

Company No: 3330864

THE COMPANIES ACT 1985  
COMPANY LIMITED BY SHARES  
WRITTEN RESOLUTION  
of  
THERMOTIC DEVELOPMENTS LIMITED

Passed on 30 November 2000

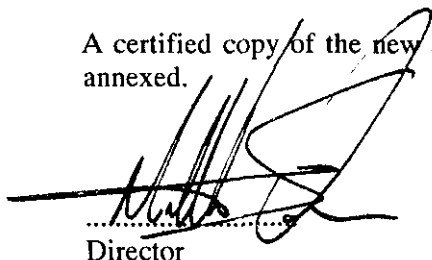
On 30 November 2000 the following resolution was duly passed as a written resolution of all the members of the Company entitled to attend and vote at a general meeting on such date:

**RESOLUTION**

**THAT:**

1. 12,222 authorised but unissued Ordinary Shares of 1 pence each in the capital of the Company be converted into 12,222 authorised but unissued Preference Shares of 1 pence each such shares having the rights and being subject to the restrictions attaching to them under the new articles of association of the Company adopted pursuant to paragraph 2 of this resolution.
2. The regulations contained in the document attached to this resolution be adopted as the articles of association of the Company in substitution for and to the entire exclusion of the existing articles of association.
3. The directors be and they are hereby generally and unconditionally authorised pursuant to section 80 of the Companies Act 1985, in substitution for all previous authorities under that section, to exercise all the powers of the Company to allot up to £150 of the authorised but unissued share capital of the Company during the period commencing on the date of the passing of this resolution and expiring on the fifth anniversary of such date and to be on terms that the Company may make any offer or agreement before the expiry of this authority which would or might require relevant securities to be allotted after this authority has expired and so that the directors may allot relevant securities (as defined in such section) in pursuance of any such offer or agreement and the directors shall have the power to exercise the authority conferred upon them by this resolution to allot such relevant securities to such persons and on such conditions as they may in their discretion determine as if section 89(1) of the Companies Act 1985 and the pre-emption provisions in the Company's articles of association did not apply to such allotment.

A certified copy of the new articles of association and the amended memorandum of association is annexed.

  
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Director

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- (c) The balance of such assets shall be distributed amongst the Preference Shareholders and holders of Ordinary Shares pari passu in proportion to the amounts paid up or credited as paid up thereon.

### 3.3 Redemption

- (a) The Preference Shares shall be redeemed on the tenth anniversary of the Adoption Date or, if earlier at the option of the Preference Shares Majority following the occurrence of any of the following events:-
  - (i) A consolidation or merger of the Company; or
  - (ii) A successful offer to purchase 50% or more of the issued equity share capital of the Company (or 50% or more of all such capital including any already held by the offeror) is completed unconditionally; or
  - (iii) A sale by the Company of all or a substantial part of its assets or share capital is completed; or
  - (iv) The Company fails to make a dividend payment on its due date; or
  - (v) The Company or any other party (other than a Preference Shareholder) fails to materially perform or observe any of its material obligations contained in a Relevant Agreement; or
  - (vi) Any materially false or misleading warranties or other statements are made to a Preference Shareholder in a Relevant Agreement; or
  - (vii) The Company enters into an arrangement with its creditors or is in material default of a statutory demand for payment of any debt in excess of £10,000; or
  - (viii) An Event of Default occurs.
- (b) On the Redemption Date the Company shall pay to each Preference Shareholder the amount payable in respect of the redemption of all of the Preference Shares held by that Preference Shareholder and upon receipt of that amount each such holder shall surrender to the Company the certificate for his shares which are to be redeemed in order that they may be cancelled provided that if any certificate so surrendered includes any shares not redeemable at that time the Company shall issue a fresh certificate for the balance of the shares not redeemable to the holder.
- (c) For the purposes of Article 3.3 (b), the amount payable by the Company on the redemption of each Preference Share shall be the nominal amount of the Preference Shares held by such shareholder plus any premium paid by such holder on its subscription of such shares and shall contemporaneously pay any

arrears or accruals of any dividend payment calculated to the Redemption Date (as defined below) and in the absence of any direction to the contrary by the holder of the relevant Preference Share any moneys paid on redemption of such share shall relate first to the said arrears and accruals of preference dividend. The dividend in respect of the Preference Shares shall cease to accrue from the date of payment of the redemption moneys.

- (d) The option referred to in Article 3.3(a) shall be exercised by notice in writing to the Company given on the date the relevant event occurs or within 14 days afterwards. The redemption of the Preference Shares shall take place on the last day of the period of 7 days following the date of service of such notice (the "**Redemption Date**") provided that such 7 day period shall not apply if the event referred to in Article 3.3(a)(vii) occurs and, in this event, shall take place on the date that the relevant event occurs.
- (e) The receipt of the registered holder (or, in the case of joint holders, the receipt of any of such joint holders) from time to time of any Preference Shares being redeemed for the monies payable on redemption of such shares shall constitute an absolute discharge to the Company in respect of such monies. As from the Redemption Date dividends shall cease to accrue on the Preference Shares and all rights in respect of such shares shall cease.
- (f) In the event that it would be unlawful to pay the redemption monies or any arrears or accruals of dividend of such shares on redemption, such redemption monies or accruals or dividends shall be paid as soon as such payment shall become lawful.

