

3897011

PNI HOLDINGS LIMITED

WRITTEN RESOLUTION DATED 20th DECEMBER 1999  
PURSUANT TO REGULATION 53 OF TABLE A CONTAINED IN THE  
COMPANIES  
(TABLES A TO F) REGULATIONS 1985  
(AS INCORPORATED IN AND MODIFIED BY THE COMPANY'S  
ARTICLES OF ASSOCIATION

ORDINARY RESOLUTION

1. THAT 999 of the authorised but unissued Ordinary Shares of £1 each in the capital of the Company be sub-divided into 1110 Ordinary Shares of 90 pence each in the capital of the Company, (such Ordinary Shares having the rights attributed thereto as are designated in the proposed new articles of association of the Company referred to in resolution 3).
2. THAT the authorised share capital of the Company be and is hereby increased to £102,8571.40 by the creation of an additional 998,889 Ordinary Shares of 90 pence each and, 142,857 A Ordinary Shares of 90 pence each (such Ordinary Shares, A Ordinary Shares having such rights attributed thereto as are designated in the proposed new articles of association of the Company referred to in resolution 3).

SPECIAL RESOLUTIONS

3. THAT the regulations contained in the document of which a copy is attached to these resolutions of this meeting be adopted as the articles of association of the Company in substitution for and to the exclusion of its existing articles of association.
4. THAT:
  - (a) the directors be and they are hereby generally and unconditionally authorised to exercise all powers of the Company to allot relevant securities (within the meaning of section 80 Companies Act 1985) up to an aggregate nominal amount of £1, 028,571.40 but provided that this authority shall expire on the date five years from the date of this resolution; save that the Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the Board may allot relevant securities in pursuance of such offer or agreement as if the authority conferred hereby had not expired;


- (b) the Board of directors of the Company be and it is hereby empowered pursuant to section 95 Companies Act 1985 to allot equity securities (within the meaning of section 94 Companies Act 1985) pursuant to the authority conferred by sub-paragraph (a) above as if sub-section (1) of section 89 Companies Act 1985 did not apply to any such allotment provided that this power shall be limited to the allotment of equity securities up to an aggregate nominal amount of £1,028,571.40 and shall expire on the date five years from the date of this resolution save that the Company may before such expiry make an offer or agreement which would or might require equity securities to be allotted after such expiry and the Board may allot equity securities in pursuance of such offer or agreement as if the power conferred hereby had not expired.

SIGNED by the registered holder of all the issued shares of the Company:

Name of Shareholder

Signature

GEOFFREY LENNOX

A handwritten signature in dark ink, appearing to read 'Geoffrey Lennox', is written over a horizontal line.

RA

NEW ARTICLES OF ASSOCIATION  
(adopted on 21 June 1999)

of

PNI HOLDINGS LIMITED  
(Registered number: 3897811)

CMS CAMERON MCKENNA  
Mitre House  
160 Aldersgate Street  
London EC1A 4DD

Tel: 0171 367 3000  
Fax: 0171 367 2000

NEW ARTICLES OF ASSOCIATION  
(adopted by Special Resolution on 21/12/ 1999)

of

PNI HOLDINGS LIMITED

**1. Interpretation**

1.1 Subject as provided in article 1.2, the regulations contained in Table A in the schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No 805) (save to the extent as may be modified or extended by or be inconsistent with these articles of association) shall, together with the following regulations, constitute the articles of association of the Company.

1.2 Regulations numbered 73 to 80 (both inclusive) in Table A shall not apply to the Company.

1.3 In these articles:

1.3.1 headings are used for convenience only and shall not affect the construction hereof;

1.3.2 words and expressions which are defined in Table A shall bear the same meaning where used herein and, unless the context otherwise requires or save as otherwise provided herein, words and expressions contained herein shall bear the same meaning as in the Act (but excluding any statutory modification thereof not in force when these Articles were first adopted by the Company);

1.3.3 in the event of there being any conflict or inconsistency between any provision in Table A which is applicable to the Company and any provision set forth herein the latter shall prevail;

1.3.4 the following words and expressions shall have the following meanings:

“A Ordinary Shares” means A Ordinary Shares of 90 pence each in the capital of the Company having rights as set out in those Articles

the “Act” means the Companies Act 1985 and every statutory modification or re-enactment thereof and statutory instrument relevant thereto or derived therefrom for the time being in force

“Associate” means the meaning ascribed thereto in article 7.1(c)

“these Articles” means these articles of association as amended from time to time

