shares held by them and to sell all of the shares held by them in accordance with such Appropriate Offer and the transfer provisions set out in Article 9 shall not apply to any transfer required to be made hereunder.

- 11.5 If at any time an Appropriate Offer is made which is accepted by the holders of a majority (in nominal value) of the 'B' Ordinary Shares, then (provided that the price payable for the shares and the terms of the sale are on an arms length

basis and the sale is not to a member who is a holder of 'B' Ordinary Shares or a Privileged Relation of a member who is a holder of 'B' Ordinary Shares, or to a person connected to either a member who is a holder of 'B' Ordinary Shares or a Privileged Relation of a member who is a holder of 'B' Ordinary Shares and by which any member who is a holder of 'B' Ordinary Shares or a Privileged Relation of a member who is a holder of 'B' Ordinary Shares or a person connected with a member who is a holder of 'B' Ordinary Shares or a Privileged Relation of a member who is a holder of 'B' Ordinary Shares is receiving any additional benefit whether in kind, for cash or in any other way whatsoever in connection with the sale and provided that the sale is not to a member who is a holder of 'A' Ordinary Shares or a Member of the same Group as a member who is a holder of 'A' Ordinary Shares, or to a person connected to either a member who is a holder of 'A' Ordinary Shares or a Member of the same Group as a member who is a holder of 'A' Ordinary Shares and by which any member who is a holder of 'A' Ordinary Shares or a Member of the same Group as a member who is a holder of 'A' Ordinary Shares or a person connected with a member who is a holder of 'A' Ordinary Shares or a Member of the same Group as a member who is a holder of 'A' Ordinary Shares is receiving any additional benefit whether in kind, for cash or in any other way whatsoever in connection with the sale, the holders of shares in the Company who have not accepted the Appropriate Offer shall be obliged to accept the Appropriate Offer in respect of the shares held by them and to sell all of the shares held by them in accordance with such Appropriate Offer unless:-

- 11.5.1 the holders of a majority in nominal value of the 'A' Ordinary Shares make an irrevocable offer to the holders of the other shares in terms substantially identical to the Appropriate Offer which the holders of the other shares shall be obliged to accept in respect of the shares held by them and to sell all of the shares held by them in accordance with the offer; or
- 11.5.2 the holders of a majority in nominal value of the 'A' Ordinary Shares at their discretion are not prepared to accept the terms and conditions of the Appropriate Offer on the basis that such terms and conditions may give rise to any liability or obligation or restriction (whether material or not) or any other material term or condition whether present, future, contingent, potential or otherwise (but in any case otherwise than as to price, title to the shares to be sold, delivery of the share certificate in respect of the shares to be sold, delivery of a duly executed stock transfer form in respect of the shares to be sold and as to capacity of the transferor of the shares) in which event the Appropriate Offer shall be null and void,

the transfer provisions set out in Article 9 shall not apply to any transfer required to be made hereunder.

- 11.6 If any person (a "Compulsory Transferor") fails to transfer any shares on the date specified for completion of the transfer in the Appropriate Offer or an offer from the holders of a majority in nominal value of the 'A' Ordinary Shares in

terms of Article 11.5, or if no such date is specified within 28 days of the making of the Appropriate Offer or an offer from the holders of a majority in nominal value of the 'A' Ordinary Shares in terms of Article 11.5, the directors will authorise any person to execute and deliver on his behalf the necessary stock transfer form and the Company shall receive the purchase money in trust for the Compulsory Transferor and cause the purchaser to be registered as the holder of such shares (subject to payment of any stamp duty). The receipt of the Company for the purchase money shall be a good discharge to the purchaser (who shall not be bound to see to the application thereof). The Compulsory Transferor shall in such case be bound to deliver up his certificate for such shares to the Company where upon he shall be entitled to receive the purchase price without interest.

- 11.7 The directors shall register the transfer of all shares which are permitted to be transferred in terms of Articles 11.1, 11.2, 11.3, 11.4, 11.5 and 11.6.

