

**THE COMPANIES ACTS 1985 & 1989**

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**COMPANY LIMITED BY SHARES**

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**RESOLUTIONS OF  
PROLYSIS LIMITED**

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**PASSED 12<sup>th</sup> MAY 2005**

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At an Extraordinary General Meeting of the above named Company duly convened and held at Begbroke Business & Science Park, Sandy Lane, Yarnton, Kidlington, Oxfordshire, OX5 1PF on 12<sup>th</sup> May 2004 the following Resolutions were passed.

**SPECIAL RESOLUTION**

- a) THAT the authorised share capital of the Company be increased to £9,257 by the creation of 26,800,000 'B' Ordinary Shares of 0.01p each carrying the rights and being subject to the restrictions set out in the Articles of Association adopted pursuant to paragraph (E) of this Resolution.
- b) THAT:
- i) The Directors shall have unconditional authority to allot, grant options over, offer or otherwise deal with or dispose of any relevant securities (within the meaning of Section 80 of the Companies Act 1985 ("the Act")) of the Company on and subject to such terms as the Directors may determine. The authority hereby conferred shall, subject to Section 80 of the Act, be for a period expiring on 25<sup>th</sup> April 2010 unless renewed varied or revoked by the Company in General Meeting and the maximum amount of relevant securities which may be allotted pursuant to such authority shall be £5,338.83, being the authorised but as yet unissued share capital of the Company at the date hereof.



- ii) The Directors shall be entitled under the authority conferred by sub-paragraph (1) of this paragraph or under any renewal thereof to make at any time prior to the expiry of such authority any offer or agreement which would or might require relevant securities of the Company to be allotted after the expiry of such authority.
- c) THAT the Directors shall be empowered for a period expiring on 25<sup>th</sup> April 2010 to allot equity securities (within the meaning of Section 94(2) of the Act) of the Company pursuant to the authority conferred by sub-paragraph (1) of paragraph (B) of this Resolution as if Section 89(1) of the Act did not apply to such allotment and the Directors shall be entitled to make at any time prior to the expiry of the power hereby conferred any offer or agreement which would or might require equity securities to be allotted after the expiry of such power. Provided that such power shall, subject as aforesaid, cease to have effect when the said authority is revoked or would, if not renewed, expire but if that authority is renewed the said power may also be renewed for a period not longer than that for which the authority is renewed by a Special Resolution of the Company passed in General Meeting.
- d) THAT all of the issued Ordinary Shares in the capital of the Company which are "Qualifying Shares" for the purposes of the Shareholders' Agreement dated 8<sup>th</sup> November 2002 made between the Company (1) and the persons listed in Schedule 1 thereto (2) as amended by Special Resolutions passed on 30<sup>th</sup> July 2003 and 20<sup>th</sup> July 2004 ("the Shareholders' Agreement") that is to say the following Ordinary Shares held by the following persons:-

<b>Number of Ordinary Shares</b>	<b>Name of Shareholder</b>
335,384	Blake Enterprises LLC
279,485	Clempson Trade & Investments Inc.
279,485	The Dean and Chapter of the Cathedral Church of Christ in Oxford of the Foundation of King Henry the Eighth
14,667,412	East Hill University Spinouts Fund I, LP
7,691,448	East Hill University Spinouts Fund II, LP
174,155	East Hill University Spinouts Fund III, LP

2,166,636	East Hill University Spinouts Fund IV, LP
34,836	Professor Donald Gordon Fraser
27,948	Gertrude McLaws Helms
27,949	Robert Pearsall Helms
419,229	Oxford Technology 2 Venture Capital Trust Plc
419,228	Oxford Technology 3 Venture Capital Trust Plc
279,485	Mark Tughan

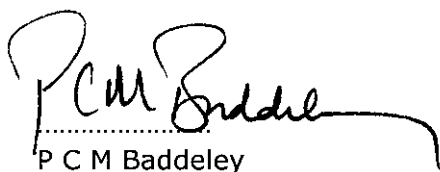
and 6,700,669 of the authorised but unissued Ordinary Shares in the capital of the Company be and they are hereby redesignated as 'A' Ordinary Shares of 0.01p each, carrying the rights and being subject to the restrictions set out in the Articles of Association adopted pursuant to paragraph (E) of this Resolution.

- e) THAT the Articles of Association produced to the meeting by Dr S Ruston and initialled by him for the purposes of identification be and they are hereby adopted as the Articles of Association of the Company in lieu of the existing Articles of Association.
- f) THAT, in accordance with Article 3.4 of the Articles of Association of the Company, Article 3.3 of the aforementioned Articles of Association shall not apply to the allotment and issue of up to the following numbers of 'B' Ordinary Shares of 0.01p each in the capital of the Company to the following persons at a price per share of 20p on or before 31st October 2005:-

<b>Allottee</b>	<b>Number of 'B' Ordinary Shares</b>
East Hill University Spinouts Fund III, LP	5,234,682
East Hill University Spinouts Fund IV, LP	5,234,682

East Hill University Spinouts Fund V, LP	7,500,000
East Hill University Spinouts Fund V(b), LP	7,500,000
Fujisawa Investments for Entrepreneurship LP	665,318
Fujisawa Investments for Entrepreneurship – II LP	665,318

- g) THAT, in accordance with Clauses 3.1.3 and 3.1.12 of the Shareholders' Agreement, the execution by the Company of a Subscription Agreement dated 15<sup>th</sup> April 2005 made between East Hill University Spinouts Fund III, LP, East Hill University Spinouts Fund IV, LP, East Hill University Spinouts Fund V, LP and East Hill University Spinouts Fund V(b), LP (1) Fujisawa Investments for Entrepreneurship LP and Fujisawa Investments for Entrepreneurship – II LP (2) and the Company (3), ("the Subscription Agreement"), the issue of up to 26,800,000 'B' Ordinary Shares of 0.01p each in the capital of the Company pursuant to the Subscription Agreement and the issue of up to 15,000,000 'B' Ordinary Shares of 0.01p each in the capital of the Company to existing shareholders of the Company in accordance with a letter dated 18<sup>th</sup> April 2005 from Dr S. Ruston to the existing shareholders of the Company be and they are hereby approved.
- h) THAT, in accordance with Clause 12.1 thereof, the amendments to the Shareholders' Agreement identified in the copy thereof produced to this meeting by Dr S. Ruston and initialled by him for the purposes of identification be and they are hereby approved.



