

Company No. 3337831

THE COMPANIES ACTS 1985 AND 1989

PRIVATE COMPANY LIMITED BY
SHARES

ARTICLES OF ASSOCIATION

of

STERIX LIMITED

Incorporated on 21 March 1997

Adopted by special resolution on: 15 May 2001

Amended by special resolutions on: 17 June 2002, 31 October 2002 and 5 December 2002

WEIL, GOTSHAL & MANGES

ONE SOUTH PLACE LONDON EC2M 2WG
020 7903 1000
WWW.WEIL.COM



THE COMPANIES ACTS 1985 AND 1989

PRIVATE COMPANY LIMITED BY
SHARES

ARTICLES OF ASSOCIATION

of

STERIX LIMITED

Incorporated on 21 March 1997

Adopted by special resolution on: 15 May 2001

Amended by special resolutions on: 17 June 2002, 31 October 2002 and 5 December 2002

PRELIMINARY

1 DEFINITIONS

In these articles the following words and phrases have the meanings set out opposite them below:

"3i"	3i Group plc (registered number 1142830);
"A Ordinary Share"	an A ordinary share of nominal value 5 pence in the capital of the Company as consolidated or sub-divided from time to time, and "A Ordinary Shares" shall be construed accordingly;
"ABF1P"	Avlar BioVentures Fund I Limited Partnership (registered number LP006059);
"the Act"	the Companies Act 1985 and every statutory modification or re-enactment thereof for the time being in force;
"Avlar"	means Avlar Bioventures acting on behalf of ABF1P;
"B Ordinary Share"	a B ordinary share of nominal value 5 pence in the capital of the Company as consolidated or sub-divided

from time to time, and "**B Ordinary Shares**" shall be construed accordingly;

"Bad Leaver"

an Employee Member who ceases to be a director or employee of or consultant to the Company or any other member of the Group and does not continue as either a director or employee of or consultant to any member of the Group where such cessation lawfully occurs as a result of dishonesty or other misconduct on his part, such as would justify summary dismissal or an Employee Member who ceases within a period of 2 years from the date upon which he was first employed by or appointed as a director of or consultant to the Company (or any other member of the Group) to be a director or employee of the Company or any other member of the Group and does not continue thereafter as either a director or employee of or consultant to any member of the Group;

"Board"

the board of Directors of the Company for the time being;

"Business Sale"

the sale of the whole or substantially the whole of the business and assets of the Company and its subsidiaries or of the entire issued share capital of the Company;

"C Ordinary Share"

a C ordinary share of nominal value 5 pence in the capital of the Company as consolidated or sub-divided from time to time, and "**C Ordinary Shares**" shall be construed accordingly;

"Controlling Interest"

an interest in shares (as defined in Schedule 13 Part 1 and section 324 of the Act) in a company conferring in the aggregate 50% or more of the total voting rights conferred by all the issued shares in that company;

"Deemed Transfer Notice"

a Transfer Notice deemed to be served in accordance with these articles;

"Directors"

the directors for the time being of the Company;

"Employee Member"

a member who is or has been a director and/or an employee of and/or a consultant to any member of the Group;

"Encumbrance"

any mortgage, charge, pledge, lien, option, restriction, third party right, interest or equity, encumbrance or security interest of any kind;

"Family Trust"

a trust which permits the settled property or the income therefrom to be applied only for the benefit of:-

- the settlor and/or a Privileged Relation of that settlor; or
- 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 under which no power of control is capable of being exercised over the votes of any shares which are the subject of the trust by any person other than the trustees or the settlor or the Privileged Relations of the settlor. For the purposes of this definition "settlor" includes a testator or an intestate in relation to a Family Trust arising respectively under a settlement, testamentary disposition or an intestacy of a deceased member;

"First Completion"

completion of the subscription for A Ordinary Shares in accordance with clause 4.1 of the Investment Agreement;

"Group"

the Company, any holding company of the Company and any subsidiary of the Company or of any such holding company and "**member of the Group**" shall be construed accordingly;

"holding company"

shall have the meaning attached to such term in the Act;

"IC"

Imperial College of Science, Technology & Medicine;

"Independent Expert"

an umpire (acting as an expert and not as an arbitrator) nominated by the parties concerned or in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales;

"Investment Agreement"

an investment agreement dated on or about the date of adoption of these articles between the (1) Company, (2) the Promoters (as defined therein), (3) Dr Purohit, (4) ABFIP, (5) 3i, (6) Quester VCT 3 plc, (7) Quester VCT 4 plc, (8) JJDC, (9) IC and (10) UB and as amended pursuant to a deed of amendment between such parties dated 17 June 2002 and a further deed of amendment between such parties and Imperial FF&P Gordon House LLP dated *5 December* 2002 and as adhered to by Imperial FF&P Gordon House LLP