#### 4. **CONVERSION**

4.1 The Preference Shares shall automatically be convertible to Ordinary Shares in the event that:-

- (a) Upon the making of a firm underwritten commitment to admit to trading the equity share capital of the Company to the official list of the Stock Exchange or permission for any of the equity share capital of the Company to be dealt in on any recognised investment exchange (as defined in section 207 of the Financial Services Act 1986) becomes effective and which, in each case, would result in net proceeds to the Company of not less than £15,000,000; or
- (b) A trade sale occurs of at least 50% in value of the assets of the Company which results in the Company realising not less than £15,000,000; or
- (c) At any time at the option of the Preference Shares Majority.

4.2 On conversion, each Preference Share shall be converted into one Ordinary Share provided that if on a date after the Adoption Date the Ordinary Shares have been sub-divided or consolidated, then each Preference Share shall be converted into that

number or fraction (as appropriate) of Ordinary Shares as is equivalent to one Ordinary Share as at the Adoption Date taking into account such sub-divisions or consolidations (such right being conferred on each Preference Share referred to below as the "Conversion Right").

- 4.3 The Conversion Rights shall be exercised by notice in writing to the Company signed by the relevant holder of the Preference Shares and delivered, together with the share certificate(s) in respect of his holding in the Preference Shares, to the registered office of the Company. The conversion shall take effect immediately upon such delivery (unless such notice states that conversion is to be effective when any conditions specified in such notice have been fulfilled in which case conversion shall take effect when such conditions have been fulfilled). As soon as is reasonably practicable following the conversion becoming effective, the Company shall issue to such holder a certificate for the Ordinary Shares resulting from the exercise of the Conversion Right and, if appropriate, a certificate for any Preference Shares retained by such holder.
- 4.4 The Ordinary shares resulting from the exercise of a Conversion Right by the Preference Shareholder shall, as from the date of conversion, rank *pari passu* in all respects with the existing Ordinary Shares.

## **5. CLASS RIGHTS**

- 5.1 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 both the holders of the Ordinary Shares and the Preference Shareholders. Without prejudice to the generality of this article, the special rights attached to the Ordinary Shares and the Preference Shares shall be deemed to be varied by:-
- (a) the grant of any option (other than under any executive share option scheme to be established by the Company) or other right to subscribe for shares and by any alteration or increase or reduction or sub-division or consolidation of the authorised or issued capital of the Company or of any of its subsidiaries, or any variation of the rights attached to any of the shares for the time being in the capital of the Company or of any of its subsidiaries; or
  - (b) The sale or other disposal (and that whether by one or a series of transactions) of the undertaking, business or assets of the Company or any of its subsidiaries or any substantial part thereof; or
  - (c) The application by way of capitalisation of any sum in or towards paying up any share or loan capital of the Company; or

- (d) The calling of a meeting of the Company or any of its subsidiaries for the purpose of considering a resolution for the winding up of the Company or of its subsidiaries or the passing of any such resolution; or
- (e) 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
- (f) Any alteration to the Company's memorandum or articles of association; or
- (g) The calling of a meeting of the Company to effect or approve any matter which would by virtue of this Article be a variation of the class rights of the Ordinary Shares or the Preference Shares.

5.2 To any separate general meeting of the holders of any class of shares, all the provisions of these Articles as to general meetings of the Company shall, *mutatis mutandis*, apply but so that:-

- (a) the necessary quorum shall be any person or persons holding or representing by proxy not less than one-third in nominal amount of the issued shares of the class;
- (b) Every holder of shares of the class shall be entitled on a poll to one vote for every such share held by him;
- (c) Any holder of shares of the class present in person or by proxy may demand a poll; and
- (d) At any adjourned meeting of such holders a holder or holders present in person or by proxy holding in aggregate not less than 10% in nominal amount of the issued shares of the class shall be a quorum and for the purpose of this Article 5.2 (d) one holder present in person or by proxy may constitute a quorum at such meeting.

## 6. ISSUE OF NEW SHARES

6.1 Unless otherwise determined by special resolution of the Company in general meeting or by a written resolution of the members and subject as provided in Article 6.3 and 6.4 below, any unissued Ordinary Shares or Preference Shares in the capital of the Company from time to time shall before they are issued be offered to the members holding that class of shares in proportion to the nominal value of the shares held by them respectively; and such offer shall be at the same price and on the same terms to each member holding that class of shares. Such offer shall be made by notice specifying the number of shares offered, the proportionate entitlement of the relevant member holding that class of shares, the price per share and limiting a period (not being less than 30 days) within which the offer, if not accepted, will be deemed to be declined and after the expiration of such period the directors shall offer the shares of

the relevant class so declined to the persons who have, within the said period, accepted all the shares offered to them in the same manner as the original offer and limited by a period of not less than 14 days. If any shares comprised in such further offer are declined or deemed to be declined such further offer shall be withdrawn in respect of such shares. At the expiration of the time limited by the notice(s) the directors shall allot the shares so offered to or amongst the members who have notified their willingness to take all or any of such shares in accordance with the terms of the offer. No member shall be obliged to take more than the maximum number of shares he has indicated his willingness to take. Section 89(1) and sub-section (1) to (6) of Section 90 of the Act shall not apply to the Company.

