

**THE COMPANIES ACT 1985
PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION
- of -**

DR FOSTER LIMITED

**Company Number 3812015
Incorporated on 22 July 1999**

Adopted by Special Resolution passed on 22 September 2003

Interpretation

1. In these Articles, if not inconsistent with the subject or context:
 - 1.1. "Act" means the Companies Act 1985 as amended or re-enacted from time to time
 - 1.2. "Table A" means Table A in the Schedule to the Companies (Tables A - F) Regulations 1985.

Table A

2. The regulations contained in Table A apply to the Company except in so far as they are excluded by or are inconsistent with these Articles.
3. Regulations 8, 24, 35, 68, 73, 74, 75, 77 to 80 inclusive, 94 to 98 inclusive and 118 of Table A do not apply to the Company.

Share capital

4. Subject to any direction to the contrary which may be given by the Company in general meeting, the Directors are unconditionally authorised to allot, create, deal with or otherwise dispose of relevant securities (within the meaning of section 80(2) of the Act) to such persons (including any Director) on such terms and at such times as they think fit, but no shares shall be issued at a discount.
5. The maximum nominal amount of share capital which the Directors may allot or otherwise dispose of in accordance with regulation 4 is the nominal amount of unissued shares at the date of incorporation of the Company or such other amount as is authorised by the Company in general meeting.
6. The authority conferred on the Directors by regulations 4 and 5 shall remain in force for a period of 5 years from the date of adoption of these Articles ("Adoption Date"), save that any offer or agreement in respect of relevant securities which is made prior to the expiration of such authority and in all other respects within the terms of such authority may be authorised to be made, notwithstanding that such offer or agreement would or might require relevant securities to be allotted after the expiration of such authority and the Directors may at any time allot any relevant regulations 4 and 5 may be renewed, revoked or varied by the Company in general meeting in accordance with section 80 of the Act.



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7.1. The provisions of Section 89(1) of the Act do not apply to the Company.

7.2. Save where shares are allotted pursuant to the terms of a trust, superannuation fund, retirement scheme, share option scheme, share market plan or other scheme for the benefit of salaried officers or employees of the Company or any subsidiary of the Company (for the purposes of this Article 7.2 a "**Scheme**") and where the aggregate of such shares together with any shares previously allotted pursuant to any such Scheme does not exceed 10% of the total issued share capital of the Company and save where shares are allotted pursuant to the exercise of any option granted at par to a non-executive director of the Company prior to the adoption of these Articles; "and save where shares are issued pursuant to the terms of (a) the £1,000,000 in principal amount convertible redeemable series B loan notes to be issued by the Company to the Investor on or about 22 September 2003 or (b) the £400,000 in principal amount convertible unsecured series A loan notes due 30 April 2006 issued by the Company on 29 April 2003"; unless otherwise determined by special resolution of the Company in general meeting, any relevant shares (within the meaning of section 94(5) of the Act) shall, before they are allotted on any terms to any person, be first offered on the same or more favourable terms to each person who holds shares in the Company in the proportion which is, as nearly as practicable, equal to the proportion in nominal value held by him of the aggregate of such shares in issue. Such offer shall be made by notice in writing specifying the number of shares offered and the period, not being less than 21 days, within which the offer, if not accepted, will be deemed to have been declined. After the expiration of such period, or on receipt of notice of the acceptance or refusal of every offer so made, the Directors may, subject to these Articles, dispose of such securities as have not been taken up in such manner as they think proper. The Directors may, in like manner, dispose of any such securities, which by reason of the proportion borne by such securities to the number of persons entitled to such offer or by reason of any other difficulty in apportioning the same, cannot in the opinion of the Directors be conveniently offered in the manner provided in this regulation.

8. The Company shall not have power to issue share warrants to bearer.

9. Subject to the provisions of the Act and the Companies Act 1989 the Company may:

9.1. purchase any of its own shares, including redeemable shares, provided the same is authorised by special resolution of the Company;

9.2. in respect of the redemption or purchase of any of its own shares, give financial assistance or make such payments out of capital or otherwise than out of distributable profits as may be permissible in accordance with the Act provided that the same is authorised by special resolution of the Company.

Lien

10. The Company shall have a first and paramount lien on every share for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share. The Company shall also have a first and paramount lien on all shares registered in the name of any person (whether solely or jointly with others) for all

moneys owing to the Company from him or his estate either alone or jointly with any other person, whether as a member or not and whether such moneys are presently payable or not. The Directors may at any time declare any share to be wholly or partly exempt from the provisions of this regulation. The Company's lien on a share shall extend to any amount payable in respect of it.

Transfer of shares

11. The Directors shall (save in the case of a transfer to a minor or a person of unsound mind) be required to register any transfer of shares made in accordance with Articles 12 14 or 15 but shall not register any transfer of shares not so made, subject always to the discretion of the Directors contained in regulation 15.28.