	pursuant to a deed dated <u>31 October</u> 2002 between such parties and Imperial FF&P Gordon House LLP;
"Investor"	each of ABF1P, 3i, JJDC and Quester (if and for so long as Quester holds Shares in the Company) and any person who is or becomes an Investor for the purposes of the Investment Agreement;
"Investor Majority"	a majority in number of ABF1P, 3i, JJDC and Quester (and for which purposes Quester shall be deemed a single entity) (in each case if and for so long as such person (and/or the Permitted Transferees of such person) holds Shares in the Company);
"Investor Special Director"	a director appointed and nominated in accordance with article 16 by Avlar, 3i or JJDC;
"Investor Special Director Majority"	the majority in number of the Investor Special Directors unless the number of Investor Special Directors is two in which case the Investor Special Director Majority shall mean both of the Investor Special Directors;
"JJDC"	Johnson & Johnson Development Corporation;
"Listing"	the becoming effective of a listing for any share in the capital of the Company on the official list of the United Kingdom Listing Authority or the granting of permission for any of the Company's shares to be dealt in on a Recognised Investment Exchange (as defined in section 207 of the Financial Services Act 1986, and including, without limitation, EASDAQ, the Alternative Investment Market of the London Stock Exchange plc, NASDAQ and any other exchange which in the reasonable opinion of an Investor Majority will provide an immediate liquid market for shares in the Company);
"member of an Investor's Group"	means an Investor, any subsidiary of that Investor and any holding company of that Investor and any subsidiary of such holding company and any nominee of any of the foregoing and "Investor's Group" shall be construed accordingly;
"Ordinary Share"	an ordinary share of nominal value 5 pence in the capital of the Company as consolidated or sub-divided from time to time, and "Ordinary Shares" shall be construed accordingly;
"Permitted Transferee"	a person to whom a member of the Company may transfer shares free of pre-emption rights pursuant to

	any of articles 10.1 to 10.7 (inclusive);
"Privileged Relations"	the spouse or common law husband or wife or widow or widower of the member and the member's children and grandchildren (including step and adopted children and their issue) and step and adopted children of the member's children;
"Quester"	Quester VCT 3 plc (registered number 3892235) and Quester VCT 4 plc (registered number 4063505), acting jointly through their duly appointed attorney Quester Capital Management Limited (registered number 2454345) or otherwise;
"Sale Price"	the sale price of shares which are the subject of a Transfer Notice determined in accordance with these articles;
"Second Completion"	completion of a subscription for A Ordinary Shares in accordance with clause 4.2 of the Investment Agreement;
"Shares"	the A Ordinary Shares, the B Ordinary Shares, the C Ordinary Shares and the Ordinary Shares;
"subsidiary"	shall have the meaning attached to such term in the Act;
"Table A"	Table A in the Companies (Tables A-F) Regulations 1985 as amended by the Companies (Tables A-F) (Amendment) Regulations 1985;
"Termination Date"	<ul style="list-style-type: none"> • where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires; • where a contract of employment is terminated by the employer and a payment is made in lieu of notice, the date on which notice of termination was served; • where the Employee Member concerned is a director but not an employee, the date on which his contract for services with the Company is terminated; and • in any other case, the date on which the contract of employment is terminated; and
"UB"	The University of Bath.

2 APPLICATION OF TABLE A

- 2.1** The regulations contained in or incorporated in Table A shall apply to the Company save insofar as they are excluded or varied hereby or are inconsistent herewith and such regulations (save as so excluded varied or inconsistent) and the articles hereinafter contained shall be the regulations of the Company.
- 2.2** Regulations 54, 73-80 (inclusive), 85, 86, 94-98 (inclusive) and 118 of Table A shall not apply to the Company.

3 SHARE CAPITAL

The authorised share capital of the Company is £1,760 divided into:-

- 15,000 A Ordinary Shares;
- 12,000 B Ordinary Shares;
- 8,000 C Ordinary Shares; and
- 200 Ordinary Shares.

SHARE RIGHTS

4 DIVIDENDS

- 4.1** The profits of the Company available for distribution shall, if all required consents are obtained in accordance with the Investment Agreement, be used to pay dividends of such amounts as the directors may determine and recommend to the members of the Company and such dividends shall be paid to the holders of the Shares in proportion to the number of Shares held by them respectively.
- 4.2** 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 dividend which the Directors of the Company have resolved to distribute.

5 RETURN OF CAPITAL

On a return of assets on liquidation or capital reduction or otherwise, the assets of the Company remaining after the payment of its liabilities shall be applied amongst the holders of Shares in the following order of priority:-

- 5.1** first in paying to the holders of the A Ordinary Shares pari passu pro rata as to the amount of any premium paid thereon, the amount of any premium paid on such shares;
- 5.2** second in paying to the holders of the A Ordinary Shares pari passu pro rata as to the par value thereof, the par value of each A Ordinary Share;

- 5.3 third in paying to the holders of the B Ordinary Shares, C Ordinary Shares and Ordinary Shares pari passu pro rata as to the amount of any premium paid thereon, the amount of any premium paid on such shares;
- 5.4 fourth in paying to the holders of the B Ordinary Shares, C Ordinary Shares and Ordinary Shares pari passu pro rata as to the par value thereof, the par value of each B Ordinary Share, C Ordinary Share and Ordinary Share (as applicable); and
- 5.5 the balance of such assets shall be distributed amongst the holders of the Shares pari passu pro rata as to the number of Shares held by each member.