- 6.2 Any shares not accepted pursuant to Article 6.1 or not capable of being so offered except by way of fractions and any shares released from the provisions of this clause by special or written resolution as therein specified shall, subject to Section 80 of the Act, be at the disposal of the directors in accordance with Article 6.5 below, provided that no shares shall be issued at a discount and provided further that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of on terms which are more favourable to the subscribers thereof than the terms on which they were offered to the members.
- 6.3 The discretion of the directors contained in Article 6.2 as to the allotment and disposal of and the granting of any option over the Company's shares shall in any event be subject to the provisions of any agreement relating thereto binding on the Company from time to time and any directions contained in any resolution creating such shares.
- 6.4 Save with the prior written consent of all the members, no shares shall be allotted on terms that the right to take up the shares allotted may be renounced in favour of or assigned to another person, and no person entitled to the allotment of a share may direct that such share be allotted or issued to any other person.
- 6.5 Subject as provided in Article 6.1 to 6.4 inclusive, the directors are generally and unconditionally authorised for the purposes of Section 80 of the Act to allot relevant securities (as defined in such Section) to such persons, on such terms and in such manner as they think fit up to a maximum aggregate nominal amount equal to the nominal amount of the authorised but unissued share capital of the Company at the date hereto, such authority to expire 5 years from the date hereto and to be on terms that the Company may make any offer or agreement before the expiry of this authority which would or might require relevant securities to be allotted after this authority has expired and so that the directors may allot relevant securities in pursuance of any such offer or agreement. The authority hereby given may at any time (subject to the said Section 80) be renewed, revoked or varied by ordinary resolution of the Company in general meeting. Section 89(1) and sub-sections (1) to (6) of Section 90 of the Act shall not apply to the Company.

6.6 In the event that any of the shares proposed to be issued in accordance with this Article 6 are not accepted, those shares which have not been accepted shall before issue be offered:-

(a) In the case of Ordinary Shares, to the Preference Shareholders; and

(b) In the case of Preference Shares to the existing holders of the Ordinary Shares

pari passu as if the same constituted one class of share, in proportion (as nearly as may be without involving fractions) to their existing holdings of such shares. Any such offer shall specify that it may be accepted within a period of twenty eight days. After that period, those shares which are not accepted will be deemed to be declined and will be offered to the members who have accepted the offer in the proportions aforesaid; such additional offer will be made in like manner and in like terms as aforesaid and in default of such acceptance will lapse.

6.7 In the event that the Company proposes to issue any unissued Ordinary Shares then it shall, at the same time, offer such number of Preference Shares to the Preference Shareholders as shall be required to maintain the ratio of Preference Shares to Ordinary Shares which was in existence prior to such issue and upon equivalent terms as shall apply to the issuing of the Ordinary Shares.

6.8 Subject to the Act and these Articles, any shares may, with the sanction of a special resolution, be issued on terms that they are, or at the option of the Company, are liable to be redeemed.

## **7. LIEN**

The lien conferred by regulation 8 shall attach also to fully paid shares and the Company shall also have a first and paramount lien on all shares, whether fully paid or not, standing registered in the name of any person indebted or under liability to the Company, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders for all moneys presently payable by him or his estate to the Company. Regulation 8 shall be modified accordingly.

## **8. CALLS**

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 of the words "and all expenses that may have been incurred by the Company by reason of non-payment of the call".

## **9. TRANSFER OF SHARES**

9.1 No member shall dispose of any interest in, or right attaching to, or renounce or assign any right to receive or subscribe for any share (save as may be required in pursuance of his obligations under these Articles or a Relevant Agreement) or create

or permit to exist any charge, lien, encumbrance or trust over any share or agree (whether subject to any condition precedent, condition subsequent or otherwise) to do any of such things except (but subject always to Article 9.7 and Article 12 (Compulsory Transfers)):-

- (a) As permitted by Article 10 (Permitted Transfers);
  - (b) As permitted by Article 11 (Pre-emption Rights on Transfers);
  - (c) Pursuant to the acceptance of a written offer as mentioned in Article 13 (Transfer of a Controlling Interest);
  - (d) As permitted by a Relevant Agreement.
- 9.2 If a member at any time attempts to deal with or dispose of a share or any interest therein or right attaching thereto otherwise than as permitted by these Articles he shall be deemed immediately prior to such attempt to have given a transfer notice in respect of such share.
- 9.3 Where a transfer notice in respect of any share is deemed to have been given under any provision of these Articles or under any Relevant Agreement and the circumstances are such that the directors (as a whole) are unaware of the facts giving rise to the same such transfer notice shall be deemed to have been received by the directors on the date on which the directors (as a whole) actually become aware of such facts and the provisions of Article 11 shall apply accordingly.
- 9.4 A deemed transfer notice pursuant to Article 12 (Compulsory Transfers) shall be deemed not to contain a Total Transfer Condition (as defined in Article 11) and shall not be revocable.
- 9.5 The directors shall not refuse to register any transfer of a share which is permitted under these Articles but may, in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share which would otherwise be permitted hereunder if it is a transfer:-
- (a) Of a share on which the Company has a lien;
  - (b) Of a share (not being a fully paid share) to a person of whom they shall not approve
- and shall in any event refuse to register the transfer of a share which is prohibited by a Relevant Agreement. The first sentence of regulation 24 shall not apply.
- 9.6 If a member or any of his Representatives becomes aware of any event which is deemed to give rise to an obligation to serve a transfer notice he shall forthwith give written notice thereof to the directors.