“Controlling Interest” means the meaning ascribed thereto in article 7.1(d)

the “Directors” means the directors for the time being of the Company as a body, or a quorum of the Directors present at a meeting of the Directors

“Equity Shares” means Ordinary Shares and A Ordinary Shares and the expression “Equity Share Capital” shall be construed accordingly

“Executives” has the meaning given to it in the Shareholders' Agreement

“Group Company” means the Company and any other company (or other entity) which is for the time being a subsidiary undertaking of the Company (and “Group” shall be construed accordingly)

“Investor Approval” means the prior consent or approval in writing of an Investor Majority

“Investor Director” means a director of the Company appointed pursuant to article 3.7(a)

“Investor Majority” means the holder or holders of more than one half of the total number of A Ordinary Shares for the relevant time being in issue

“Listing” means the admission of all or any of the ordinary share capital of the Company to the Official List of the London Stock Exchange or the admission of the same to, or the grant of permission by any like authority for the same to be traded on any other equivalent or similar share market

“Loan Notes” means loan notes constituted by the Loan Note Instrument

“Loan Note Instrument” means the Loan Note Instrument constituting the £357,143 unsecured Loan Notes dated at the date of adoption of these Articles

the “London Stock Exchange” means London Stock Exchange Limited

“Management Approval” means the prior consent or approval in writing of the holders of more than one half of the total number of Ordinary Shares for the relevant time being in issue

“Member” means any holder for the time being of shares in the capital of the Company of whatever class

“One Pound Share” means an Ordinary Share of £1 in the capital of the Company having the rights of an Ordinary Share as set out in these Articles, and wherever reference is made to Ordinary Shares in the Articles, it shall be deemed to include a reference to the One Pound Share, unless the context otherwise requires

“Ordinary Shares” means Ordinary Shares of 90 pence each in the capital of the Company having rights as set out in these Articles

“Shareholders' Agreement” means an agreement of even date hereof made inter alia between the Company, David Taylor and Kleinwort Benson Development Plc

“Shares” means (unless the context does not so admit) shares in the capital of the Company (of whatever class)

“Take-over” means the acquisition by a Buyer (as defined in article 7.1(a)) of a Controlling Interest or the sale or other disposal of the whole or substantially the whole of the undertaking of the Company (other than to a wholly owned subsidiary of the Company)

- 1.4 A Special or Extraordinary Resolution shall be effective for any purpose for which an Ordinary Resolution is expressed to be required under any provision of these Articles or the Act.

## **2. Share capital**

The authorised share capital of the Company at the date of adoption of these Articles is £102,8571.40 divided into 999,999 Ordinary Shares, 142857 A Ordinary Shares and the One Pound Share.

## **3. Share rights**

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

- 3.2 As regards income:

For so long as any Loan Notes remain in issue, the Company shall not, save with Investor Approval, distribute any profits in respect of any financial year. Subject thereto, any profits which the Company may determine to distribute

in respect of any financial year shall be applied amongst the holders of the Ordinary Shares and A Ordinary Shares (*pari passu* as if the same constituted one class of share) in such amount and on such terms as are determined by the Board.

3.3 As regards capital:

On a return of assets on liquidation, reduction of capital or otherwise, the surplus assets of the Company remaining after payment of its liabilities shall be applied and distributed amongst the holders of the Ordinary Shares and A Ordinary Shares (*pari passu* as if the same constituted one class of share).

3.4 As regards voting:

(a) The Ordinary Shares and the A Ordinary Shares shall confer on the holders thereof (in that capacity) the right to receive notice of and to attend, speak and vote at all General Meetings of the Company.

(b) If either:

(i) all or any Loan Notes have become due for repayment and shall not have been repaid in full within 2 months of the repayment date or dates specified therein (the "Principal Default Date"); and/or

(ii) any interest payment under the Loan Notes has become due and payable but (for whatever reason) shall not have been paid for a period within 2 months following the due date (the "Interest Default Date").

the holders of A Ordinary Shares shall be entitled to cast, in relation to each resolution proposed at such meeting, such number of votes as shall comprise three-fourths of all votes so cast BUT PROVIDED FURTHER THAT the holders of A Ordinary Shares at the relevant time shall not have served written notice on the Company waiving its rights under this article 3.5(b) (the "Notice") prior to the Principal Default Notice and Interest Default Date (as appropriate) in which case, in respect of the particular default specified in the Notice or if no such default is specified, generally, the voting rights set out in this article 3.5(b) shall be of no further effect.