6 CONVERSION

- 6.1 Each holder of A Ordinary Shares, B Ordinary Shares or C Ordinary Shares may at any time convert all of its holding of A Ordinary Shares, B Ordinary Shares or C Ordinary Shares into a like number of Ordinary Shares. Such right of conversion may be affected by notice in writing given to the Company signed by the holder of the relevant A Ordinary Shares, B Ordinary Shares or C Ordinary Shares.
- 6.2 All of the A Ordinary Shares, B Ordinary Shares and C Ordinary Shares in issue (or in respect of which the Company has granted a right to subscribe) shall automatically be converted into a like number of Ordinary Shares (or a right to subscribe for Ordinary Shares in respect of the conversion of a right to subscribe for A Ordinary Shares, B Ordinary Shares or C Ordinary Shares) upon:-
 - 6.2.1 a Listing; or
 - 6.2.2 a Business Sale.
- 6.3 A conversion under article 6.1 shall take effect immediately upon the date of delivery of a notice to the Company in accordance therewith (unless such notice states that the conversion is to be effective when any condition specified in the notice have been fulfilled in which case conversion shall take effect when such conditions have been fulfilled). A conversion under article 6.2 shall take effect immediately prior to the relevant Listing or Business Sale.
- 6.4 Forthwith upon conversion taking effect the holders of the resulting Ordinary Shares shall send to the Company the certificates in respect of their respective holdings of A Ordinary Shares, B Ordinary Shares and C Ordinary Shares. Following receipt of the certificate for the A Ordinary Shares, B Ordinary Shares or C Ordinary Shares or an indemnity in favour of the Company in respect of a lost certificate, the Company shall issue to such holders certificates for the Ordinary Shares resulting from the conversion.
- 6.5 The Ordinary Shares resulting from the conversion shall rank from the date of conversion pari passu in all respects with the other Ordinary Shares in the Company.

7 CLASS RIGHTS

- 7.1 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 not less than (i) 75% of the issued shares of that class or, (ii) in respect of the class of A Ordinary Shares only and if lower, (subject to section 125(3) of the Companies Act 1985) such percentage of the total number of issued A Ordinary Shares as are held by an Investor Majority.

Without prejudice to the generality of this article 7.1:

7.1.1 the special rights attached to the A Ordinary Shares shall be deemed to be varied by:-

- (a) the amending of the Company' memorandum of association or articles of association; or
- (b) the capitalising any reserves of the Company or the applying of any amount for the time being standing to the credit of the share premium account or capital redemption reserve of Company for any purpose; or
- (c) the altering, increasing, reducing, sub-dividing or consolidating of the authorised or issued share capital of the Company or any of its subsidiaries; or
- (d) the acquisition or disposal by the Company of any interest in the share capital or instruments convertible into share capital of any other company or body corporate; or
- (e) the granting of any option by the Company other than as expressly provided for in the Investment Agreement or other right to subscribe over the Company's share capital or allot or agree to allot any shares in the capital of the Company; or
- (f) the making of any material change in the nature of the business of the Company and its subsidiaries taken as a whole; or
- (g) the Company ceasing to trade or the taking of steps for the voluntary winding up of the Company or the placing of the Company in administration or the taking of similar proceedings in respect of the Company, save where the Company or the Board has been advised that the Company is insolvent or in the reasonable opinion of the Board there is no reasonable prospect for the Company avoiding insolvency.

7.2 Sections 89 and 90 of the Act shall apply to the Company as though the Shares constitute one class of share but the special rights attached to each of the A Ordinary Shares, shall be deemed to be varied by any disapplication, exclusion, limitation or variation of the provisions of Section 89.

8 VOTING

8.1 Subject to any special rights or restrictions as to voting attached to any shares by or in accordance with these articles each Share shall carry one vote per Share.

8.2 Votes on Shares may be exercised:

8.2.1 on a show of hands by every member who (being an individual) is present in person or by proxy or (being a corporation) if present by a representative or by proxy, not being himself a member (in which case each member holding Shares shall have one vote); and

8.2.2 on a poll by every member who (being an individual) is present in person or by proxy or (being a corporation) is present by a representative or by a proxy (in which case each member holding Shares shall have such number of votes attributable to the Share so held calculated by reference to article 8.1).

TRANSFERS

9 TRANSFER OF SHARES

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) 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 28 days after such request the directors shall be entitled to refuse to register the transfer in question.

10 PERMITTED AND MANDATORY TRANSFERS

10.1 *Permitted transfers to relations*

10.1.1 Subject to article 10.8, notwithstanding any other provision in these articles any member (being an individual) may at any time transfer (or by will bequeath or otherwise dispose of on death) all or any shares held by him to a Privileged Relation.

10.1.2 If a Privileged Relation whilst he or she is a holder of shares in the Company so transferred to him/her shall cease to be a Privileged Relation in relation to the member first holding the relevant shares following their allotment or following a transfer made in accordance with this article 10 (otherwise than pursuant to this article 10.1) he or she shall, within 21 days of so ceasing, transfer the shares held by him/her to such member or any other Privileged Relation of such member for such consideration as may be specified by the original member or, in the absence of any such specification, nil consideration and failing such transfer, the Company shall authorise some person to execute transfers of the relevant shares in favour

of the original member and shall enter the name of the original member in the Register of Members as the holder of such shares.