12. Tag-along Rights

- 12.1 If at any time any members(s) of the Company (the "**Proposed Sellers**") propose to sell, in one or a series of related transactions, a Controlling Holding in the Company to any person or sell shares to any person which would result in such person acquiring a Controlling Holding, the Proposed Sellers may only sell such shares if they comply with the provisions of this Article 12.
- 12.2 The Proposed Sellers shall give written notice (the "**Proposed Sale Notice**") of such sale to the other members of the Company at least 28 Business Days prior to the date of sale. The Proposed Sale Notice shall set out the identity of the proposed buyer (the "**Proposed Tag-along Buyer**"), the proposed date of sale, the number or ordinary shares proposed to be purchased by the Proposed Tag-along Buyer (or the maximum number of ordinary shares which he is prepared to purchase), the proposed purchase price per Ordinary Share (the "**Tag-along Sale Price**") and all other material terms and conditions of transfer and payment.
- 12.3 Any recipient of the Proposed Sale Notice shall be entitled, by written notice (the "**Tag-along Notice**") given to the Proposed Sellers within 28 Business Days of receipt of the Proposed Sale Notice, to require the Proposed Sellers to refrain from selling the Controlling Holding or such shares as would result in any person acquiring a Controlling Holding (as the case may be); unless the Proposed Sellers procure that the Proposed Tag-along Buyer purchases all the ordinary shares held by such member on the same terms and conditions as those set out in the Proposed Sale Notice.
- 12.4 If any member serves a Tag-along Notice, the Proposed Sellers shall not sell their ordinary shares to the Proposed Tag-along Buyer unless they procure that the Proposed Tag-along Buyer simultaneously acquires those ordinary shares specified in the Tag-along Notice (or the appropriate proportion of shares pursuant to Article 12.3 above) for a consideration equal to the Tag-along Sale price per share and on the same terms.
- 12.5 If any member fails to serve a Tag-along Notice within the period set out in Article 12.3 then such member shall be deemed to have declined his rights under this Article 12.
13. For the purpose of regulation 12 "a controlling holding" means shares conferring in the aggregate 30 per cent or more of the total voting rights capable of being exercised at general meetings of the Company (including shares held by all persons who in relation to each other are Connected Persons or persons acting in concert within the meaning of the City Code on Takeovers and Mergers).

14. Drag-Along Rights

- 14.1 If any shareholder receives a bona fide arm's length offer in writing by or on behalf of any person ("the Offeror") to acquire not less than 75% of the shares comprised in the Relevant Share Capital of the Company ("the Offer") and shareholders in the Company holding not less than 75% of the shares comprised in the then Relevant Share Capital of the Company ("the Proposed Exit Sellers") wish to accept the Offer in respect of all the shares held by them ("the Sale Shares"), then the provisions of this Article 14 shall apply. For the purposes of this Article 14.1 the "Relevant Share Capital of the Company" shall comprise the issued share capital of the Company together with any shares in the capital of the Company which could fall to be issued upon a conversion of the then outstanding Existing loan Notes and the convertible redeemable loan notes series B.
- 14.2 The Proposed Exit Sellers shall, not later than 10 Business Days after the day on which the Offer is made, give written notice ("**the Selling Notice**") to each of the other shareholders in the Company other than the Proposed Exit Sellers (the "**Other Members**"). The Selling Notice shall include details of the Sale Shares and the proposed price for each Sale Share to be paid by the Offeror, details of the Offeror and the place, date and time of completion of the proposed purchase being a date not less than 15 Business Days from the date of the Selling Notice ("**Exit Completion**").
- 14.3 If a Selling Notice is served, then the Proposed Exit Sellers shall not sell their ordinary shares to the Offeror unless they procure that the Offeror simultaneously acquires those ordinary shares held by the Other Members at the same price and otherwise on the same terms as contained in the Selling Notice.
- 14.4 The Other Members shall for a period of 10 Business Days from receipt of the Selling Notice have the right to serve a counter notice (the "**Counter Notice**") notifying the Proposed Exit Sellers of their intention to make an offer to purchase the Sale Shares for a price which is no less than the price contained in the Selling Notice (the "**Counter Offer**").
- 14.5 If a Counter Notice is served, then the Other Members must make a Counter Offer within 25 Business Days of the date of the Counter Notice and the Proposed Exit Sellers shall be obliged to accept such Counter Offer provided the proposed price for each Sale Share is no less favourable than the price contained in the Selling Notice. If a Counter Offer is accepted as provided in this Article 14.5 the Proposed Exit Sellers shall forthwith notify the Company and transfer the Sale Shares to the Other Members on a date notified by the Other Members to the Proposed Exit Sellers, which shall be not more than 5 Business Days after the date of the Counter Offer, subject to payment for the shares held by the Proposed Exit Sellers in cleared funds.
- 14.6 If no Counter Offer is made, each of the Other Members shall sell all of the shares held by them at the same price per share and on the same terms mutatis mutandis set out in the Selling Notice.
- 14.7 If the Proposed Exit Sellers shall fail or refuse to transfer the Sale Shares to the Other Members after they have been served with a Counter Offer at a price per Sale Share which is not less than the price contained in the Selling Notice then the Directors shall authorise any person to execute and deliver on behalf of the Proposed Exit Sellers the necessary transfer(s) and any other documents required to effect the transfer and the Company may receive the purchase money in trust for the Proposed Exit Sellers and cause the Other Members to be registered as the holders of the Sale Shares. The receipt by the Company of the purchase money shall be a good discharge to the

Other Members (who shall not be bound to see to the application thereof) and after the transfers of shares to the Other Members have been registered in purported exercise of the powers set out in this Article 14.7 the validity of the proceedings relating to the registration of the Other Members as the holders of the Sale Shares shall not be questioned by any person.