9.7 The election by the Representatives of a member to become the registered holders of any share pursuant to regulation 30 shall be permitted by the directors and shall not give rise to any obligation to serve a transfer notice in respect of such share. Regulation 30 shall be modified accordingly.

9.8 The foregoing provisions of this Article shall not apply to the following transfers which may be made without restriction as to price or otherwise and any such transfers shall be registered by the directors:-

- (a) Any transfer by a member to any person with the prior consent in writing of the holders of at least 51% of the voting rights attached to each of the Ordinary Shares and Preference Shares;
- (b) Any transfer by any Member of a shareholder's Group ("**Transferor Member**", which expression shall not include a second or subsequent transferor in such a series of transfers) to any other Member of the same said Group ("**Transferee Member**") provided that where shares have been transferred under this Article (whether directly or by a series of transfers) and such Transferee Member subsequently ceases to be a member of the same said Group as the Transferor Member then the Transferee Member shall immediately notify the Company in writing that such event has occurred and shall transfer the shares originally transferred to him and any additional shares issued or transferred to him by virtue of his holding the original shares transferred to him to the Transferee Member or a member of the same said Group as the Transferee Member (any such transfer being deemed to be permitted for the purposes of this Article);
- (c) A transfer of any shares by a Preference Shareholder to:-
  - (i) a person whose principal business is to make, manage or advise upon investments (an "**Investment Manager**"); or
  - (ii) a fund, partnership, company, syndicate or other entity whose principal purpose is to make investments and whose business is managed by an Investment Manager (an "**Investment Fund**"); or
  - (iii) a nominee of an Investment Manager or an Investment Fund; or
  - (iv) a nominee of a Preference Shareholder.

## 10. **PERMITTED TRANSFERS**

10.1 For the purposes of this Article:-

- (a) "**Privileged Relation**" means, in relation to a member being an individual or a deceased member, the spouse, widow or widower and the lineal descendants of such member, the spouses of such lineal descendants and the father, mother,

brother or sister of such member and the spouses and lineal descendants of such brother or sister and for the purposes aforesaid a step-child or adopted child or illegitimate child of any person shall be deemed to be a lineal descendant of such person;

- (b) **"Family Trust"** means, in relation to a member being an individual or a deceased member, a trust (whether arising under a settlement, declaration of trust, testamentary disposition or on an intestacy) which does not permit any of the settled property or the income therefrom to be applied otherwise than for the benefit of (i) that member and/or a privileged relation of that member or (ii) any charity or charities as default beneficiaries (meaning that such charity or charities have no immediate beneficial interest in any of the settled property or the income therefrom when the trust is created but may become so interested if there are no other beneficiaries from time to time except another such charity or charities) and no power of control over the voting powers conferred by any shares the subject of the trust is capable of being exercised by or subject to the consent of any person other than the trustees or such member or his privileged relations;
- (c) **"Settlor"** includes a testator or an intestate in relation to a Family Trust arising respectively under a testamentary disposition or an intestacy of a deceased member.

10.2 A member being an individual (not being in relation to the shares in question a holder thereof as a trustee of a Family Trust) may at any time transfer all or any of the shares held by him:-

- (a) To a Privileged Relation of such member; or
- (b) To trustees to be held upon a Family Trust of such member.

10.3 Where shares are held by trustees upon a Family Trust:-

- (a) Such shares may on any change of trustees be transferred to the new trustees of that Family Trust;
- (b) Such shares may at any time be transferred to any person to whom under paragraph 10.2 the same could have been transferred by the settlor if he had remained the holder thereof; and
- (c) If and whenever any such shares cease to be held upon a Family Trust (otherwise than in consequence of a transfer authorised by sub-paragraph (b)) or there cease to be any beneficiaries of that Family Trust other than a charity or charities the trustees shall be deemed immediately to have given a transfer notice in respect of all their relevant shares. For these purposes the expression **"Relevant shares"** means and includes (so far as the same remain from time to time held by the trustees) the shares originally transferred to the trustees and

any additional shares issued or transferred to the trustees by virtue of the holding of the relevant shares or any of them.

- 10.4 The Representatives of a member may at any time transfer all or any of the shares to which they are entitled to any person to whom the registered holder would be permitted to transfer the same under these Articles.
- 10.5 If the Representatives of a member are permitted under these Articles to become registered as the holders of any of such member's shares and elect so to do then such shares may at any time be transferred by those Representatives to any person to whom under this Article the same could have been transferred by such member if he had remained the holder thereof, but no other transfer of such shares by the Representatives shall be permitted under this Article.
- 10.6 For the purpose of ensuring that a particular transfer of shares is permitted under this Article 10 any director may require the transferor or the person named as the transferee in the transfer lodged for registration to furnish the Company with such information and evidence as that director may reasonably think necessary or relevant. Failing such information or evidence being furnished to the reasonable satisfaction of such director within a period of 28 days after such request the Company shall refuse to register the transfer in question.
- 10.7 Unless all the members otherwise agree, no transfer of any share permitted by this Article shall be made during the active period of any transfer notice or deemed transfer notice in respect of such share (and for this purpose "**Active Period**" in respect of a given notice means the period from the time of its service until the time when no member has any further rights or obligations pursuant, directly or indirectly, to that notice).