10.2 *Permitted transfers to family trusts*

Subject to article 10.8, notwithstanding any other provision in these articles any member (being an individual) may at any time transfer (or by will bequeath or otherwise dispose of on death) all or any shares held by him to trustees to be held upon a Family Trust of which he is the settlor, provided that any transfer of shares to trustees to be held upon a Family Trust made during the lifetime of such member may only be made with the consent of an Investor Majority. but if any shares held by trustees upon a Family Trust cease to be so held upon a Family Trust (otherwise than in consequence of a transfer to the settlor or to any Privileged Relation of the settlor in which event the provisions of article 10.1.2 shall apply) or there cease to be any beneficiaries of the Family Trust other than a charity or charities the trustees of the trust shall, within 21 days of the relevant cessation, transfer the relevant trust shares (as hereinafter defined) to the settlor of the trust or to any Privileged Relation of such settlor for such consideration as may be specified by the settlor or, in the absence of any such specification, nil consideration and failing such transfer, the Company shall authorise some person to execute transfers of the relevant shares in favour of the settlor and shall enter the name of the settlor in the Register of Members as the holder of such shares. For the purposes of this article 10.2 the expression "**relevant trust shares**" means and includes 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 trust shares or any of them.

10.3 *Permitted transfers to personal representatives*

Subject to article 10.8, notwithstanding any other provision in these articles, any share may at any time be transferred or transmitted to the personal representatives of a deceased member where under the provisions of his will or on his intestacy all the persons beneficially entitled to any such shares are Privileged Relations or trustees of a Family Trust. Where shares have been transferred in accordance with this article 10.3 and the persons beneficially entitled to such shares cease to all be Privileged Relations or trustees of a Family Trust of the deceased member, the personal representatives shall be deemed to have given a Transfer Notice (as hereinafter defined) in respect of the relevant shares.

10.4 *Permitted transfers by family trusts*

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

10.4.1 on any change of trustees such shares may be transferred to the new trustees of that Family Trust;

10.4.2 such shares may be transferred at any time to the settlor or to another Family Trust of which he is the settlor or to any Privileged Relation of the settlor.

10.5 *Permitted transfers by Investors*

Notwithstanding any other provision in these articles the following transfers may be made without restriction as to price or otherwise and any such transfers shall be registered by the directors, provided that if the transferee ceases to hold the status allowing such transfer under this article it shall, within 21 days of so ceasing, transfer the shares held by it to the member first holding the relevant shares following their allotment or following a transfer made in accordance with this article 10 (otherwise than pursuant to this article 10.5) for such consideration as may be specified by the original member or, in the absence of any such specification, nil consideration and failing such transfer, the Company shall authorise some person to execute transfers of the relevant shares in favour of the original member and shall enter the name of the original member in the Register of Members as the holder of such shares:-

10.5.1 any transfer by any member of an Investor's Group to any other member in the same Investor's Group (but if such transferee ceases to be a member of the Investor's Group it shall forthwith transfer the relevant shares to a member of the relevant Investor's Group);

10.5.2 a transfer of any shares in the Company held by an Investor (or a nominee of an Investor) who is:-

- (1) a person whose principal business is to make, manage or advise upon investments (an "**Investment Manager**"); or
 - (2) a fund, partnership, company, syndicate or other entity whose principal business is to make investments and whose business is managed by an Investment Manager (an "**Investment Fund**"); or
 - (3) a nominee of an Investment Manager or an Investment Fund
- may be made between the Investor (or its nominee) and:-

(A) where the Investor is an Investment Manager or a nominee of an Investment Manager:-

- (i) any participant or partner in or member of any Investment Fund in respect of which the shares are held (but only in connection with the dissolution of such Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course);
- (ii) any Investment Fund whose business is managed by the Investment Manager who is or whose nominee is the transferor;
- (iii) any other Investment Manager who manages the business of the Investment Fund in respect of which the shares are held;

(B) where that Investor is an Investment Fund or a nominee of an Investment Fund:-

- (i) any participant (directly or indirectly) or partner in or member of the Investment Fund which is or whose nominee is the transferor (but only in connection with the dissolution

of such Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund);

- (ii) any other Investment Fund whose business is managed by the same Investment Manager as manages the Investment Fund which is or whose nominee is the transferor;
- (iii) the Investment Manager who manages the business of the Investment Fund which is or whose nominee is the transferor

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

10.6 Transfers intra-group

Notwithstanding any other provision in these articles any member (being a body corporate) may at any time transfer all or any of its shares to any other body corporate which is for the time being its subsidiary or holding company or another subsidiary of its holding company (each such body corporate being a "**Group Company**") but if a Group Company whilst it is a holder of shares in the Company shall cease to be a Group Company in relation to the body corporate first holding the relevant shares following their allotment or following a transfer made in accordance with this article 10 (otherwise than pursuant to this article 10.6) it shall, within 21 days of so ceasing, transfer the shares held by it to such body or any Group Company of such body and failing such transfer the relevant holder(s) shall be deemed to have given a Transfer Notice (as hereinafter defined) in respect of the relevant shares.

10.7 Transfers with shareholder approval

Notwithstanding any other provisions of these articles (but for the avoidance of doubt, subject to article 12) a transfer of any shares approved by the holders of 75 per cent. of the Shares may be made without restriction as to price or otherwise and any such transfer shall be registered by the directors.