14.8 If the Other Members shall fail or refuse to transfer any of the Sale Shares following service of a Selling Notice and either:

(a) no Counter Notice is served under Article 14.4 above or

(b) no Counter Offer is made under Article 14.5 above,

then the Directors shall authorise any person to execute and deliver on behalf of the Other Members the necessary transfer(s) and any other documents required to effect the transfer and the Company may receive the purchase money in trust for the Other Members and cause the Offeror to be registered as the holder of such Sale Shares. The receipt by the Company of the purchase money shall be a good discharge to the Offeror (who shall not be bound to see to the application thereof) and after the Offeror has been registered in exercise of the powers set out in this Article 14.8 the validity of the proceedings relating to the registration of the Offeror as the holder of the Sale Shares shall not be questioned by any person.

15. Any share or any interest in any share may be transferred in accordance with regulations 15.1 to 15.4 and 15.4A below:

15.1. where the member is an individual:

15.1.1. to the father, mother, stepfather or stepmother of a member or to any lineal descendant of such father, mother, stepfather or stepmother or to the wife, husband, widow or widower of the member or such lineal descendant (such permitted transferees being in this Regulation collectively called **"family"**); or

15.1.2. to a trustee or trustees upon any settlement for the benefit exclusively of a member or one or more members of the family of a member (or any charity or charities, where they have no immediate beneficial interest in the trust property or income 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) (**"a family trust"**);

15.2. where the member is a body corporate:

15.2.1. to a member of the same group (as defined below); or

15.2.2. to another body corporate which has acquired in connection with a bona fide scheme of amalgamation or reconstruction the whole or the main part of the undertaking or assets of such member, provided that such transfer is of all but not some only of the shares held by it;

and so that no such transfer as is permitted by the preceding provisions of this Regulation (**"permitted transfer"**) shall be refused registration by the directors.

- 15.3. where any shares are held by trustees upon a family trust:
- 15.3.1. such shares may on any change of trustees be transferred to the new trustees of that family trust;
 - 15.3.2. such shares may at any time be transferred to the settlor or to any person to whom under Regulation 15.1 the same could have been transferred by the settlor, if he had remained the holder of them; and
 - 15.3.3. if and whenever such shares cease to be held upon a family trust (other than by a transfer pursuant to Regulation 15.3.2) or there cease to be any beneficiaries of that family trust other than a charity or charities, the trustees shall be deemed immediately to have given a Deemed Transfer Notice in respect of all their relevant shares. A **"Deemed Transfer Notice"** means a Transfer Notice deemed to be given under any provision of these Articles.
- 15.4. by a member in consequence of acceptance of an offer made to that member pursuant to Articles 12 or 14.
- 15.4A where the member is an Investor, to any member of the Investor Group.
- 15.5. Where shares have been transferred under Regulation 15.2 (whether directly or by a series of transfers under that Regulation) from a body corporate (**"the transferor company"** which expression does not include a second or subsequent transferor in such a series of transfers) to a member of the same group (**"the transferee company"**) and subsequently the transferee company ceases to be a member of the same group as the transferor company, the transferee company shall immediately transfer the relevant shares (as defined below) to the transferor company. Failure so to transfer such shares within 28 days of the transferee company ceasing to be a member of the same group as the transferor company shall result in a Transfer Notice being deemed immediately to be given in respect of the relevant shares.
- 15.6. The expression **"a member of the same group"** means a company which is from time to time:
- 15.6.1. a holding company of which the transferor company is a wholly-owned subsidiary; or
 - 15.6.2. a wholly-owned subsidiary of the transferor company; or
 - 15.6.3. a wholly-owned subsidiary of any holding company of which the transferor company is a wholly-owned subsidiary.
- 15.7. The expression **"relevant shares"** means and includes (so far as the same remain from time to time held by the transferee company) the shares (as the case may be) originally transferred pursuant to Regulation 15.1 or 15.2 inclusive to the trustees or the transferee company and any additional shares issued or transferred to the trustees or the transferee company by virtue of the holding of the relevant shares or any of them.