P C M Baddeley  
on behalf of  
ALDWYCH SECRETARIES LIMITED  
SECRETARY

**Company No: 3548262**

**THE COMPANIES ACTS 1985 AND 1989**

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**PRIVATE COMPANY LIMITED BY SHARES**

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**ARTICLES OF ASSOCIATION**

**OF**

**PROLYSIS LIMITED**

**(as adopted on 12 May 2005)**

**[**

Ref: 222876

**MANCHES**

Manches LLP  
Worcester Street  
Oxford OX1 2PZ

Company No: 3548262

**THE COMPANIES ACTS 1985 AND 1989**

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**COMPANY LIMITED BY SHARES**

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**ARTICLES OF ASSOCIATION**

**of**

**PROLYSIS LIMITED**

(as adopted on 12 May 2005)

**1. Definitions and interpretation**

1.1. In these Articles, unless the context otherwise requires:

**" 'A' Ordinary Shares"** means 'A' Ordinary Shares of 0.01p each in the capital of the Company;

**"acting in concert"** has the meaning ascribed to it by the City Code on Takeovers and Mergers as in force and construed at the date of adoption of these Articles;

**"affiliate"** means any person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, another person or entity (for purposes of this definition, "control" means the power, whether held directly or indirectly, to direct or cause direction of management and policies through ownership of voting securities, contract or otherwise), and "affiliated" shall be construed accordingly.

**"Auditors"** means the auditors for the time being of the Company;

**"Acquirer"** has the meaning ascribed to it in the definition of **"Change of Control"**

**" 'B' Ordinary Shares"** means 'B' Ordinary Shares of 0.01p each in the capital of the Company;

**"Board"** means the board of directors for the time being of the Company or a committee thereof or the directors present at a duly convened quorate meeting of the Board or a committee thereof;

**"body corporate"** includes the University;

**"Change of Control"** means the acquisition (whether by purchase, transfer or otherwise but excluding a subscription or a transfer of shares made in accordance with Article 6 (Permitted Transfers) ) by any person, including a member of the Company (an **"Acquirer"**), of any interest in any Shares if, upon completion of that acquisition and as a result of that acquisition, the Acquirer, together with persons acting in concert or connected with him, would hold or beneficially own more than 50% per cent of the Shares;

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

**"Employee Trust"** means a trust established by the Company for the benefit of its employees and former employees from time to time and the wives, husbands, widows, widowers, children and step-children under the age of eighteen of such employees and former employees;

**"Group"** means the Company and all its subsidiaries and subsidiary undertakings for the time being and **"member of the Group"** shall be construed accordingly;

**"Issue Price"** means the amount paid up or credited as paid up (including any premium on issue) on the Share concerned;

**"Liquidation Surplus"** means such cash sum as remains on a liquidation or winding up of the Company after all of its liabilities (including costs and expenses in connection with such liquidation or winding up) have been paid or provided for;

**"Listing"** a successful application being made in relation to all or any of the equity share capital of the Company for admission to listing to the United

Kingdom Listing Authority and admission to trading to the London Stock Exchange or a successful application being made to any other recognised investment exchange or overseas investment exchange (as such expressions are defined in the Financial Services and Markets act 2000) to be admitted to trading on such exchange;

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

**"Ordinary Shares"** means Ordinary Shares of 0.01p each in the capital of the Company;

**"Relevant Executive"** means a director, employee, or consultant of any member of the Group;

**"Relevant Member"** means a Member who is a Relevant Executive, or a Member who shall have acquired Shares directly or indirectly from a Relevant Executive pursuant to one or more Permitted Transfers under Article 6.2 (including where such Shares were subscribed by such Member and that Member would have been entitled to receive a Permitted Transfer from the Relevant Executive under Article 6.2(a));

**"Sale"** means the sale of any part of the equity share capital of the Company to any person resulting in that person together with any person acting in concert (within the meaning given in the City Code on Takeovers and Mergers as in force at the date of the adoption of these Articles) with such person holding more than 50% of the issued equity share capital of the Company;

**"Sale Proceeds"** means the price paid (including the cash value at the date of the Sale of any non-cash consideration) for all of the Shares which are the subject of the Sale;

**"Shareholder Majority"** means the holder or holders of more than seventy five (75%) of the total number of Shares in issue;

**"Shares"** means shares in the capital of the Company;



**"Table A"** means Table A in the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 and the Companies Act 1985 (Electronic Communications) Order 2000; and

**"University"** means the Chancellors, Masters and Scholars of the University of Oxford;

**"Valuers"** means the Auditors unless:

(a) a report on Market Value is to be made pursuant to a Deemed Transfer Notice and, within 21 days after the date of the Deemed Transfer Notice the Vendor notifies the Board in writing that it objects to the Auditors making that report; or

(b) the Auditors decline an instruction to report on Market Value,

when the Valuers for the purpose of that report shall be a firm of chartered accountants agreed between the Vendor and the Board or, in default of agreement within 20 business days after the event referred to in (a) or (b) above, appointed by the President of the Institute of Chartered Accountants in England and Wales on the application of the Vendor or the Board.

- 1.2. These Articles and the regulations of Table A (subject to any modifications set out in these Articles) shall constitute the Articles of Association of the Company.
- 1.3. References in these Articles to Regulations are to regulations in Table A and references to an Article by number are to the particular Article of these Articles.
- 1.4. In these Articles, words importing a gender include every gender and references to persons shall include bodies corporate, unincorporated associations and partnerships.
- 1.5. Words and expressions defined in or for the purposes of the Act or Table A shall, unless the context otherwise requires, have the same meaning in these Articles.
- 1.6. Words and expressions defined elsewhere in these Articles shall bear the meanings thereby ascribed to them.