10.8 Mandatory transfer on cessation of employment

If Dr Normanton, Professor Potter, Professor Reed, Dr Johnson or Dr Purohit ceases to be a director or employee of or consultant to the Company or any other member of the Group and does not continue as or thereupon become a director or employee of or a consultant to any member of the Group as a result of:

- (a) his having terminated the relevant directorship, employment or consultancy in breach of the terms thereof otherwise than as a result of (i) retirement, (ii) his death, (iii) ill health on his part or (iv) ill health on the part of his spouse or child; or
- (b) the Company having terminated the relevant directorship, employment or consultancy in circumstances which would justify summary dismissal,

or if any other Employee Member ceases to be a director or employee of or consultant to the Company or any other member of the Group and does not continue as or

thereupon become a director or employee of or a consultant to any member of the Group as a result of:

- (a) his having terminated the relevant directorship or employment otherwise than as a result of (i) retirement, (ii) his death, (iii) ill health on his part or (iv) ill health on the part of his spouse or child; or
- (b) any circumstance in which the relevant Employee Member is deemed a Bad Leaver;

then Transfer Notices shall be deemed to have been served on the relevant Termination Date in respect of:

- (a) all shares held by the Employee Member immediately before such cessation;
- (b) all shares then held by the Employee Member's Privileged Relations and/or Family Trusts and any personal representatives holding shares under article 10.3 (other than shares which the directors (excluding the Employee Member if such person is also a director) (acting by simple majority vote) are satisfied were not acquired by such holders either (i) directly or indirectly from the Employee Member or (ii) by reason of their connection with the Employee Member, and the decision of the directors (excluding the Employee Member if such person is also a director) (acting by simple majority vote) in this respect shall, in the absence of manifest error or fraud, be final); and
- (c) all shares acquired by the Employee Member or his personal representatives holding shares under article 10.3 or his Privileged Relations after the Termination Date under any option scheme or other arrangement which was made prior to the date of such cessation and in this case the Transfer Notice will be deemed served on the date the shares are acquired.

Transfers under this article 10.8 are in these articles referred to as "**Compulsory Employee Transfers**".

11 PRE-EMPTION RIGHTS

11.1 *Transfer notices*

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 (in these articles called a "**Transfer Notice**"). Where the Transfer Notice is deemed to have been given it is referred to as a Deemed Transfer Notice. Transfer Notices and Deemed Transfer Notices shall constitute the Company as the Vendor's agent for the sale of the shares specified therein (hereinafter called the "**Sale Shares**") in one or more lots (subject to article 11.4) at the discretion of the directors at the Sale Price.

11.2 *Calculation of the Sale Price*

The Sale Price shall be the price agreed by the Vendor and the Board (excluding the Vendor if the Vendor is also a director but including an Investor Special Director Majority, if any Investor Special Director at such time holds office as a Director). If the Vendor and such directors are unable to agree a price within 28 days of the Transfer Notice being given or being deemed to have been given the Sale Price will instead be the price which the Independent Expert shall certify to be in his opinion a fair value thereof. In arriving at his opinion the Independent Expert will value the shares on a going concern basis as between a willing seller and a willing buyer ignoring any reduction or enhancement in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority or majority interest or Controlling Interest and on the assumption that the Sale Shares are capable of transfer without restriction and, if relevant, that they do not have restrictions on voting. The decision of the Independent Expert as to the Sale Price shall (in the absence of manifest error) be final and binding.

11.3 *Compulsory Employee Transfer Sale Price*

Notwithstanding article 11.2, where an Employee Member is deemed to have served a Transfer Notice in accordance with article 10.8, the Sale Price pursuant to a Compulsory Employee Transfer in respect of such Employee Member shall be the lesser of:-

11.3.1 the original subscription price paid in respect of the relevant Shares; or

11.3.2 the Sale Price calculated in accordance with article 11.2.

11.4 *Right of Vendor to reject partial sales*

A Transfer Notice (but not a Deemed Transfer Notice) may contain a condition (a "Total Transfer Condition") that unless all the shares comprised therein are sold by the Company pursuant to these articles none shall be sold. Any such provision shall be binding on the Company.

11.5 *Certification of the Sale Price and right of Vendor to cancel*

If the Independent Expert is asked to certify the fair value in accordance with these articles his certificate shall be delivered to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Vendor. The Vendor shall be entitled by notice in writing given to the Company within 10 days of the service upon him of the copy certificate to cancel the Transfer Notice unless the shares are to be sold pursuant to a Deemed Transfer Notice. The cost of obtaining the certificate shall be paid by the Vendor unless the relevant Independent Expert states in writing to the Company and the Vendor that, in his sole discretion, the highest Sale Price proposed by the Company in its negotiations with the Vendor in accordance with these articles was below the fair value as certified by such Independent Expert, in which event the cost of obtaining the certificate shall be paid by the Company.

11.6 *Pre-emptive offers - general*

Once the Sale Price has been determined then unless the Vendor validly cancels the

Transfer Notice under article 11.5 above the Sale Shares shall be offered for sale as set out below. All offers made by the Company shall give details of the number and Sale Price of the Sale Shares.

11.7 *First offer*

As soon as Sale Shares become available (being the date of the Transfer Notice or Deemed Transfer Notice or, if later, the date upon which the Sale Price is agreed or certified by the Independent Expert (and in the case of a certification after the expiry of the 10 day period referred to in article 11.5)), they shall be forthwith offered for sale by the Company to all holders of shares of the same class as the Sale Shares (in each case other than the Vendor) pro rata with respect to each class of Sale Share as nearly as may be to the respective numbers of shares of the same class as such Sale Shares held by such members.