- 15.8. Save as provided by regulations 15.1 and 15.2 inclusive no shares and no interest in such shares shall be transferred to any person so long as any member or other person nominated pursuant to regulation 15.18 is willing to purchase the same pursuant to the following provisions. Any transfer not made pursuant to such provisions shall be void and of no effect and the directors shall decline to sanction the registration of it.
- 15.9. If a member at any time attempts to deal with or dispose of any share or any interest in or right attaching to such share otherwise than as permitted by these Articles he shall be deemed immediately prior to such attempt to have given a Deemed Transfer Notice in respect of such share.
- 15.10. A Deemed Transfer Notice shall not be revocable.
- 15.11. Any member ("**the Vendor**") who wishes to transfer any shares in the Company or any interest in any such shares in the Company (including any mortgage, pledge, option or other encumbrance) shall give notice in writing ("**a Transfer Notice**") to the Company specifying:
- 15.11.1. the number and class of shares which or an interest in which he wishes to transfer ("**the Shares**") (which may be all or part only of the shares then held by the Vendor);
 - 15.11.2. the price per Share at which he proposes to transfer the Shares or an interest in the Shares ("**the Transfer Price**") or an indication that he wishes the Transfer Price to be determined pursuant to Regulation 15.27;
 - 15.11.3. the name of the person (if any) to whom he wishes to transfer the Shares or an interest in the Shares ("**the Proposed Transferee**"); and
 - 15.11.4. if the Vendor so wishes, that if acceptances are not received in respect of all of the Shares pursuant to the Quota Offer, then none of the Shares will be sold.
- 15.12. Any two or more members shall be entitled to serve a "**Joint Transfer Notice**" (meaning a notice signed by each of them specifying the shares which they wish together to transfer). Such a Joint Transfer Notice shall for all the purposes of this Regulation take effect as if it were a single Transfer Notice. However, the obligations of the members serving the Joint Transfer Notice shall be several only in proportion to the number of Shares which they hold respectively.
- 15.13. The Transfer Notice shall constitute the Company the Vendor's agent for the sale of the Shares at the Transfer Price and on the terms set out in this Regulation. A Transfer Notice once given or deemed to be given is not capable of being withdrawn.
- 15.14. The directors shall within twenty-eight days after service on the Company of the Transfer Notice in question or, if later, within 7 days after the Transfer Price has been determined, offer the Shares for sale at the Transfer Price to the other holders of the Shares of the Company in proportion to the number of shares held by them respectively or as near to that as circumstances admit (a "**Quota Offer**"). The Quota Offer shall:

- 15.14.1. specify the total number of Shares being affected;
 - 15.14.2. specify the number offered to the offeree;
 - 15.14.3. specify the Transfer Price;
 - 15.14.4. specify the Proposed Transferee;
 - 15.14.5. inform the offeree that he may purchase such additional number of Shares above his Quota Offer (not exceeding the number of Shares less the number of shares specified in his Quota Offer) as he may desire ("**Excess Shares**"); and
 - 15.14.6. specify the time (being not less than fifty-six nor more than eighty-four days after service on the Company of the Transfer Notice in question) within which the Quota Offer is open for acceptance and if not so accepted shall be deemed to be declined.
- 15.15. An offeree may accept the Quota Offer for some part or all of the shares specified in it.
- 15.16. Any Shares not accepted under the Quota Offer shall be allocated by the directors amongst the offerees applying for Excess Shares as nearly as may be in proportion to the number of Shares held by them respectively (provided always that no offeree shall have allocated to him a number of Shares greater than he has offered to purchase). Any Excess Shares not so allocated shall (subject as aforesaid) be allocated amongst the offerees applying for Excess Shares in proportion to the number of Excess Shares applied for. Such allocations shall be notified to offerees applying for Excess Shares not later than seven days after the last day for acceptance of the Quota Offer and such notification shall constitute acceptance of the offer for Excess Shares.
- 15.17. Fractions of shares that would otherwise not be allocated shall be consolidated and allocated to the relevant offerees by drawing lots.
- 15.18. If by the foregoing procedure the directors do not receive acceptances from members in respect of all of the Shares within the periods of the aforesaid Quota Offers, they shall immediately give notice in writing of that fact to all the holders of Shares. Following such notice, the holders of at least one-half in nominal value of the issued Shares of the Company (excluding the shares held by the Vendor) shall be entitled within 14 days of the date of service of that notice to nominate as the purchaser of the Shares any person or persons (whether or not a member but not the Company) who has expressed his willingness in writing to purchase at the Transfer Price all or any of the Shares in respect of which acceptances have not been received. Such nomination shall be made by giving notice in writing to the directors signed by each relevant holder of Shares or on his behalf and may consist of several notices in the like form. The directors shall be deemed to have made an offer of the Shares accordingly. If any such nominated purchaser fails to complete any such purchase in accordance with this Regulation or to perform or discharge any of his other obligations under these Articles, the holders of Shares who signed the relevant notice shall be jointly and

severally liable to complete such purchase in place of that nominated purchaser and to perform and discharge all such other obligations.

15.19. If the directors have found a purchaser or purchasers for any of the Shares, they shall not later than seven days after having found the last of the purchasers give notice ("**a Purchase Notice**") to the Vendor specifying:

15.19.1. the number of Shares for which it has found a purchaser or purchasers ("**the Purchaser**"); and

15.19.2. the names of the Purchaser and the number of Shares to be purchased by him

15.20. Subject to the foregoing provisions of this Regulation 15 if the directors give a Purchase Notice, the Vendor shall be bound on payment of the Transfer Price to transfer the Shares to the Purchaser and to deliver up his certificate for the Shares. If such certificate includes any Shares which he has not become bound to transfer, the Company shall issue to him a balance certificate for such Shares.