- 1.7. The headings in these Articles shall not affect the construction or interpretation of these Articles.

**2. Authorised share capital**

- 2.1. The authorised share capital of the Company is £9,257 divided into 33,503,349 'A' Ordinary Shares, 26,800,000 'B' Ordinary Shares and 32,266,651 Ordinary Shares.

- 2.2. The 'A' Ordinary Shares, the 'B' Ordinary Shares and the Ordinary Shares shall rank pari passu in all respects save as regards capital, in relation to which the 'A' Ordinary Shares, the 'B' Ordinary Shares and the Ordinary Shares shall entitle the holders thereof to the following rights:

- (a) as regards capital on a return of assets on a liquidation or winding up of the Company, the following order of priority shall apply to payments to holders of Shares out of the Liquidation Surplus:
  - (i) first, the holders of the 'A' Ordinary Shares and the holders of 'B' Ordinary Shares shall be entitled in respect of the 'A' Ordinary Shares or 'B' Ordinary Shares held by them to payment of an amount per share equal to the Issue Price paid or credited as paid per 'A' Ordinary Share or 'B' Ordinary Share (as the case may be), including any premium and in the event of any insufficiency then pro rata to the number of 'A' Ordinary Shares and/or 'B' Ordinary Shares held by each of them and to the respective Issue Prices of the 'A' Ordinary Shares and the 'B' Ordinary Shares;
  - (ii) second, the holders of the Ordinary Shares shall be entitled in respect of such shares to payment of a sum per share of 17.89p; and
  - (iii) thereafter any balance shall be paid to the holders of the 'A' Ordinary Shares, the 'B' Ordinary Shares and the Ordinary Shares pari passu and pro rata to the number of such shares held by each of them;

(b) as regards sale:

In the event of a Sale the Sale Proceeds shall be reallocated between the holders of the Shares which are the subject of that Sale so as to ensure the following order of application of the Sale Proceeds:-

- (i) first, in paying to the holders of any 'A' Ordinary Shares or 'B' Ordinary Shares that are the subject of the Sale the Issue Price on all such shares or, in the event of any insufficiency then pro rata to the respective number of 'A' Ordinary Shares and 'B' Ordinary Shares sold by each of them and to the respective Issue Prices of the 'A' Ordinary Shares and 'B' Ordinary Shares that are the subject of the Sale;
- (ii) second, in paying to holders of any Ordinary Shares that are the subject of the Sale the sum per share of 17.89p; and
- (iii) thereafter, any balance shall be paid pro rata to the holders of the 'A' Ordinary Shares, the 'B' Ordinary Shares and the Ordinary Shares which are the subject of the Sale (in proportion to the number of shares sold by each of them as if they together constituted one class);

(c) as regards conversion:

- (i) the 'A' Ordinary Shares and the 'B' Ordinary Shares shall automatically be converted into and redesignated as fully paid Ordinary Shares immediately before the completion of a Listing. Notice of a Listing shall be given to the holders of the 'A' Ordinary Shares and to the holders of the 'B' Ordinary Shares by the Company at least 30 days prior to the expected completion of the Listing and such notice may designate the expected date of completion of the Listing or immediately prior thereto as the date for conversion provided that, for the avoidance of doubt, if the Listing shall not have completed within 30 days after the expected completion date, such conversion and re-designation of 'A' Ordinary Shares and 'B' Ordinary Shares shall be null and void;

- (ii) the Ordinary Shares arising on conversion and redesignation shall rank pari passu with the Ordinary Shares then in issue and fully paid up;
- (iii) the holder of any 'A' Ordinary Shares or 'B' Ordinary Shares shall within 10 days of receipt of the notice given by the Company pursuant to Article 2.2(c)(i) deliver to the Company the certificates for the relevant 'A' Ordinary Shares and/or 'B' Ordinary Shares and upon such delivery there shall be issued to him a certificate for the number of Ordinary Shares resulting from the conversion and redesignation referred to in Article 2.2(c)(i) provided that such certificates shall be returned by the Company or the holder, as appropriate, in the event that the Listing shall not have completed within the period specified in Article 2.2(c)(i);
- (iv) the Company shall procure that at all times the nominal value of the 'A' Ordinary Shares, the 'B' Ordinary Shares and the Ordinary Shares remains equal.

### **3. Issue of Shares**

- 3.1. Subject to Section 80 of the Act and Articles 3.2, and 3.3, all unissued Shares shall be at the disposal of the Board who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as it thinks proper provided that no Shares shall be issued at a discount.
- 3.2. In accordance with section 91(1) of the Act, sections 89(1) and 98(1) to (6) (inclusive) of the Act shall not apply to the Company.
- 3.3. Any unissued Shares or other equity securities to be issued, excepting equity securities to be issued to employees, consultants or directors of the Company upon the exercise of options granted to them by the Company ("New Shares") shall not be allotted to any person unless the Company has, in the first instance, offered such New Shares on the same terms and at the same price as such New Shares are being offered to such other person, to all Members pari passu and pro rata to the number of Shares held by such Members on the basis that in case of competition the New Shares shall be allotted to the acceptors of any such offer in

proportion (as nearly as may be achieved without involving fractions or increasing the number allotted to any Member beyond that applied for by him) to their existing holdings of Shares. Any such New Shares shall rank *pari passu* with existing Shares of the same class then in issue. Each such offer:-

- (a) shall stipulate a time of not less than 30 days within which it must be accepted or in default will lapse; and
- (b) may in the sole and absolute discretion of the Shareholder Majority stipulate that any Members who desire to subscribe for a number of New Shares in excess of the proportion to which each is entitled may in their acceptance state how many excess New Shares they wish to subscribe for and any Shares not accepted by other Members shall (in the event that any such stipulation is included in such acceptance(s)) be used for satisfying such requests for excess New Shares *pro rata* to the existing holdings of all Shares held by any Members making such requests and thereafter, such New Shares shall be offered to any other person at the same price and on the same terms as the offer to Members.