Any offer made by the Company under this sub-article will invite the relevant members to state in writing the maximum number of the shares offered to them they wish to purchase and will remain open for 21 days (the "**First Offer Period**").

11.8 *Second and subsequent offers to holders of the same class*

If at the end of the First Offer Period there are any Sale Shares offered which have not been allocated 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.

This offer will invite the relevant members to state in writing the maximum number of shares they wish to purchase. If there are insufficient Sale Shares to meet the demand then the directors will allocate the Sale Shares pro rata as nearly as may be in proportion to the number of shares of the same class as such Sale Shares held by the relevant members. This offer will remain open for a further period of 21 days.

Thereafter the Company shall continue to make offers on the same terms while any member continues to state in writing his willingness to purchase all shares offered to him.

11.9 *Offers to all holders of shares*

Provided that no member to whom an offer has been made in accordance with articles 11.7 and 11.8 continues to state in writing his willingness to purchase all the shares so offered to him, to the extent that any Sale Shares have not been allocated (the "**Outstanding Sale Shares**") such shares shall be forthwith offered for sale by the Company to all holders of Shares (other than the Vendor) pro rata as nearly as may be to the respective numbers of Shares held by such members.

Any offer made by the Company under this sub-article will invite the relevant members to state in writing the maximum number of the shares offered to them they wish to purchase and will remain open for 21 days (the "**First General Offer Period**").

If at the end of the First General Offer Period there are any Outstanding Sale Shares offered which have not been allocated 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.

This offer will invite the relevant members to state in writing the maximum number of shares they wish to purchase. If there are insufficient Outstanding Sale Shares to meet the demand then the directors will allocate the Outstanding Sale Shares pro rata as nearly as may be in proportion to the number of Shares held by the relevant members. This offer will remain open for a further period of 21 days.

Thereafter the Company shall continue to make offers on the same terms while any member continues to state in writing his willingness to purchase all shares offered to him.

11.10 *Transfer procedure for pre-emptive offers*

If the Company finds a purchaser(s) for all or (subject to article 11.4) any of the Sale Shares under the terms of this article 11 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) to such persons. If the Vendor defaults in transferring Sale Shares 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 purchaser(s) and shall 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. The Company shall continue to hold the purchase monies for the Vendor in a separate bank account pending delivery to the Company of the share certificates for the Sale Shares or an indemnity in respect of lost certificates in a form reasonably acceptable to the Company whereupon the Company shall pay the purchase monies to the Vendor without interest.

11.11 *Transfers free of pre-emption*

If the Company does not find purchasers for all of the Sale Shares under the terms of this article 11 the Vendor shall at any time within six months after the final offer by the Company to its members be free to sell and transfer such of the Sale Shares as have not been so sold to any person at a price which is no less than the Sale Price. However if the Sale Shares were the subject of a Total Transfer Condition such a sale may only be made of all the shares and not part only.

11.12 *Effect of non-compliance*

Any purported transfer of shares otherwise than in accordance with the provisions of these articles shall be void and have no effect.

12 TRANSFER OF CONTROL

12.1 *Transfers prohibited absolutely*

Save as provided in article 12.2, no sale or transfer of the legal or beneficial interest in any shares in the Company may be made or validly registered if as a result of such sale or transfer and registration thereof a Controlling Interest would be obtained in the Company by a company in which one or more of the members of the Company (or persons acting in concert with them) has a Controlling Interest.

12.2 *Tag Along Right*

No sale or transfer of the legal or beneficial interest in any shares in the Company may be made or validly registered without the consent in writing of the holders of 75% of the A Ordinary Shares and, prior to Second Completion, the consent in writing of the holders of 50% of the Shares if as a result of such sale or transfer and registration thereof a Controlling Interest would be obtained in the Company by any person or persons unless the proposed transferee or transferees or his or their nominees are independent third parties acting in good faith and has or have offered to purchase all the Shares, and all other shares in the capital of the Company arising from the exercise of any options which have, at the time of the offer made pursuant to this article 12.2, been granted by the Company, all at the price specified in article 12.3.

12.3 On the registration of the sale or transfer of the legal or beneficial interest in a Controlling Interest in the Company, (a "Sale") the total consideration payable in respect of such Sale shall be apportioned by distribution amongst the holders of Shares transferred as part of the Sale in the following order of priority:-

- (A) where the total consideration payable in respect of such Sale is less than or equal to £20,000,000:-
 - (a) first in paying to the holders of the A Ordinary Shares transferred as part of the Sale *pari passu pro rata* as to the subscription price paid thereon, the subscription price paid in respect of such A Ordinary Shares;
 - (b) second in paying to the holders of the C Ordinary Shares in issue as at the date of First Completion transferred as part of the Sale a sum in respect of each such C Ordinary Share equal to £2,750,000 (or if less the balance of such consideration) divided by the number of such C Ordinary Shares;
 - (c) third in paying to the holders of the B Ordinary Shares:-
 - (i) in issue; or
 - (ii) held under option,as at the date of First Completion, each transferred as part of the Sale a sum in respect of each such B Ordinary Share equal to £1,250,000 (or if less the balance of such consideration) divided by the number of such B Ordinary Shares;
 - (d) fourth in paying to the holders of the Ordinary Shares transferred as part of the Sale *pari passu pro rata* as to the subscription price paid thereon, the subscription price paid in respect of such Ordinary Shares;
 - (e) the balance of such consideration shall be distributed in the following proportions:-