15.21. If in any case the Vendor, after having become bound, makes default in transferring the Shares the Company may:

15.21.1. receive the purchase money;

15.21.2. authorise some person to transfer the Shares to the Purchaser;

15.21.3. cause the name of the Purchaser to be entered on the register as the holder of the Shares; and

15.21.4. hold the purchase money in trust for the Vendor, although it is not obliged to earn or pay interest on it.

15.22. The receipt of the Company for the purchase money shall be a good discharge to the Purchaser.

15.23. If:

15.23.1. the Company has not made a Quota Offer or Offers within the time specified in Regulation 15.14; or

15.23.2. a person has not been nominated under the provisions of Regulation 15.18; or

15.23.3. the Company has not within the period specified in Regulation 15.19 given a notice under that Regulation to the Vendor in respect of any of the Shares,

the Vendor may at any time within 3 months after the expiration of the relevant period subject to any lien which the Company may have, sell and transfer the Shares in respect of which he has not been given a notice under Regulation 15.19 to the Proposed Transferee and at any price, not being less than the Transfer Price (after deducting, where appropriate, any net dividend or other distribution to be retained by the Vendor).

- 15.24. References in Regulation 15.14 to a Quota Offer or Offers shall be construed as if the same were a notice required by these Regulations to be given by the Company to the members.
- 15.25. If the directors are not satisfied that the Vendor has transferred the Shares to the Proposed Transferee in pursuance of a bona fide sale for a price which is not less than the Transfer Price without any deduction, rebate or allowance whatsoever, they shall refuse to register the transfer or instrument concerned.
- 15.26. For the purpose of ensuring that a transfer of shares is in accordance with the provisions of this Regulation 15 or for the purpose of ascertaining when a Transfer Notice is deemed to have been given under these Articles, the directors may require an officer of any corporate holder of Ordinary Shares or the liquidator of any corporate holder of Ordinary Shares or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the directors may think fit regarding any matter they deem relevant to such purpose. Failing such information or evidence being furnished to the satisfaction of the directors within a reasonable time after such request or if any such information or evidence discloses that a Transfer Notice ought to be given in respect of any shares, the directors shall refuse to register the transfer in question and shall be entitled to serve a Transfer Notice in respect of the shares concerned and the provisions of this Regulation shall take effect accordingly.
- 15.27. For the purposes of this Regulation 15 the expression "**the Transfer Price**" shall mean the price per share (if any) specified in the Transfer Notice or (if no such price is so specified) and/or a Transfer Notice has been deemed to have been given the fair value per share:
- 15.27.1.1. as the Vendor and the directors shall agree; or
 - 15.27.1.2. failing agreement as the Independent Valuers acting as experts and not as arbitrators shall state in writing to be in their opinion the fair selling value of the shares on the open market having regard to the fair value of the Company as a going concern and on the basis of an arm's length transaction as between a willing vendor and a willing purchaser but not, for the avoidance of doubt, taking into account (if it is the case) that the Shares represent a minority or majority interest in the Company. "**Independent Valuers**" means an independent firm of chartered accountants agreed by directors and the other party or failing agreement appointed on the application of any party by the President for the time being of the Institute of Chartered Accountants of England and Wales;
 - 15.27.1.3. the determination of the Independent Valuers shall be final and binding on all concerned. The cost of obtaining the certificate of the Independent Valuers shall be borne by the Company and the Vendor. For this purpose the Independent Valuers shall be given by the directors, and shall take account of, all information which a prudent prospective purchaser of the entire issued share capital of the Company might reasonably require if such purchaser were proposing to purchase it from a willing vendor by private treaty and at arm's length;

- 15.28. Notwithstanding the provisions of this clause 15 the Directors shall have the discretion to refuse to register any transfer of shares or interest in shares if in their reasonable opinion the proposed transferee is, or is connected with (within the meaning of section 346(2) to 346(8) of the Companies Act 1985), a competitor, supplier or customer of the Company or a director of the same or a shareholder of the same (save as registered holder or beneficial owner of not more than 3 per cent of any class of securities of any company which is listed, dealt in or traded on the London Stock Exchange)
- 15.29. The restrictions on transfer contained in this Regulations 15 shall not apply to any instrument of transfer deposited at the registered office of the Company together with the consent in writing of holders of 90% of the issued share capital to such transfer being registered