3.4. The provisions of Article 3.3 may be varied or disappplied by special resolution

3.5. The University shall be entitled to transfer its right to subscribe for Shares in response to an offer made under Article 3.3 to the Isis College Fund No.1 Limited Partnership or the Isis College Fund No.2 Limited Partnership ("the Funds") or to a nominee appointed by the Funds where the Funds retain the entire beneficial interest and Article 3.3 shall then take effect in relation to that offer as if the Funds (or their nominee) were a Member in place of the University.

#### **4. Lien**

4.1. The lien conferred by Regulation 8 shall attach to all Shares of any class, whether fully paid or not, and to all Shares registered in the name of any Member for all money presently payable by him or his estate to the Company, whether he is their sole registered holder or one of two or more joint holders. Regulation 8 shall be modified accordingly.

- 4.2. All Shares to be sold in the enforcement of the Company's lien or rights of forfeiture shall be offered in accordance with Article 8 (Compulsory Transfers) as if a Deemed Transfer Notice were deemed given in respect of such shares.

**5. Transfer of Shares – general**

- 5.1. The Board shall not register the transfer of any Share or any interest in any Share unless the transfer:

(a) is either:

(i) permitted by Article 6 (Permitted Transfers); or

(ii) is made in accordance with Article 7 (Voluntary Transfers), Article 8 (Compulsory Transfers) or Article 9 (Come Along Option); and

(b) is not prohibited under Article 11 (Prohibited Transfers).

- 5.2. An obligation to transfer a Share under these Articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free from any lien, charge or other encumbrance.

- 5.3. No arrangement shall be entered into by any Member whereby the terms upon which that Member holds any Shares are to be varied if as a result any interest in those Shares is varied, disposed of or created or extinguished other than by a transfer made in accordance with these Articles.

- 5.4. Regulations 30 and 31 shall be modified to reflect the provisions of this Article 5 and Articles 6, 7, 8, 9 and 11.

**6. Permitted transfers**

**6.1. Definitions**

For the purposes of this Article and Articles 7 and 8:

- (a) **"family member"** means, in relation to any person, any of his spouse (or widow or widower), children and grandchildren (including step and adopted children and grandchildren);

- (b) **"family trust"** means, in relation to a Member, a trust which does not permit any of the settled property or the income from it to be applied otherwise than for the benefit of that Member or any of his family members and under which no power of control over the voting powers conferred by any Shares the subject of the trust is capable of being exercised by, or being subject to the consent of, any person other than the trustees or such Member or any of his family members;
- (c) **"investment fund"** means any company, trust (other than a family trust), limited partnership or fund holding Shares for investment purposes;
- (d) **"a member of the same group"** means, in relation to a body corporate, any other body corporate which is for the time being a holding company or corporation of that body corporate or a subsidiary of that body corporate or a subsidiary of any holding company or corporation of which that body corporate is also a subsidiary, or an affiliate of that body corporate; and
- (e) **"permitted transfer"** means any transfer of Shares permitted under this Article 6.

#### 6.2. Transfers to relations and trustees

- (a) Subject to Articles 6.2(b) to 6.2(f) inclusive, any Member who is an individual may at any time transfer Shares held by him to a person or persons shown to the reasonable satisfaction of the Board to be:
  - (i) a family member of his; or
  - (ii) trustees who will hold the Shares under a family trust for that Member; or
  - (iii) a limited liability company wholly owned by a family trust for that Member.

- (b) No transfer of Shares shall be made by a Member under Article 6.2(a)(ii), unless the Board has confirmed in writing its satisfaction:
  - (i) with the terms of the instrument constituting the relevant family trust and in particular with the powers of the trustees;
  - (ii) with the identity of the trustees and the procedures for the appointment and removal of trustees;
  - (iii) with the restrictions on changes in the terms of the trust instrument and on distributions by the trustees; and
  - (iv) that none of the costs incurred in establishing or maintaining the relevant family trust will be payable by any member of the Group.
- (c) Any person entitled to Shares in consequence of the death or bankruptcy of an individual Member may at any time transfer such shares to any person or trustee to whom such individual Member (if not dead or bankrupt) would be permitted by Article 6.2(a) to transfer the same.
- (d) Where Shares are held by trustees under a family trust:
  - (i) those Shares may, on any change of trustees, be transferred by those trustees to any new trustee of that family trust whose identity has been approved in writing by the Board;
  - (ii) those Shares may at any time be transferred by those trustees to the settlor of that trust or to any other person to whom that settlor could have transferred them under Article 6.2(a) if he had remained the holder of them or to any limited liability company wholly owned by that trust; and
  - (iii) if any of those Shares cease to be held under a family trust (other than by virtue of a transfer made under Article 6.2(d)(ii)), the trustees shall give a Transfer Notice (as defined in Article 7.1) in respect of all the Shares then held by those trustees within 28 days of the Shares ceasing to be so held.



- (e) Where Shares are held by a limited liability company which is wholly owned by a family trust:
  - (i) those Shares may be transferred by such company to the trustees of that family trust or to another limited liability company wholly owned by that family trust or to the settlor of that trust or to any other person to whom that settlor could have transferred them under Article 6.2(a) if he had been the holder of them; and
  - (ii) if such company shall cease to be wholly owned by such family trust, such company shall give a Transfer Notice (as defined in Article 7.1) in respect of all the Shares then held by it within 28 days of its ceasing to be wholly owned by such family trust.
- (f) If any person has acquired Shares as a family member of a Member by way of one or more permitted transfers and that person ceases to be a family member of that Member, that person shall forthwith transfer all the Shares then held by that person back to that Member, for such consideration as they agree, within 21 days of the cessation, or, failing such transfer within that period, shall during the remainder of the 28 day period after the cessation, give a Transfer Notice (as defined in Article 7.1) in respect of all of the Shares then held by that person.