## **11. PRE-EMPTION RIGHTS**

- 11.1 No member may create or permit to exist any charge, lien (except as provided under Article 7 (lien) or encumbrance over any of his shares in the Company nor may he sell, transfer, or dispose of any interest therein (or agree to do the same whether subject to any condition precedent, condition subsequent or otherwise) except by:-
- (a) A transfer pursuant to Article 13 (Transfer of a Controlling Interest); or
  - (b) A transfer of the whole of the legal and beneficial title to such shares free from all charges, liens and encumbrances and with all rights, title and interest in existence at the date of transfer and which may arise thereafter in accordance with the following provisions of this Article.
- 11.2 Save as provided in Article 10 (Permitted Transfers) any member proposing to transfer some or all of the shares registered in his name (the "**Proposing Transferor**") shall give notice in writing (a "**Transfer Notice**") to the Company that he wishes to transfer such shares. Such notice shall constitute the Company (acting

by its directors) his agent for the sale of the shares at the offer price in accordance with this clause. A Transfer Notice shall state whether the Proposing Transferor wishes to impose a "**Total Transfer Condition**" (meaning a condition that unless all of the Transfer Shares are sold to a Purchasing Member or Purchasing Members and/or a nominated person or nominated persons (as hereinafter defined) pursuant to the following provisions of this Article none shall be so sold), but in the absence of such a statement the Transfer Notice shall be deemed not to contain a Total Transfer Condition. In the Transfer Notice, the Proposing Transferor shall also specify (i) the number of shares the Proposing Transferor wishes to transfer (the "**Transfer Shares**") and (ii) the offer price (as hereinafter defined) at which the Proposing Transferor wishes to sell the Transfer Shares and the identity of any person who has indicated a willingness to purchase the Transfer Shares at such price. A Transfer Notice may be revoked in writing at any time prior to the transfer of the Transfer Shares or part thereof pursuant to this Article 11 PROVIDED THAT a Transfer Notice shall be irrevocable where such notice is required to be given or is deemed to be given pursuant to Article 12 (Compulsory Transfers).

- 11.3 Within 7 days after the receipt or deemed receipt of any Transfer Notice the directors shall serve a copy of that Transfer Notice on all the members holding shares in the same class as the Transfer Shares other than the Proposing Transferor. In the case of a Transfer Notice deemed to be given under Article 10 (Compulsory Transfers) the Company shall similarly serve notice on all the members (including the Proposing Transferor) notifying them that the same has been deemed to have been given.
- 11.4 In this Article the expression the "**offer price**" shall mean the price per share specified in the Transfer Notice at which the Proposing Transferor is prepared to sell the shares comprised therein, and any failure to specify such a price shall render the Transfer Notice void and ineffective.
- 11.5 At the same time as notices are served under paragraph 11.3 above the Company will offer the shares comprised in the Transfer Notice to the members (other than the Proposing Transferor) in proportion (as nearly as may be) to the number of shares of the same class as the Transfer Shares held by them respectively. Every such offer shall be made in writing specifying the number of shares offered (the "**Proportionate Entitlement**") and shall be accompanied by forms of application for use by the members in applying for his Proportionate Entitlement and for any shares in excess of any such entitlement which he is prepared to purchase. Every such offer shall be open for acceptance in whole or in part within thirty days from the date of its despatch.
- 11.6 At the expiry of such thirty days, the directors shall allocate the shares comprised in the Transfer Notice, in the following manner:-
- (a) To each member who has agreed to purchase shares (a "**Purchasing Member**") there shall be allocated his Proportionate Entitlement or such lesser number of shares for which he may have applied;