16. Anti Dilution Provisions

- 16.1. In the event that (other than in connection with any employee share option or other scheme complying with the Article 7.2) any new shares are issued in the capital of the Company (in this clause "New Shares") after the Adoption Date at a price per share (the "New Share Price") of £40 or below per ordinary share, then unless the New Shares are issued with the prior approval of The Fund, Bamboo, Nexus Financial Services Limited, Ray Pattison, John T Reilly, Geoffrey Bowden, Peter Buckley, William Salomon, John Brown, Federated Trust Co, Arglen Properties Ltd, John Randolph, Jonathan Holborow, Carolyn Townsend, Richard Lamb, Charles McIntyre, Mark Gardiner, Kate Salomon and Michael Cook (together "the 2001 Investors") the 2001 Investors shall be entitled to subscribe in cash for and be allotted by the Company such number of additional ordinary shares at par so as to result in the 2001 Investors holding all of their ordinary shares acquired between 1 June 2001 and the Adoption Date or (in the case only of The Fund and Bamboo) within 2 working days of the Adoption Date and any ordinary shares acquired pursuant to this Article 16.1 at an average price per share equal to the New Share Price. For the purposes of calculating such an average price, the issue price for the ordinary shares acquired by The Fund shall be deemed to be £45.
- 16.2. If any Reorganisation shall take place after the Adoption Date each of the members shall use his, her or its reasonable endeavours to agree in writing any resulting changes to Article 16.1 above. If within 30 days of the date of any Reorganisation such agreement has not been reached the Company shall instruct an independent firm of chartered accountants nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales to report what (if any) adjustment is in their opinion appropriate to be made to Article 16.1 above to take account of such Reorganisation. For these purposes the said firm of chartered accountants shall be deemed to be acting as experts and not as arbitrators and their report shall be in writing and final and binding on the Company and its members and Article 16.1 (as amended) shall thereafter have effect accordingly. The Company shall obtain such report without delay and pay all expenses of obtaining the same.
- 16.3. For the purposes of Article 16.2 above, references to any "Reorganisation" in relation to the Company include every issue of shares in the capital of the Company, including issue by way of capitalisation of profits or reserves

(including share premium account and capital redemption reserve) and every consolidation or sub-division or combination or reduction of capital or capital dividend or distribution or other reconstruction relating to the equity share capital.

- 16.4. The members are hereby deemed to give such consents and waivers as may be required of them for the purposes of giving effect to the issue of additional ordinary shares to the 2001 Investors as provided for in Article 16.1 above and the Company will maintain sufficient authorised but unissued share capital for the purposes of performing its obligations under Article 16.1.

Proceedings at General meetings

17. If and so long as the Company shall have one member only, that person alone present in person or by proxy or by a duly authorised representative shall be a quorum and in such instance, a proxy for a sole member shall be entitled to vote on a show of hands and regulations 40 and 54 of Table A shall be deemed to be amended accordingly.
18. At the end of regulation 41 of Table A there shall be inserted the following "if a quorum is not present within half an hour of the time appointed for the holding of an adjourned general meeting, it shall be dissolved".
19. At the end of regulation 57 of Table A there shall be inserted the words "except when he is the sole member".
20. In regulation 59 of Table A, the second sentence shall be omitted.
21. In addition to any other manner in which the member or members of the Company are authorised under the Act to reach and record their decisions in relation to the company, a member which is for the time being the sole member of the Company shall be entitled to take any decision which may be taken by the Company in general meeting and such decision shall have effect as if agreed by the company in general meeting, provided that a decision taken by virtue of this clause shall be notified to the Company within 7 days of the date on which it was taken, failing which such decision shall be invalid and of no effect. In addition to the requirements of regulation 100 of Table A the Directors shall cause a written record to be made in the minute book of all decisions taken by a sole member. Any resolution which, if passed at a general meeting, would need to be passed as a special resolution or extraordinary resolution, any resolution to change the terms of appointment of the officers or auditors of the Company and any resolutions requiring special notice shall not be capable of being passed by virtue of the procedure described in this clause.
22. A poll may be demanded at any general meeting by any member entitled to vote at it. Regulation 46 (b), (c) and (d) of Table A shall be modified accordingly.

Number of Directors

23. Unless otherwise determined by ordinary resolution, the number of Directors is not subject to any maximum. The minimum number of Directors is one.

Alternate Directors

24. A Director (other than an alternate Director) may appoint any person to be an alternate Director and may remove from office an alternate Director appointed by him.
25. When an alternate Director is also a Director or acts as an alternate Director for more than one Director, he shall have one vote for every Director represented by him (in addition to his own vote if he is himself a Director) and, when acting, shall be considered as two Directors for the purpose of making a quorum if the quorum exceeds two.
26. An appointment or removal of an alternate Director may be effected at any time by notice in writing to the Company given by his appointor. An alternate Director may also be removed from his office by not less than 24 hours' notice in writing to the Company and to the appointor given by a majority of his co-Directors.

Delegation of powers

27. The following sentence shall be inserted after the first sentence of regulation 72 of Table A: "A committee of Directors has the power, unless the Directors direct otherwise, to appoint as a member of the committee for any specific purpose a person who is not a Director of the Company".