### 6.3. Transfers within groups of companies and corporations

- (a) Any Member which is a body corporate (but not a company wholly owned by a family trust nor a corporate trustee) may at any time transfer any Shares held by it to a member of the same group.
- (b) Where Shares have been transferred under Article 6.3(a) (whether directly or by a series of such transfers) from a Member (the "**Transferor**") which expression shall not include a second or subsequent transferor in such a series of transfers) to a member of the same group as the Transferor (the "**Transferee**") and subsequently the Transferee ceases to be a member of the same group as the Transferor, the Transferee shall forthwith transfer all the Shares held by it to the Transferor, for such consideration as they agree, within 21 days of the

Cessation, or, failing such transfer within that period, shall during the remainder of the 28 day period after the cessation, give a Transfer Notice in respect of all of the Shares then held by the Transferee.

**6.4. Transfers by Employee Trusts**

Where any Shares are held by trustees under an Employee Trust those Shares may at any time be transferred:-

- (a) to the new trustees of that Employee Trust on any change of trustees;  
or
- (b) to any beneficiary of that Employee Trust.

**6.5. Transfers by Investment Funds**

Any holder of Shares which is an investment fund or a trustee, custodian or nominee of an investment fund may at any time transfer any shares held by it which form part of the assets of that investment fund:-

- (a) to any trustee, nominee or custodian for such fund and vice versa;
- (b) to any unitholder, shareholder, partner, participant, manager or adviser (or an employer of such manager or adviser) in or to any such fund: or
- (c) to any other investment fund, or its trustee, nominee or custodian, managed or advised by the same manager or adviser as any such fund.

**6.6. Transfers of entire interest**

A transfer of any Share pursuant to this Article 6 shall only be treated as permitted for the purposes of these Articles if it is a transfer of the entire legal and beneficial interest in such Share, free from any lien, charge or other encumbrance (save for any interest of beneficiaries under the relevant family trust where applicable).

**7. Voluntary transfers**

- 7.1. Except as permitted under Article 6 (Permitted Transfers), any Member (a **"Vendor"**) shall, before transferring or agreeing to transfer any Share or any interest in any Share, serve notice in writing (a **"Transfer Notice"**) on the Company of his wish to make that transfer.
- 7.2. In the Transfer Notice, the Vendor shall specify:
- (a) the number and class of Shares (**"Sale Shares"**) which he wishes to transfer;
  - (b) the identity of the person (if any) to whom the Vendor wishes to transfer the Sale Shares;
  - (c) the price per share at which the Vendor wishes to transfer the Sale Shares (the **"Proposed Sale Price"**);
  - (d) any other terms relating to the transfer of the Sale Shares (and such terms may not be terms which are prohibited by these Articles); and
  - (e) whether the Transfer Notice is conditional upon all (and not part only) of the Sale Shares being sold pursuant to the following provisions of this Article 7 (a **"Total Transfer Condition"**).
- 7.3. Each Transfer Notice shall:
- (a) relate to one class of Shares only;
  - (b) constitute the Company as the agent of the Vendor for the sale of the Sale Shares on the terms of this Article 7;
  - (c) save as provided in Article 7.5, be irrevocable; and
  - (d) not be deemed to contain a Total Transfer Condition unless expressly stated otherwise or required by these Articles.
- 7.4. The Sale Shares shall be offered for purchase in accordance with this Article 7 at a price per Sale Share (the **"Sale Price"**):-

- (a) agreed between the Vendor and the Board; or
  - (b) in default of agreement under Article 7.4(a) within 21 days after the date of service of the Transfer Notice, the lower of:
    - (i) the Proposed Sale Price; and
    - (ii) if the Board elects within 28 days after the date of service of the Transfer Notice to instruct Valuers for that purpose, the price per Share reported on by the Valuers as their written opinion of the open market value of each Sale Share in accordance with Article 7.14 (the "**Market Value**") as at the date of service of the Transfer Notice.
- 7.5. If the Market Value is reported on by the Valuers under Article 7.4(b)(ii) to be less than the Proposed Sale Price specified in the Transfer Notice, the Vendor may revoke the Transfer Notice by written notice given to the Board within the period (the "**Withdrawal Period**") of 14 days after the date on which the Board serves on the Vendor the Valuers' written opinion of the Market Value.
- 7.6. The Board shall offer the Sale Shares for purchase at the Sale Price by a written offer notice (the "**Offer Notice**") served on all Members within seven days after the Sale Price is agreed or determined under Article 7.4 or, if the Transfer Notice is capable of being revoked under Article 7.5, within seven days after the expiry of the period for revocation in Article 7.5.
- 7.7. An Offer Notice shall:
- (a) specify the Sale Price;
  - (b) expire 42 days after its service;
  - (c) contain the other details included in the Transfer Notice; and
  - (d) invite the relevant Members to apply in writing, before expiry of the Offer Notice, to purchase the numbers of Sale Shares specified by them in their application.

7.8. Sale Shares which are held by:

- (a) Members who are directors and/or employees of the Company shall be treated as offered in the first instance to all Members holding Shares who are directors and/or employees of the Company and to the extent not accepted by such Members, to all Members holding Shares who are not directors and/or employees of the Company;
- (b) Members who are not directors and/or employees of the Company shall be treated as offered in the first instance to all Members holding Shares who are not directors and/or employees of the Company and to the extent not accepted by such Members, to all Members holding Shares who are directors and/or employees of the Company

but no Shares shall be treated as offered to the Vendor or any other Member who is then bound to give or deemed to have given a Transfer Notice.

7.9. After the expiry date of the Offer Notice, (or, if earlier, upon valid applications being received for all the Sale Shares in accordance with Article 7.7) the Board shall, in the priorities and in respect of each class of persons set out in Article 7.8, allocate the Sale Shares in accordance with the applications received, subject to the other provisions of these Articles and Table A, save that:

- (a) if there are applications from any class of Members for more than the number of Sale Shares available for that class of Members, they shall be allocated to those applicants in proportion (as nearly as possible but without allocating to any Member more Sale Shares than the maximum number applied for by him) to the number of Shares of the relevant class then held by them respectively;
- (b) if it is not possible to allocate any of the Sale Shares without involving fractions, those fractions shall be aggregated and allocated amongst the applicants of the relevant class in such manner as the Board thinks fit; and
- (c) if the Transfer Notice contained a Total Transfer Condition, no allocation of Sale Shares shall be made unless all the Sale Shares are allocated.