12. Proceedings at General Meetings

The quorum for a meeting of members shall be one or more, of whom one shall be the holder of 'A' Ordinary Shares.

Appointment and Removal of Directors

- 13.1 The holder of the 'A' Ordinary Shares may by notice to the Company appoint as a director of the Company any person ("an Investor Director") and remove and replace as a director any person so appointed.
- 13.2 Each holder of 20% or more in nominal value of the 'B' Ordinary Shares may by notice to the Company appoint as a director of the Company any person ("a 'B' Director") and remove and replace as a director any person so appointed.

Proceedings of Directors

- 14.1.1 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.
- 14.1.2 Each Investor Director shall be entitled to receive seven days notice of every meeting of the directors and each 'B' director shall be entitled to receive seven days notice of every meeting of the directors unless the holder of the 'A' Ordinary Shares by notice to the Company specifies a lesser period of notice not being less than twenty four hours in any event. Detailed minutes of any meeting of the directors held on notice of less than seven days shall be delivered to all directors within forty eight hours of such meeting.
- 14.2.1 The quorum for a meeting of directors shall be two, of whom at least one shall be an Investor Director.

- 14.2.2 Any Director or member of a committee of the Board may participate in a meeting of the Directors or such committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and any Director or member of a committee participating in a meeting in this manner shall be deemed to be present in person at such meeting.
- 14.3.1 Each Investor Director shall be entitled to one vote if there are no other directors (not being Investor Directors) at the meeting who are entitled to vote and shall be entitled to a number of votes which is twice the number of the aggregate number of votes to which the other directors at the meeting who are not Investor Directors are entitled if there are other directors who are entitled to vote (not being Investor Directors) at the meeting.
- 14.3.2 Each 'B' Director or other director of the Company other than an Investor Director shall be entitled to receive notice of and to attend and speak at all meetings of the directors but shall not be entitled to vote thereat;
- 14.4 A resolution in writing signed by all of the Directors shall be as valid and as effectual as if it had been passed at a meeting of directors duly convened and held.
- 15.1 Subject to the provisions of the Act and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:-
- 15.1.1 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;
- 15.1.2 may be a director or other officer of or employed by or a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is in any way interested;
- 15.1.3 may or 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;
- 15.1.4 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
- 15.1.5 shall be entitled to vote (if he shall have a vote) and in any event be counted in the quorum on any matter concerning the foregoing paragraphs of this Article.

15.2 For the purposes of this Article:-

- 15.2.1 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;
- 15.2.2 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
- 15.2.3 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.

Directors' Borrowing Powers

16. The directors may exercise all the powers of the Company (whether express or implied):-

- 16.1 of borrowing or securing the payment of money;
- 16.2 of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts; and
- 16.3 of mortgaging or charging the property, assets and uncalled capital of the Company and (subject to Section 80 of the Companies Act, 1985) of issuing debentures

Indemnity

17.1 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 judgement 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.

17.2 Without prejudice to Article 17.1, the directors of the Company shall have the power to purchase and maintain insurance for or for the benefit of any persons

who are or were at any time directors, officers, employees or auditors of the Company or of any subsidiary of the Company including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or the exercise or purported exercise of their powers and/or otherwise in relation to or in connection with their duties, powers or offices in relation to the Company or any such subsidiary.

- 17.3 Subject to the provisions of the Act, a director shall (in the absence of some other material interest as is indicated below) be entitled to vote in respect of any resolution concerning any proposal concerning any insurance which the Company is empowered to purchase and/or maintain for or for the benefit of any directors of the Company PROVIDED THAT for the purposes of this Article 17.3 insurance shall mean only insurance against the liability incurred by a director in respect of any such act or omission by him as is referred to in Article 17.2 or any other insurance which the Company is empowered to purchase and/or maintain for or for the benefit of any groups of persons consisting of or including directors of the Company.

Consent

18. Any requirement in these Articles for the consent of 'B' Ordinary Shareholders shall be deemed given if the consent of a majority of the holders in nominal value of the 'B' Ordinary Shares is given.