Appointment and retirement of Directors

28. The Directors are not subject to retirement by rotation. 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 provided the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with the articles as a maximum number of Directors. CBIL shall be entitled at any time by notice in writing to the Directors, on behalf of the Fund, to appoint any one person as a Director of the Company (the "Investor Director") and to remove from office any person so appointed and (subject to such removal) to appoint another in his place. Each Investor Director shall be deemed to have made disclosure to the Company of all his interests in and in connection with CBIL and/or the Fund. The Investor Director shall be entitled to sit on all committees of the Board.
- 28A the Investor shall be entitled at any time by notice in writing to the Directors to appoint any one person as a Director of the Company (the "Herald Director") and to remove from office any person so appointed and (subject to such removal) appoint another in his place. Each Herald Director shall be deemed to have made disclosure to the Company of all his interests in and in connection with the Investor. The Herald Director shall be entitled to sit on all committees of the Board.
29. The Company may by ordinary resolution appoint a person who is willing to act as a Director either to fill a vacancy or as an additional Director and may remove from office any Director however appointed, provided that, subject to Section 303 of the Act, on any resolution to remove the Investor Director, the shares held by The First Close Technology Fund shall together carry at least one vote in excess of 75% of the votes exercisable in respect of that resolution at the general meeting at which such resolution is proposed and if any such Investor Director is removed pursuant to Section 303 of the Act, the Fund may reappoint him or any other person as Investor Director.
- 29A a person voting against a resolution under section 303 of the Act to remove the Herald Director is deemed, in respect of that resolution, to have one hundred times

the votes of a person voting in favour of the resolution and regulation 54 of Table A is modified accordingly.

30. In regulation 38 of Table A, the words "or a resolution appointing a person as a Director" shall be omitted.
31. There is no age limit for Directors of the Company.
32. A Director is not required to hold any qualification shares in the Company.

Disqualification and removal of Directors

33. Regulation 81 of Table A shall be amended by substituting the following provisions for paragraphs (c) and (e):

(c) he becomes, in the opinion of all his co-Directors, incapable by reason of mental disorder of discharging his duties as a Director; or

(e) he is otherwise duly removed from office.

Proceedings of Directors

34. Regulation 88 of Table A shall be amended by adding to the sentence "it shall not be necessary to give notice of a meeting to a Director who is absent from the United Kingdom" the words "unless he has given to the Company an address outside the United Kingdom to which notices should be sent", provided that such notices should always be given to a Investor Director
35. The quorum necessary for the transaction of business of the Directors shall be three and shall be required to include the Investor Director (if appointed) and the Herald Director (if appointed). If a meeting of the Board of Directors is not quorate within one hour from the time appointed for the meeting by reason of the absence of the Investor Director or his alternate or the Herald Director or his alternate, then that meeting shall stand adjourned to the same time on the following Business Day. If the adjourned meeting is not quorate within one hour of the time appointed for the meeting by reason of the absence of the Investor Director or his alternate, or the Herald Director or his alternate then any three Directors shall constitute a quorum.
36. A Director may participate in a meeting of the Directors or a committee of Directors of which he is a member by means of a conference telephone or similar communicating equipment whereby all persons participating in the meeting can hear and speak to each other. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting and the Director shall be counted in the quorum and be entitled to vote. Subject to the Act, all business transacted in such manner by the Directors or a committee of the Directors shall for the purposes of the Articles be deemed validly and effectively transacted at a meeting of the Director or of a committee of the Directors notwithstanding that fewer than 2 Directors are physically present at the same place. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chairman of the meeting then is.
37. Subject to disclosure in accordance with section 317 of the Act, a Director shall be entitled to vote and be counted in the quorum present at any meeting of the Directors

or committee of Directors or, if otherwise so entitled, at any general meeting of the Company on any resolution in respect of any contract, arrangement or matter in which he, or any person with whom he is connected has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the Company unless a majority of the Board present at the meeting at which such matter is discussed or voted upon require the interested Director to abstain from voting and/or absent himself from discussions, provided that such a majority shall not be entitled to make such a requirement of an Investor Director or the Herald Director.

Borrowing Powers

38. The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and, subject to section 80 of the Act, to issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

The seal

39. In accordance with section 39 of the Act the Company may have an official seal for use in any territory, district or place elsewhere than in the United Kingdom.

Indemnity

40. To the extent not avoided by the provisions of the Act and without prejudice to any indemnity which an officer might 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 and expenses, losses and liabilities which he may sustain or incur in or about the execution of his office or otherwise in relation to it, and the Company may:

- 40.1. purchase or maintain for any such officer or auditor insurance against any such liability, (whether or not avoided by the provisions of the Act); and
- 40.2. without prejudice to the foregoing indemnify such officer or auditor against 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 where the proceedings are withdrawn or settled on terms which do not include a finding or admission of a material breach of duty by him or in connection with any application under the Act in which relief is granted to him by the Court.

41.

- 41.1 If any person being an Employee Shareholder shall cease to be an employee or director for whatever reason (including death or a Subsidiary of the Company ceasing to be a Subsidiary of the Company) ("**a Leaver**") then, the Board shall be entitled to resolve within 90 days of such cessation that either:

- (a) the provisions of Articles 41.1(b) and 41.2 shall not apply in respect of the Leaver or the Leaver's Shares; or
- (b) the Leaver shall, in respect of all of his shares, and each person holding any Leaver's Shares shall, in respect of those Leaver's Shares, be deemed to serve a Transfer Notice with immediate effect in respect of either the relevant proportion of the Leaver's Shares set out below or such other lower proportion

of the Leaver's Shares as the Board shall determine (in which case a Transfer Notice shall be deemed to be served at the close of the meeting at which the relevant resolution is passed).