- 7.10. The Board shall, within 7 days of the expiry of the Offer Notice, give notice in writing (a "**Sale Notice**") to the Vendor and to each person to whom Sale Shares have been allocated (each a "**Purchaser**") specifying the name and address of each Purchaser, the number of Sale Shares allocated to him, the aggregate price payable for them, and the time for completion of each sale and purchase.
- 7.11. Completion of a sale and purchase of Sale Shares pursuant to a Sale Notice shall take place at the registered office of the Company at the time specified in the Sale Notice (being not less than one week nor more than two months after the expiry of the Offer Notice, unless agreed otherwise in relation to any sale and purchase by both the Vendor and the Purchaser concerned) when the Vendor shall, upon payment to him by a Purchaser of the Sale Price in respect of the Sale Shares allocated to that Purchaser, transfer those Sale Shares and deliver the relative share certificates to that Purchaser.
- 7.12. The Vendor may, during the period falling between one and two months after the expiry of the Offer Notice, sell any Sale Shares for which a Sale Notice has not been given by way of bona fide sale to the proposed transferee (if any) named in the Transfer Notice at any price per Sale Share which is not less than the Sale Price, without any deduction, rebate or allowance to the proposed transferee, provided that:
- (a) the Board shall be entitled to refuse registration of the proposed transferee if he is believed by the Board to be a competitor or connected with a competitor of any business of any member of the Group or a nominee of such a person; and
  - (b) if the Transfer Notice contained a Total Transfer Condition, the Vendor shall not be entitled to sell only some of the Sale Shares under this Article 7 save with the written consent of all the other Members.
- 7.13. If a Vendor fails to transfer any Sale Shares when required pursuant to this Article 7 the Board may authorise any person (who shall be deemed to be the attorney of the Vendor for the purpose) to execute the necessary transfer of such Sale Shares and deliver it on the Vendor's behalf. The Company may receive the purchase money for the Sale Shares from the Purchaser and shall, upon receipt of the transfer duly stamped, register the Purchaser as the holder of those Sale Shares. The Company shall hold the purchase money in a separate bank account

on trust for the Vendor but shall not be bound to earn or pay interest on any money so held. The Company's receipt for the purchase money shall be a good discharge to the Purchaser (who shall not be concerned to see to the application of it) and, after the name of the Purchaser has been entered in the register of Members in purported exercise of the power conferred by this Article 7, the validity of that exercise shall not be questioned by any person.

7.14. If instructed to report on their opinion of Market Value under Article 7.4(b)(ii), the Valuers shall:

- (a) act as expert and not as arbitrator and their written determination shall be final and binding on the Members, save in the case of manifest error; and
- (b) proceed on the basis that:
  - (i) the open market value of each Sale Share shall be the sum which a willing purchaser would agree with a willing vendor to be the purchase price for all the class of Shares of which the Sale Shares form part, divided by the number of issued Shares then comprised in that class;
  - (ii) there shall be no addition of any premium or subtraction of any discount by reference to the size of the holding the subject of the Transfer Notice or in relation to any restrictions on the transferability of the Sale Shares; and
  - (iii) any difficulty in applying either of the foregoing bases shall be resolved by the Valuers as they think fit in their absolute discretion.

7.15. The Company will use its best endeavours to procure that the Valuers deliver their written opinion of the Market Value to the Board and the Vendor within 28 days of the Board electing to instruct them under Article 7.4.

7.16. The Valuers' fees for reporting on their opinion of the Market Value shall be borne as to one half by the Vendor and as to the other half by the Purchasers *pro rata* to the number of Sale Shares purchased by them unless:

- (a) the Vendor revokes the Transfer Notice pursuant to Article 7.5; or
  - (b) none of the Sale Shares are purchased pursuant to this Article 7,
- when the Vendor shall pay all the Valuers' fees.

## **8. Compulsory transfers**

8.1. In this Article 8, a **"Transfer Event"** means, in relation to any Member:

- (a) a Member which is a body corporate;
  - (i) having a receiver, manager or administrative receiver appointed over all or any part of its undertaking or assets; or
  - (ii) having an administrator appointed in relation to it; or
  - (iii) entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or
  - (iv) having any equivalent action taken in any jurisdiction.
- (b) subject to Article 8.5, a Relevant Member, or the Relevant Executive in relation to a Relevant Member, ceasing to be an employee or consultant of a member of the Group and as a consequence no longer being an employee or consultant of any member of the Group;
- (c) a Member who is not (or has ceased to be) an employee or consultant of a member of the Group at the date of acquisition referred to below, but who has acquired Shares in pursuance of a right or interest obtained by an employee or consultant of a member of the Group (including, but not limited to, his right or interest as a beneficiary under a trust and any option granted under any share option scheme established by any member of the Group) being registered as the holder of such Shares;



- (d) a Member or any family member, family trust or a limited liability company wholly owned by a family trust attempting to deal with or dispose of any Share or any interest in it otherwise than in accordance with Article 6 (Permitted Transfers), Article 7 (Voluntary Transfers) and this Article 8 (Compulsory Transfers) or in contravention of Article 11 (Prohibited Transfers); and
  - (e) a Member not giving a Transfer Notice in respect of any Shares or transfer any Shares (as the case may be) as required by Articles 6.2(d)(iii), 6.2(e), 6.2(f) or 6.3(b).
- 8.2. Upon the happening of any Transfer Event, the Member in question and any other Member who has acquired Shares from him under a permitted transfer (directly or by means of a series of two or more permitted transfers) shall be deemed to have immediately given a Transfer Notice in respect of all the Shares then held by them (a **"Deemed Transfer Notice"**). A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice.
- 8.3. Notwithstanding any other provision of these Articles, any Member holding Shares in respect of which a Deemed Transfer Notice is deemed given shall not be entitled to exercise any voting rights at general meetings of the Company in respect of those Shares between the date of the relevant Deemed Transfer Notice and the expiry of one month after the date of the Sale Notice given in respect of those Shares or, if earlier, the entry in the register of members of the Company of another person as the holder of those Shares.
- 8.4. The Shares the subject of any Deemed Transfer Notice shall be offered for sale in accordance with Article 7 as if they were Sale Shares in respect of which a Transfer Notice has been given save that:
  - (a) a Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event or, if later, the date of the first meeting of the Board at which details of the facts or circumstances giving rise to the Deemed Transfer Notice are tabled or, if the Directors so resolve, at any time up to 6 months after the Transfer Event;