- (b) To the extent that any member has applied for less than his Proportionate Entitlement, the excess shall be allocated (as nearly as may be) pro-rata to the nominal amount of the existing holdings of shares of the same class as the Transfer Shares of the members who have applied for any part of such excess provided that any apportionment made under this sub-paragraph 11.6(b) shall be made so as not to result in any such member being allocated more shares than he has applied for, any remaining excess being apportioned by applying this sub-paragraph 11.6(b) without taking account of such member.
- 11.7 If all the shares comprised in a Transfer Notice are not accepted by a Purchasing Member or Purchasing Members the directors may, within twenty one days after the expiry of the thirty day period referred to in paragraph 11.5 above, in which applications from members can be made, nominate any person or persons to purchase some or all of the shares comprised in the Transfer Notice which have not been allocated to a Purchasing Member; provided that no such person shall be so nominated unless he shall be bound to purchase the shares in respect of which he is so nominated no later than if he had been a Purchasing Member and at the offer price.
- 11.8 Within twenty-eight days of the expiry of the thirty day period under paragraph 11.5 above in which applications from members can be made or, if all the shares comprised in the Transfer Notice are not accepted by a Purchasing Member or Purchasing Members, the expiry of the twenty-one day period under paragraph 11.7 above, the directors shall notify the Proposing Transferor and all Purchasing Members of the details of the applications which have been made, of the allocations made as between Purchasing Members under paragraph 11.6 above and of the person or persons nominated under paragraph 11.7 above and the shares which each such person is bound to purchase.
- 11.9 Any sale of shares effected pursuant to this clause to a Purchasing Member or a person nominated under paragraph 11.7 above (a "**nominated person**") shall be at the offer price.
- 11.10 Subject to paragraph 11.11 below, the Proposing Transferor shall be bound, upon payment of the offer price, to transfer the shares which have been allocated to the Purchasing Members pursuant to paragraph 11.6 above to such Purchasing Members and to each nominated person the shares which such person is bound to purchase and to deliver the relative share certificates (or an appropriate indemnity in respect of any lost certificates), and such payment shall be deemed to be made if it is made to the Company to be held in trust for the Proposing Transferor against delivery of such transfers and share certificates (or indemnity).
- 11.11 Subject to paragraph 11.12 below and to Article 13 (Transfer of a Controlling Interest), if all the shares offered to the members are not accepted by a Purchasing Member or Purchasing Members or by a nominated person or nominated persons, the Proposing Transferor may within sixty days of the date on which he received notification under paragraph 9.8 above transfer all (but not some) of the shares

comprised in the Transfer Notice which have not been accepted to one or more persons, whether or not they are a member, on a bona fide sale at a price per share not less than the offer price (after deduction, where appropriate, of any dividend or other distribution to be retained by the Proposing Transferor).

- 11.12 Subject to Article 13, if all the shares offered to members are not accepted by a Purchasing Member or Purchasing Members or by a nominated person or nominated persons, the Proposing Transferor may if the condition set out below is satisfied, within thirty days of the date on which he received notification under paragraph 11.8 above, transfer all, (but not some) of the shares comprised in the Transfer Notice, notwithstanding that some of such shares have been accepted by a Purchasing Member or Purchasing Members or by a nominated person or nominated persons, to one or more persons whether or not they are a member on a bona fide sale at a price per share not less than the offer price (after deduction, where appropriate of any dividend or other distribution to be retained by the Proposing Transferor). The condition referred to in this Article is that the Transfer Notice contained a Total Transfer Condition.
- 11.13 If the Proposing Transferor, having become bound to transfer shares pursuant to paragraph 11.10 above, makes default in transferring the same the directors may authorise some person (who is (as security for the performance of the Proposing Transferor's obligations) hereby irrevocably and unconditionally appointed as the attorney of the Proposing Transferor for the purpose) to execute the necessary instrument of transfer of such shares and may deliver it on his behalf and the Company shall receive the purchase money and shall thereupon (subject to such instrument being stamped with any required stamp duty) cause the transferee to be registered as the holder of such shares and shall hold such purchase money in trust for the Proposing Transferor. The Company shall not be bound to earn or pay interest on any money so held and shall not pay such money to the Proposing Transferor until he shall have delivered his share certificates (or an appropriate indemnity in respect of any lost certificates) to the Company. The receipt of the Company for such purchase money shall be a good discharge to the transferee who shall not be bound to see to the application thereof, and after the name of the transferee has been entered in the register of members in purported exercise of the aforesaid power the validity of the proceedings shall not be questioned by any person.
- 11.14 The provisions of this Article 11 may be waived or modified in whole or in part in any particular case with the prior written consent of all the members.

## **12. COMPULSORY TRANSFERS OF SHARES**

12.1 In this Article a "**Relevant Event**" means:-

- (a) In relation to a member being an individual:

- (i) such member being adjudicated bankrupt; or
  - (ii) the happening of any such event as is referred to in paragraph (c) of regulation 81 of Table A; or
  - (iii) such member (other than a Preference Shareholder) ceasing to be connected with the Company; and for these purposes an individual shall be treated as connected with the Company if but only if and so long as he is a director or an employee of the Company or of any subsidiary of the Company.
- (b) A member making any voluntary arrangement or composition with his creditors;
- (c) In relation to a member being a body corporate:-
- (i) a receiver, manager, administrative receiver or administrator being appointed of such member or over all or any part of its undertaking or assets;
  - (ii) such member entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or
  - (iii) such member suffering a change in control (as defined for the purposes of Section 840 of the Income and Corporation Taxes Act 1988).
- (d) A member committing any breach of Article 9 (Transfer of Shares).

12.2 Any member who becomes aware of a Relevant Event shall immediately notify the Company and all the other members in writing of that Relevant Event. In this Article the expression "**Relevant Date**" means, in relation to a Relevant Event, the date on which the members (as a whole) actually become aware of such Relevant Event.

12.3 After the happening of a Relevant Event in respect of a member (the "**Relevant Member**") any other member may serve written notice ("**Requirement Notice**") on the Relevant Member and the Company within 6 months of the Relevant Date requiring the Relevant Member to offer his shares for transfer pursuant to Article 9. A Requirement Notice may not be served more than once on a member in respect of the same Relevant Event.