(c) If by virtue of (but by virtue only of) the provisions of paragraph (b) any holder of shares (of whatever class or classes) acquires a Controlling Interest then such holder shall be exempt from the provisions of article 7 and shall not be obliged to make an offer to all the holders of all Shares in the Company as would otherwise be required by article 7.2.

3.5 As regards class consents:

Except with Investor Approval:

- (a) no Group Company shall modify or vary the rights attaching to any class of its shares;
- (b) no Group Company shall make any distribution payment or return to members of a capital nature including any distribution out of capital profits or capital reserves or out of profits or reserves arising from a distribution of capital profits or capital reserves by a subsidiary of the Company;
- (c) no Group Company shall alter its memorandum or articles of association or, in the case of any overseas subsidiary, its equivalent documents;
- (d) no steps shall be taken to have any Group Company wound up whether for the purposes of amalgamation or reconstruction or otherwise unless a licensed insolvency practitioner shall have advised that such company is required to be wound up by reason of having become insolvent.

3.6 As regards appointment of directors:

- (a) The holders of the A Ordinary Shares shall be entitled from time to time to appoint one person to be a Director of the Company and to remove any such person from office and to replace such appointee by a new nominee.
- (b) An Investor Majority or a Management Majority shall be entitled from time to time to remove a director (whether appointed pursuant to paragraph (a) above or otherwise) if such director shall:
  - (i) be convicted of any criminal offence (other than a motoring offence punishable only by a fine);
  - (ii) commit any breach of his fiduciary duties to the Company.
- (c) Any such appointment or removal as is referred to in paragraphs (a) or (b) above shall be made by notice in writing to the Company signed by or on behalf of an Investor Majority upon the Company at the Office.
- (d) Notwithstanding any provision of these Articles to the contrary, any person appointed as a Director pursuant to this Article may appoint such person as he thinks fit to be his alternate director.



- (e) If a resolution to remove an Investor Director shall be moved at any general meeting of the Company, then (on a poll) those holders of A Ordinary Shares who are present (whether in person or by corporate representative or proxy) and who vote against such resolution shall be deemed to have had, and to have exercised, such number of votes as will result in such resolution being defeated (and to that extent the relevant provisions in Table A (as to the number of votes which may be cast on a poll) shall be deemed to have been amended accordingly).

3.7 As regards quorums:

- (a) Subject as provided in article 3.7(c) no meeting of Members shall be quorate unless those Members present include (whether in person or by a duly authorised representative or a proxy) the holders of not less than 50 per cent of the A Ordinary Shares for the time being in issue.
- (b) Subject as provided in article 3.7(c) and unless otherwise previously agreed in writing by any Investor Director not present no meeting of the Directors shall be quorate unless those Directors present include (if such a director then holds office) a director who was appointed pursuant to paragraph (a) of article 3.6 (or a duly appointed alternate director of such director).
- (c) If in the case of either a meeting of the Directors or a meeting of Members; a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present the meeting shall stand adjourned to the same day in the next week at the same time and place when the members or directors present (as the case may be) shall be a quorum.

**4. Validity of share transfers and Permitted Transfers**

- (a) The Directors may refuse to register the transfer of any Share to a person who is (or whom the Directors reasonably believe to be) under 18 years of age who does not have (or whom the Directors reasonably believe does not have) the legal capacity freely to dispose of any Share without let, hindrance or court approval.
- (b) The Directors shall refuse to register the transfer of any Share, not being such a transfer as is permitted under paragraph (d) below (a "Permitted Transfer"), purported to be made other than in accordance with or as permitted under article 5.
- (c) If, in relation to a transfer of a Share, where the transferor thereof is a party to any agreement between the Company and some or all of

its Members (being an agreement additional to these Articles) then the Directors may:

- (i) require the transferee of such Share to enter into a written undertaking to be bound (to such extent as the Directors may reasonably stipulate) by the provisions of such agreement; and
  - (ii) decline to register the transfer of such Share unless and until the transferee has entered into such written undertaking.
- (d) Subject to paragraphs (a) and (c) above and to article 6, a Member may at any time transfer a Share of which he is the holder in the following circumstances without complying with the pre-emption provisions set out in article 5:
- (i) if the Member is a company it may transfer its Share(s) to any holding or subsidiary company of that Member or to any other subsidiary company of any such Member's holding company; or
  - (ii) to a person who is the beneficial owner of such Share or to a different or additional nominee or trustee on behalf of such beneficial owner Provided that such person has not become the beneficial owner thereof in circumstances where a Transfer Notice (as hereinafter defined) should have been but was not given; or
  - (iii) if the Member is an individual, his Share(s) may be transferred, to an Associate (within the meaning of subparagraphs (i) and (ii) of the definition of "Associate" contained in article 7.1(c)) of such Member; provided that:
    - (A) the Share(s) shall be re-transferred within seven days to the transferor if the transferee is not or shall cease to be an Associate of the transferor (as so defined) failing which a Mandatory Transfer Notice shall be deemed to have been served in respect of the Share(s)); or
    - (B) the transferee shall first enter into such undertaking as the directors may require under article 4(c)(i); and
  - (iv) if the transferor is either a person whose business is to make, manage or advise upon investments (an "Institutional