- (b) the Sale Price shall be a price per Sale Share agreed between the Vendor and the Board or, in default of agreement within 21 days after the date of the date on which the Deemed Transfer Notice is deemed, under Article 8.4(a), to have been served, the Market Value, less in each case any dividends on the Sale Shares referred to in Article 8.4(f) and retained by the Vendor;
- (c) a Deemed Transfer Notice shall be deemed not to contain a Total Transfer Condition and shall be irrevocable;
- (d) the Directors may resolve that an Offer Notice may be served, in respect of some or all of the Shares which are the subject of a Deemed Transfer Notice, on a member of management of the Company or any other member of the Group (regardless of whether such person is a Member) and an Offer Notice in respect of any other Shares the subject of the Deemed Transfer Notice shall be served in accordance with Article 7.6;
- (e) the Vendor may retain any Sale Shares for which Purchasers are not found or, during the period between one and two months after the expiry of the relevant Offer Notice and with the prior written approval of the Board, sell all or any of those Sale Shares to any person (including any Member) at any price per Sale Share which is not less than the Sale Price; and
- (f) the Sale Shares shall be sold together with all rights, attaching thereto as at the date of the Transfer Event, including the right to any dividend declared or payable on those Shares after that date.

8.5. For the purpose of Article 8.1(b), the date upon which a Relevant Member or Relevant Executive ceases to hold office as described therein shall be:

- (a) where a contract of employment or consultancy is terminated by the employer or, as the case may be, the member of the Group by whom the consultant is engaged as consultant, by giving notice to the employee or, as the case may be, the consultant of the termination of the employment or consultancy, the date of that notice (whether or not a payment is made by the relevant member of the Group in lieu of all or

part of the notice period required to be given by the relevant member of the Group in respect of such termination);

- (b) where a contract of employment or consultancy is terminated by the employee or consultant by giving notice to the employer or, as the case may be, the relevant member of the Group of the termination of the employment or consultancy, the date of that notice;
- (c) where an employer or, as the case may be, the relevant member of the Group on the one hand or employee or consultant on the other hand, repudiates the contract of employment or consultancy and the other accepts that the contract of employment or consultancy has been terminated, the date of such acceptance;
- (d) where a contract of employment or consultancy is terminated under the doctrine of frustration, the date of the frustrating event; or
- (e) where a contract of employment or consultancy is terminated for any reason other than in the circumstances set out in Article 8.5(a) to 8.5(d) above, the date on which the action or event giving rise to the termination occurs.

## **9. Come along Option**

- 9.1. If any one or more Members (together the **"Selling Shareholders"**) wish to transfer any interest in 75 per cent or more of the issued Shares where that transfer would result in a Change of Control, the Selling Shareholders (or, after the transfer by them of their Shares to the Acquirer resulting in the Change of Control, the Acquirer) shall have the option (the **"Come Along Option"**) to require all the other holders of Shares to transfer all their Shares to the Acquirer or as the Acquirer shall direct in accordance with this Article 9.
- 9.2. The Selling Shareholders or the Acquirer may exercise the Come Along Option by giving notice to that effect (a **"Come Along Notice"**) to all such other Shareholders (the **"Called Shareholders"**) at any time after the Selling Shareholders have agreed to transfer the Shares held by them giving rise to the Change of Control. A Come Along Notice shall specify that the Called Shareholders are required to transfer all their Shares (the **"Called Shares"**)

pursuant to Article 9.1, the price at which the Called Shares are to be transferred (calculated in accordance with Article 9.4) and the proposed date of transfer.

- 9.3. A Come Along Notice is irrevocable but the Come Along Notice and all obligations thereunder will lapse if the Come Along Notice is given before the transfer of Shares resulting in the Change of Control and for any reason there is not a Change of Control caused by a transfer of Shares by the Selling Shareholders to the Acquirer within 6 months of the date of the Come Along Notice.
- 9.4. The Called Shareholders shall be obliged to sell the Called Shares at the price per Share at which the relevant transfer of Shares referred to in Article 9.1 takes place or took place.
- 9.5. Completion of the sale of the Called Shares shall take place on the date specified for that purpose by the Selling Shareholders or the Acquirer except that:
- (a) such person may not specify a date that is less than 14 days after the date of the Come Along Notice;
  - (b) if the Come Along Notice is given by the Selling Shareholders, the date so specified by the Selling Shareholders shall be the same date as the date proposed for completion of the sale of the Shares giving rise to the Change of Control,

unless all of the Called Shareholders, the Selling Shareholders and the Acquirer agree otherwise.

- 9.6. If any of the Called Shareholders shall make default in selling its Called Shares in accordance with this Article 9, any director of the Acquirer or some other person duly nominated by resolution of the Board for that purpose shall forthwith be deemed to be the duly appointed attorney of such Called Shareholders with such power to execute, complete and deliver in the name and on behalf of such Called Shareholders a transfer of the relevant Called Shares and any such director may receive and give a good discharge of the purchase money on behalf of such Called Shareholders and (subject to the transfer being duly stamped) enter the name of the third party in the Register of Members as the holder or holders by transfer of the Called Shares so purchased by him or them. The Board shall forthwith pay the purchase money into a separate bank account in the Company's name and

shall hold such money on trust (but without interest) for such Called Shareholders until they shall deliver up a certificate or certificates for the relevant shares to the Company and they shall thereupon be paid the purchase money.