12.4 In this Article the expression the "**fair value**" shall mean such sum per share as may be agreed within 14 days after the service of a Requirement Notice between the Relevant Member and the other members as representing the fair market value thereof or failing any such agreement (for whatever reason) such sum per share as may be determined and certified by the Auditors to be the fair market value thereof as at the date of the Relevant Event as between a willing buyer and a willing seller and

having regard to the fair value of the business of the Company as a going concern and valuing the shares in question as a rateable proportion of the total value of all the issued shares of the Company which value shall not be enhanced or discounted by reason of the fact that the shares do or do not carry any degree of control over the Company. The Auditors shall act at the cost and expense of the Company and as experts and not as arbitrators in so determining and certifying and their decision shall (in the absence of manifest error) be final. The Company shall be responsible for referring any valuation to the Auditors forthwith after the expiry of the said period of 14 days if no such agreement is reached and shall use all reasonable endeavours to procure that the Auditors shall reach their determination as soon as possible after such referral.

- 12.5 Forthwith upon any such agreement or determination being reached the Relevant Member shall be deemed to have served a Transfer Notice under Article 11 in respect of all the shares in the Company which are then registered in his name and Article 11 shall take effect accordingly, save that:-

- (a) The offer price shall be the fair value; and
- (b) The condition referred to in Article 11.12 shall be deemed not to have been satisfied.

- 12.6 Any Requirement Notice served during the Active Period of a previous Transfer Notice relating to all or any of the same shares shall prevail and upon such service such Transfer Notice shall immediately cease to have effect.

### **13. TRANSFER OF A CONTROLLING INTEREST**

- 13.1 Notwithstanding the provision of Articles 11.11 and 11.12, no transfer of any shares shall be made by the Proposing Transferor pursuant to either of those Articles or registered without the previous consent in writing of the other members if it would result in any person or persons who was or were not a member at the date hereto (and any person or persons acting in concert with him within the meaning of the edition of the City Code on Take-overs and Mergers current at the date hereto) obtaining direct or indirect control of a Controlling Interest unless, before the transfer is made, the proposed transferee(s) ("**Buyer**") make(s) a written offer (open for acceptance in England for a period of at least 30 days from its delivery, which shall be made personally on each of the members) to all the members (including, without limitation, the Preference Shareholders) to purchase all the shares in the capital of the Company then in issue (at the same time and on the same terms and conditions for each member) at a price per share not less than the offer price (as defined in Article 11) where such offer price shall be not less than £100 per share. No member (including the Proposing Transferor) shall complete any sale of shares to the Buyer unless the Buyer completes the purchase of all the shares agreed to be sold simultaneously.



- 13.2 If an offer to purchase all the issued shares in the capital of the Company is made pursuant to Article 13.1 all the members shall be bound to accept the same and to transfer all the shares in the Company held by them to the Buyer in accordance with the terms of the offer.

#### **14. PROHIBITED TRANSFERS OF SHARES**

Notwithstanding anything else contained in these Articles, no share shall be issued or transferred to any infant, bankrupt or person of unsound mind.

#### **15. GENERAL MEETINGS AND RESOLUTIONS**

- 15.1 A notice convening a general meeting shall be required to specify the general nature of the business to be transacted only in the case of special business and regulation 38 shall be modified accordingly. All business shall be deemed special that is transacted at an Extraordinary General Meeting, and also all that which is transacted at an Annual General Meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the directors and auditors, and the appointment of, and the fixing of the remuneration of, the Auditors.
- 15.2 Every notice convening a general meeting shall comply with the provisions of Section 372(3) of the Act as to giving information to members in regard to their right to appoint proxies; and notices of and other communications relating to any general meeting which any member is entitled to receive shall be sent to the directors and to the Auditors.
- 15.3 Regulation 40 shall be read and construed as if the words "at the time when the meeting proceeds to business" were added at the end of the first sentence.
- 15.4 If a quorum is not present within half an hour from the time appointed for a general meeting the general meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the directors may determine; and if at the adjourned general meeting a quorum is not present within half an hour from the time appointed therefor such adjourned general meeting shall be dissolved.
- 15.5 Regulation 41 shall not apply.
- 15.6 At any general meeting a poll may be demanded by any member present in person or by proxy and entitled to vote. Regulation 46 shall be modified accordingly.
- 15.7 An instrument appointing a proxy may, in the case of a corporation, be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative.

- 15.8 The instrument appointing a proxy to vote at a meeting shall be deemed also to confer authority to vote on a poll on the election of a chairman and on a motion to adjourn the meeting.
- 15.9 Except with the prior written agreement of all the other members, no member who has agreed to cast any of the voting rights exercisable in respect of any of the shares held by him in accordance with the directions, or subject to the consent of, any other person (including another member) shall be entitled during the relevant period (as hereinafter defined) to exercise any of the voting rights attached to any of the shares registered in his name from time to time or to be present or reckoned in a quorum at any general meeting and any resolution passed at any such meeting during the relevant period which would not have been passed but for the vote(s) of such member cast in contravention of the provisions of this paragraph shall be null and void and of no effect.

For the purposes of this paragraph:-

- (a) **"relevant period"** means the period from, and including, the date on which the member in question first agreed to cast the said voting rights in accordance with the directions, or subject to the consent of, the other person up to, and including, the date on which the transaction or arrangement which gave rise to that agreement is annulled;
- (b) Any member who has assigned the beneficial interest in, or created any charge or other security interest over any share to or in favour of any other person shall be deemed, in the absence of clear evidence to the contrary, to have agreed to exercise the voting rights attached to that share in accordance with the directions of that other person.