- (i) 25 per cent. of the balance of such consideration shall be distributed amongst the holders of A Ordinary Shares and Ordinary Shares transferred as part of the Sale pro rata as to the number of A Ordinary Shares and Ordinary Shares transferred by such holders as part of the Sale; and
 - (ii) 75 per cent. of the balance of such consideration shall be distributed amongst the holders of B Ordinary Shares and C Ordinary Shares transferred as part of the Sale pro rata as to the number of B Ordinary Shares and C Ordinary Shares transferred by such holders as part of the Sale; and
- (B) where the total consideration payable in respect of such Sale is greater than £20,000,000 the whole of such consideration shall be distributed amongst the holders of the Shares transferred as part of the Sale pro rata as to the number of Shares so transferred by such holders as part of the Sale.

12.4 Drag Along Right

- 12.4.1** If an offeror for shares in the Company, having made offers to all the members of the Company (each member having, for the avoidance of doubt, been offered the same price per Share as each other member (other than as provided pursuant to Article 12.3)) receives valid acceptances which would, on completion, result in such offeror becoming the holder of those Shares held by such persons as constitute an Investor Majority, then:
- (a) any holder of Shares who has accepted such offer may give notice to any non-accepting holder of Shares requiring him to accept the offer within 14 days and stating that, failing such acceptance, he shall be deemed to have accepted such offer in respect of all Shares held by him and irrevocably to have waived any pre-emption rights he may have in relation to any shares the subject of such offer;
 - (b) upon the expiry of such notice each recipient thereof shall be obliged to deliver to the offeror (or as he may direct) an executed share transfer form and share certificate(s) in respect of the shares which were the subject of the notice together with an executed waiver of pre-emption rights, if appropriate;
 - (c) if any such member fails to deliver executed share transfer form(s), share certificate(s) and pre-emption waiver(s) (if appropriate) as set out above he shall be deemed to have appointed any director of the Company to be his agent and attorney to execute such documents on his behalf and, against receipt by the Company (on trust for such member) of the appropriate purchase moneys, to deliver such executed transfer(s) and pre-emption waiver(s) (if appropriate) to the offeror and it shall be no impediment to completion of the transfer that such member's share certificate(s) has/have not been produced. The Company shall continue to hold the purchase monies for such member in a separate bank account pending delivery to the Company of the share certificates for such members shares or an

indemnity in respect of lost certificates in a form reasonably acceptable to the Company whereupon the Company shall pay the purchase monies to such member without interest;

- (d) after such offeror or his nominee has been registered as the holder of shares transferred in accordance with this article the validity of such transaction shall not be questioned by any person.

12.4.2 Where:

- (a) the Investors (or any of them) accepting an offer made to all members of the Company (each member having, for the avoidance of doubt, been offered the same price per Share as each other member (other than as provided pursuant to Article 12.3)), either alone or together with any Permitted Transferee of such Investors, have in aggregate an interest of 25% or more in the share capital of the offeror (or any subsidiary or holding company of the offeror); or
- (b) any Investor, not being an Investor accepting an offer made to all members of the Company (each member having, for the avoidance of doubt, been offered the same price per Share as each other member (other than as provided pursuant to Article 12.3)), is required pursuant to the terms of such offer to give any warranty or representation (other than a warranty that it is the sole legal and beneficial owner of those Shares held by such Investor and that such Investor will, on completion of the sale and purchase of such Shares in respect of such offer, transfer such Shares to the Offeror (or its nominee) with full title guarantee free and clear of all Encumbrances),

then the reference in Article 12.4.1 to "those Shares held by such persons as constitute an Investor Majority" shall be read for all purposes as a reference to "those Shares held by all Investors".

In this Article 12.4.2, the expression "interest" has the meaning set out in section 208 of the Companies Act.

For the purposes of determining whether or not this Article 12.4.2 applies, interest in Shares in an offeror (or any subsidiary or holding company of an offeror) held by any parallel funds managed by an investment manager, which also manages funds on behalf of an Investor, shall be aggregated with the interests of such Investor.

12.5 Interpretation

In this article:

- 12.5.1 the expressions "transfer" and "transferee" shall include respectively the renunciation of a renounceable letter of allotment and the renounee under any such letter of allotment;
- 12.5.2 the expression "shares" includes bearer shares, depository receipts and any

other security or instrument into which shares may be converted with a view to a sale;

- 12.5.3 whether or not persons are acting in concert will be determined by the then most recent edition of the City Code on Takeovers and Mergers.

12.6 Primacy of article

Save for transfers of shares in the capital of the Company made pursuant to articles 10.1 to 10.7 inclusive, all other regulations of the Company relating to the transfer of shares and the rights to registration of transfers shall be read subject to the provisions of this article 12.