**10. Change of Control**

10.1. *Notwithstanding any other provision in these Articles no sale or transfer or other disposition of any interest in any Share shall have any effect, if it would result in a Change of Control, unless before the transfer is lodged for registration the Acquirer has made a bona fide offer in accordance with this Article 10 to purchase at the Specified Price (as defined in Article 10.3(b)) all the Shares held by the Members (except any Member which has expressly waived its right to receive such an offer for the purpose of this Article 10).*

10.2. *An offer made under Article 10.1 shall be in writing open for acceptance for at least 21 days, and shall be deemed to be rejected by any Member who has not accepted it in accordance with its terms within 21 days and the consideration under such an offer shall be settled in full on completion of the purchase and within 30 days of the date of the offer.*

10.3. For the purposes of Article 10.1:

(a) the expressions "**transfer**", "**transferor**" and "**transferee**" include respectively the renunciation of a renounceable letter of allotment and any renouncer and renounee of such letter; and

(b) the expression "**Specified Price**" means the higher of:

(i) a price per share equal to the highest price paid or payable by the Acquirer or persons acting in concert with him or connected with him for any Shares within the last 6 months plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the specified shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as part of the overall consideration paid or payable for the specified shares; and

(ii) a price per share equal to the Issue Price thereof;

- (c) If any part of the Specified Price is payable otherwise than in cash any Member may require, as a condition of his acceptance of the offer made under this Article 10, to receive in cash on transfer all or any of the price offered for the Shares sold by him pursuant to the offer.

## **11. Prohibited transfers**

- 11.1. Notwithstanding any other provision of these Articles, no transfer of any Share shall be registered if it is to any infant, bankrupt, trustee in bankruptcy or person of unsound mind.

## **12. General Meetings**

- 12.1. The Board shall procure that the audited accounts of the Company for each financial year are laid before the Company in general meeting not later than 1 month after the date of the auditors' report contained in those accounts.
- 12.2. Notice of a general meeting need not be given to any director in that capacity. Regulation 38 shall be modified accordingly.
- 12.3. Regulation 37 shall be amended by the insertion of the words "or the University Director acting alone" after the second word of that regulation.

## **13. Proceedings at General Meetings**

- 13.1. Any Member having the right to vote at the meeting may demand a poll at a general meeting. Regulation 46 shall be modified accordingly.
- 13.2. A director shall not be required to hold any share qualification, but nevertheless shall be entitled to attend and speak at any general meeting of the Company and at any separate general meeting of the holders of any class of Shares.
- 13.3. Regulation 62 shall be modified by the deletion in paragraph (a) of the words "deposited at" and by the substitution for them of the words "left at or sent by post or by facsimile transmission to" and by the insertion at the end of the regulation after the word "invalid" of the words "unless a majority of the Board resolve otherwise".

**14. Number of Directors**

- 14.1. The number of directors shall not be less than two nor more than eight. Regulation 64 shall not apply.

**15. Alternate Directors**

- 15.1. Regulation 66 shall be amended by the insertion between the words "shall" and "be" of the words " (subject to his giving the Company an address at which notice may be served upon him)".
- 15.2. A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.
- 15.3. If an alternate director is himself a director or attends any meeting as an alternate director for more than one director, his voting rights shall be cumulative but he shall only be counted once in deciding whether a quorum is present.

**16. Proceedings of directors**

- 16.1. The quorum for the transaction of business of the Board shall be two directors or such other number as the Board may determine.
- 16.2. Any director or his alternate may validly participate in a meeting of the Board by conference telephone, video conference facility or other form of communication equipment if all persons participating in the meeting are able to hear and speak to each other throughout the meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no group which is larger than any group, where the chairman of the meeting then is.
- 16.3. The Chairman of the Board shall not have a second or casting vote at a meeting of the Board. The fifth sentence of Regulation 88 shall not apply.
- 16.4. Subject to disclosure under section 317 of the Act, a director may vote at any meeting of the Board on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which conflicts or may conflict with the interests of the Company. Regulations 94 and 95 shall not apply.

**17. Retirement of directors**

17.1. Directors shall not be required to retire by rotation. Regulations 67 and 78 shall be modified accordingly. Regulations 73 to 77, the second and third sentences of Regulation 79, Regulation 80 and the last sentence of Regulation 84 shall not apply.

17.2. The office of a director shall be vacated if:

(a) (being an executive director) he ceases to be employed by or a consultant to any member of the Group; or

(b) a majority of the Board so requires.

Regulation 81 shall be extended accordingly.

**18. Notices**

18.1. Any notice to be given to the Company pursuant to these Articles shall be sent to the registered office of the Company or presented at a meeting of the Board.

18.2. Any notice to be given pursuant to these Articles may be given by facsimile transmission to the facsimile number maintained at the relevant address of the addressee. Such a notice shall be conclusively deemed to have been properly given at the time shown on the transmission report received by the sender.

18.3. The figure "24" shall be inserted in substitution for the figure "48" in the second sentence of Regulation 115. Any notice or other document delivered or left at a registered address otherwise than by post shall be deemed to have been served or delivered on the day it was so delivered or left.

**19. Electronic Communications**

Regulations 111 to 116 inclusive, as amended by the Companies Act 1985 (Electronic Communications) Order 2000 SI 2000/3373 shall apply save that any member with an address outside the United Kingdom shall be treated as if his address was an address within the United Kingdom and any notice shall, if given otherwise than by means of electronic communications, also be given by means



of electronic communications to the address (if any) given by a member for the purposes of electronic communications.

**20. Indemnity**

- 20.1. Subject to the provisions of the Act, but without prejudice to any other indemnity to which the person concerned may otherwise be entitled, every director, alternate 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 the exercise of his powers or otherwise in relation thereto. Regulation 118 shall be extended accordingly.
- 20.2. The directors may exercise all the powers of the Company to purchase and maintain for every director or other officer insurance against any liability for negligence, default, breach of duty or breach of trust or any other liability which may be lawfully insured against.