The provisions of this paragraph 15.9 shall not apply to a share held by trustees upon a Family Trust (as defined in Article 8) in circumstances where the trustees are acting solely in accordance with the directions of the beneficiaries under such trust.

- 15.10 Any written resolution of the members or a class of members may, in the case of a corporation, be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative.
- 15.11 The directors may exercise all the powers of the Company to borrow money without limit as to amount and upon such terms and in such manner as they think fit, and subject (in the case of any security convertible into shares) to Section 80 of the Act to grant any mortgage, charge or security over its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

## 16. VOTING

- 16.1 Subject to any rights or restrictions as to voting attached to any shares by or in accordance with these Articles, on a show of hands every member who (being an individual) is present in person or (being a corporation) is present by a representative not being himself a member, shall have one vote, and on a poll of every member who is present or by proxy or (being a corporation) is present by a representative or by proxy shall have one vote (except as provided in Article 16.2) for every share (whether an Ordinary Share or a Preference Share) in the capital of the Company of which he is the holder.
- 16.2 The Preference Shareholders shall be entitled to receive notice of all general meetings and shall be entitled to attend and vote thereat in accordance with Article 19.1. In the event that either an Event of Default occurs and the Preference Shareholders shall have given the Company 7 days notice of such Event of Default (and it remains unremedied for a period of 15 days from the date of receipt by the Company of such notice) or the Company fails to redeem any Preference Share on its due date then at any subsequent general meeting of the Company the Preference Shareholders shall have ten (10) votes for each Preference Share held by them at the date of such notice.
- 16.3 Subject to the provisions of this Article 16.3, the Preference Shares and Ordinary Shares shall have the same rights as to voting as permitted by law.

## **17. APPOINTMENT AND REMOVAL OF DIRECTORS**

- 17.1 Regulation 64 shall not apply.
- 17.2 The maximum number and minimum number respectively of the directors may be determined from time to time by ordinary resolution in general meeting of the Company. Subject to and in default of any such determination there shall be no maximum number of directors and the minimum number of directors shall be one. Whensoever the minimum number of the directors shall be one, a sole director shall have authority to exercise all the powers and discretions by these Articles expressed to be vested in the directors generally, and regulation 89 shall be modified accordingly.
- 17.3 The directors shall not be required to retire by rotation and regulations 73 to 75 (inclusive) shall not apply and all other references in the regulations to retirement by rotation shall be disregarded.
- 17.4 Directors may be removed and appointed in such manner as may be provided in a Relevant Agreement.

## **18. BORROWING POWERS**

- 18.1 The directors may exercise all the powers of the Company to borrow money without limit as to its amount and upon such terms and in such manner as they think fit, and

subject (in the case of any security convertible into shares) to Section 80 of the Act to grant any mortgage, charge or security over its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

## **19. DISQUALIFICATION OF DIRECTORS**

- 19.1 The word "automatically" shall be inserted before the word "vacated" in the first line of regulation 81. The office of a director shall be vacated if he becomes incapable by reason of illness or injury of managing and administering his property and affairs, and regulation 81 shall be modified accordingly.

## **20. PROCEEDINGS OF DIRECTORS**

- 20.1 A director who is in any way whether directly or indirectly interested in a transaction or arrangement or proposed transaction or arrangement with the Company may vote in respect of any such transaction or arrangement or proposed transaction or arrangement or any matter arising thereout and if he does so vote his vote shall be counted and he shall be capable of constituting a quorum at any meeting of the directors at which any such transaction or arrangement or proposed transaction or arrangement shall come before the board of directors for consideration and may retain for his own absolute use and benefit all profits and advantages directly or indirectly accruing to him thereunder or in consequence thereof. Regulations 94 to 97 shall not apply.
- 20.2 All or any of the members of the board of directors or any committee of the board may participate in a meeting of the board or that committee by means of conference telephones 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.

## **21. CASTING VOTE**

- 21.1 The chairman of a general meeting and the chairman of a meeting of the board of directors shall not be entitled to a second or casting vote. Regulation 30 of Table A shall not apply and regulation 88 of Table A shall be modified accordingly.

## **22. INDEMNITY AND INSURANCE**

- 22.1 Subject to the provisions of and so far as may be permitted by law, every director, auditor, secretary or other officer of the Company shall be entitled to be indemnified

by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto including any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court. Regulation 118 shall not apply.

- 22.2 The Company may purchase and maintain for any officer or auditor of the Company insurance against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company.

**23. REPRESENTATIVES**

- 23.1 These Articles shall be binding upon and (except as otherwise provided herein) shall enure for the benefit of each member's Representatives.

**24. COMPANY SEAL**

- 24.1 The Company need not have a company seal. The directors may execute under the signature of any two of them or any one of them and the company secretary as they may determine and pursuant to Sections 36A and 36B of the Act deliver any document so as to have the same effect as a deed. The obligation under the second sentence of regulation 6 of Table A and all of regulation 101 of Table A apply only if the Company has a seal.