- 41.2 If the Board does not pass a resolution under Article 41.1 within 90 days of such cessation the Leaver shall, in respect of all or the relevant proportion (as appropriate) of his shares, and each person holding any such Leaver's Shares shall, in respect of those Leaver's Shares, be deemed to have authorised the Directors to transfer such shares to such person(s) (being either employee(s) of the Group or person(s) who intend subsequently to transfer those shares to employee(s) of the Group) as the Board may nominate within 120 days of the cessation and, failing such nomination, shall be deemed to serve a Transfer Notice in respect of any remaining Leaver's Shares (or any remaining relevant proportion thereof) on the 121st day after cessation of employment or office.
- 41.3 In the case of a Leaver who is not a Manager this Article 41 shall apply in respect of all Leaver's Shares and on a transfer under this Article the price per share shall be determined as follows:
- (a) if the Leaver ceases to be employed as a result of a Subsidiary of the Company ceasing to be a Subsidiary of the Company, Wrongful Dismissal, death, incapacity or on retirement at normal retirement age or any other circumstance as may be decided by the Board, the price shall be the Fair Price;
 - (b) if the Leaver ceases to be employed by the Company for a reason not within the circumstances described in paragraph (a), the price shall be the lower of the Subscription Price and the Fair Price.
- 41.4 In the case of Leaver who is a Manager, if the Manager ceases to be employed as a result of his being dismissed for gross misconduct or his voluntary resignation from his employment, he may be required to serve a Transfer Notice in respect of 50% of his shares in the Company, the price for which shall be Fair Price but if the Manager ceases to be employed for any other reason he may not be required to serve a Transfer Notice.
- 41.5 Fair Price shall be calculated as at the date the relevant person became a Leaver. If, in any particular case, the Board so decides, there shall be substituted for the price specified in Article 41.3 such price as the Board may agree with the transferor(s).
- 41.6 The preceding provisions of this Article may at any time be waived in whole or part by the Board provided the consent of CBIL, Bamboo, and the Investor is obtained.

42. Definitions

- 42.1 In these Articles, unless the context otherwise requires, the following words and expressions shall have the following meanings:

"Bamboo"

Bamboo Investments plc;

"Business Day"

a day on which banks are ordinarily open for the transaction of normal banking business in London;

"CBIL"

Close Brothers Investment Limited,

	whose registered office is at 12 Appold Street, London, EC2A 2AW;
"Employee Shareholder"	a shareholder in the Company who at the Adoption Date or subsequently is employed by the Company or any of its subsidiaries;
"Fair Price"	the value of such shares on a going concern basis as between a willing seller and a willing buyer ignoring any reduction in value which may be ascribed to the shares by virtue of the fact that they represent a minority interest and on the assumption that shares are capable of transfer without restriction, as agreed between the Leaver and the Company or, in the absence of such agreement, as conclusively determined by an Independent Expert (whose decision shall be final and binding save in the case of manifest error);
"Fund"	The First Close Technology Fund;
"Independent Expert"	an independent Chartered Accountant agreed by the Leaver and the Company;
"Investor"	Herald GP Limited acting as general partner of and manager for and on behalf of Herald Ventures Limited Partnership, Herald Ventures Limited Partnership II and Herald Ventures Limited Partnership III and its successors in title;
"Investor Group"	<p>in respect of the Investor:-</p> <ul style="list-style-type: none"> (i) the Investor, its subsidiaries and subsidiary undertakings and any holding company of and all other subsidiaries and subsidiary undertakings of any such holding company of the Investor; (ii) any nominee, trustee or custodian of the Investor; (iii) any partner or participant in any partnership of which the Investor or any of the persons specified in (i) above is the general partner;

(iv) any other investment fund in which the Investor or any of the persons specified in (i) above which is managed by such person

and "member of the Investor's Group" shall be construed accordingly";

"Leaver's Shares"

in relation to a Leaver, any shares transferred or issued to that Leaver held by him at the time of his becoming a Leaver and/or any shares transferred by him to any person in accordance with the provisions of these Articles 15.1 to 15.10 hereof;

"Managers"

Roger Killen, Roger Taylor and Timothy Kelsey, and such other person as the Board subsequently resolve shall be a "Manager" for the purposes hereof and "Manager" shall mean any of them;

"Subscription Price"

in relation to any share is the amount paid up or credited as paid up thereon (including the full amount of any premium at which such share was issued whether or not such premium is applied for any purpose thereafter);

"Subsidiary"

a subsidiary undertaking for the purposes of the Act and "Subsidiaries" shall be construed accordingly;

"Wrongful Dismissal"

the finding that Leaver has been wrongfully dismissed by a final decision of a court of competent jurisdiction.