DIRECTORS

13 APPOINTMENT AND REMOVAL OF DIRECTORS

- 13.1 The directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director.
- 13.2 Without prejudice to the provisions for retirement (by rotation or otherwise) contained in these articles, the office of a director is vacated if:
- 13.2.1 he resigns by notice delivered to the secretary at the registered office or tendered at a board meeting;
 - 13.2.2 he ceases to be a director by virtue of a provision of the Acts, is removed from office pursuant to these articles or becomes prohibited by law from being a director;
 - 13.2.3 he becomes bankrupt, has an interim receiving order made against him, makes an arrangement or compounds with his creditors generally or applies to the court for an interim order under section 253 of the Insolvency Act 1986 in connection with a voluntary arrangement under that Act;
 - 13.2.4 an order is made by a court of competent jurisdiction on the ground (however formulated) of mental disorder for his detention or for the appointment of a guardian, receiver, curator bonis or other person to exercise powers with respect to his affairs or he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, under the Mental Health (Scotland) Act 1984 and the board resolves that his office shall be vacated;
 - 13.2.5 both he and his alternate director appointed pursuant to the provisions of these articles (if any) are absent, without the permission of the board, from board meetings for six consecutive months and the board resolves that his office be vacated; or
 - 13.2.6 in the case of directors other than a Special Director, he is removed from office by notice addressed to him at his last known address and signed by

all his co-directors (without prejudice to any claim for damages for breach of contract).

14 MEETINGS OF DIRECTORS

14.1 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. Meetings of the directors may, be held by conference telephone or similar equipment, so long as all the participants can hear and speak to each other. Such meetings shall be as effective as if the directors had met in person.

14.2 For so long as:-

- (a) Alan Goodman acts as deputy non-executive chairman of the Company (as so appointed pursuant to the Investment Agreement); and
- (b) a director nominated by Avlar pursuant to article 16 (the "Avlar Special Director") remains in office as a director of the Company,

then at each meeting of the directors of the Company:-

- (i) each director of the Company (other than Alan Goodman and the Avlar Special Director) shall be entitled to exercise two votes; and
- (ii) Alan Goodman (or, in the absence of Alan Goodman, an alternate director appointed by Alan Goodman) and the Avlar Special Director (or, in the absence of such Avlar Special Director, an alternate director appointed by the Avlar Special Director) shall be entitled to exercise one vote each,

and in any other case each Director shall have one vote.

15 DIRECTORS' CONFLICTS OF INTEREST

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 be a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is in any way interested;
- 15.1.3** may (and any firm or company of which he is a partner or member or director may) act in a professional capacity for the Company or any body corporate in which the Company is in any way interested;

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 and be counted in the quorum on any matter referred to in 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.

16 SPECIAL DIRECTORS AND UNIVERSITY DIRECTORS

16.1 Notwithstanding any other provision of these articles each of Avlar (or such other party which ABFIP shall nominate from time to time in writing to the Company), 3i and JJDC shall for so long as it is the holder of not less than 5 per cent. of the issued ordinary share capital of the Company be entitled to appoint any person as a director of the Company and to remove from office any person so appointed and to appoint another person in his place. Upon request by Avlar, 3i and JJDC the Company shall also procure that any Special Director be appointed a director to any subsidiary of the Company.

16.2 Notwithstanding any other provision of these articles each of IC and UB shall for so long as it (or in the case of IC, for so long as Imperial FF&P Gordon House LLP (if and for so long as Imperial FF&P Gordon House LLP is a Subsidiary Undertaking (as defined in the Act) of IC)) is the holder of not less than 5 per cent. of the issued share capital of the Company be entitled to appoint any person as a director of the Company and to remove from office any person so appointed and to appoint another person in his place.

16.3 No nominator may, pursuant to Clauses 16.1 and 16.2, have appointed more than one person to hold office as a director of the Company nor more than one person to hold office as a director of any subsidiary of the Company at any given time.

MISCELLANEOUS

17 LIEN

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.

18 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 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment."

19 SEAL

Regulation 6 of Table A shall be modified so as to remove the reference to the company seal and regulation 101 of Table A shall be modified by the insertion of the words ", if the Company has one," after the words "The seal" at the beginning of that regulation.

20 INDEMNITY

20.1 Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution of his duties or in relation thereto including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

20.2 The Company may purchase and maintain insurance against any liability falling upon its directors or other officers or auditors which arises out of their respective duties to the Company or in relation to its affairs.

21 NOTICES

Regulation 112 of Table A shall be modified by the deletion of the final sentence.

22 ABF1P FUNDING PROVISION

22.1 (a) If and for so long as ABF1P (or any Permitted Transferee of ABF1P) holds any Relevant Equity Security in the Company any right (whether by way of pre-emption pursuant to Article 11, rights issue or otherwise) to acquire any Relevant Equity Security acquired by, conferred on, or otherwise held by, ABF1P (or any Permitted Transferee of ABF1P) may, at the option of ABF1P

(or the relevant Permitted Transferee holding such Relevant Equity Securities, as the case may be), be assigned to, and/or exercised by, renounced in favour of, any Permitted Transferee of ABFIP.

- 22.1 (b) ABFIP (or the relevant Permitted Transferee holding such Relevant Equity Securities, as the case may be) shall procure that any such Permitted Transferee to whom such rights are so assigned, or by whom such rights are so exercised in accordance with Article 22.1(a), shall (if not already bound by the terms of the Investment Agreement) execute a deed pursuant to which such Permitted Transferee agrees to be bound by the terms of the Investment Agreement and which deed shall be delivered to the Company and each other member of the Company.
- 22.2 In this Article 22 the term "**Relevant Equity Securities**" shall mean any share in the share capital of the Company from time to time, or any other security, agreement or instrument which contains or provides for any right to subscribe or exchange for, convert into or otherwise call for any issue of any share(s) in the capital of the Company from time to time