Investor”) (or a nominee thereof) or a fund, partnership, company, individual or other entity managed or advised by an Institutional Investor or a company which is a member of the same group as an Institutional Investor, its Share(s) may be transferred to any fund, partnership, company, individual or other entity (or a nominee thereof) managed or advised by such Institutional Investor, to any participant or partner or former partner in or member of any such fund, partnership, company, individual or other entity (or a nominee thereof) or to such Institutional Investor itself; or

- (v) with Investor Approval and Management Approval, Shares may be transferred to any person, firm or corporation; or
- (vi) any Executive may transfer his Ordinary Shares to any other Executive or other Executives or, with Investor Approval, to any other Director.

## **5. Pre-emption rights**

- 5.1 Except in the case of a Permitted Transfer, the right to transfer or otherwise dispose of a Share or any interest or right in or arising from a Share (an option or other like right to acquire any Share (whether by subscription or otherwise) being deemed to be an interest in a Share for this purpose) shall be subject to the provisions contained in this article and any such transfer or *other disposal made otherwise than in accordance with such provisions shall be void.*
- 5.2 Before transferring or otherwise disposing of any Share or any interest or right in or arising from any Share the person proposing to transfer or otherwise dispose of the same (the “Transferor”) shall give notice in writing (a “Transfer Notice”) to the Company specifying the number of the Shares, interest and/or rights of which the Transferor wishes to dispose.
- 5.3 Notwithstanding that a Transfer Notice specifies that the Transferor wishes to dispose only of an interest or right in or arising from or attaching to, the Shares referred to therein, the Transfer Notice shall (notwithstanding anything in the Transfer Notice to the contrary) unconditionally constitute the Company as the agent of the Transferor in relation to the sale of all the legal title to, beneficial ownership of and all interests and rights attaching to the Shares referred to therein (the “Sale Shares”) at the Sale Price as hereinafter referred to in accordance with the provisions of this article. A Transfer Notice shall not be revocable except with the consent of the Directors.
- 5.4 Except in the case of a Transfer Notice which a Member is bound to give or is deemed to have given pursuant to article 6 (a “Mandatory Transfer Notice”), a Transfer Notice may include a condition (a “Total Transfer

Condition”) that if all the Sale Shares (of whatever class) are not sold to Approved Transferees (as hereinafter defined), then none shall be so sold.

5.5 Except in the case of a Mandatory Transfer Notice, the Transfer Notice may state, in addition to details of the Sale Shares:

- (a) (if applicable) the name or names of a person or persons (such person or persons being hereinafter referred to as the “Proposing Transferee”) to whom the Sale Shares (or an interest or right in or arising therefrom) are proposed to be transferred in the event that the Sale Shares are not acquired by Approved Transferees (as hereinafter defined); and
- (b) the entire consideration per share for which any such transfer or transfers will be made (and, if any of the said consideration is not a cash price expressed in pounds sterling an amount per share which is so expressed and which is commensurate with the entire consideration). In such event, subject to the Directors being satisfied (and to that end being provided with such evidence as they may reasonably require) that the consideration so stated is a bona fide consideration (and not inflated for any reason) agreed between the Transferor and the Proposing Transferee at arm's length and in good faith, such consideration shall be the Sale Price and the “Prescribed Period” (as hereinafter referred to) shall commence on the date on which the Transfer Notice is given and shall expire two months thereafter.

5.6 In the case of a Mandatory Transfer Notice or a Transfer Notice which does not state the further details referred to in article 5.5 relating to consideration or where the Directors are not satisfied that the consideration stated is a bona fide consideration within the terms of article 5.5 and subject always to the provisions of article 6.3:

- (a) if, not more than 21 days after the date on which the Transfer Notice was given or was deemed to be given (or such longer period (if any) as the Directors with Management Approval may, prior to the expiry of such period of 21 days, determine to allow for this purpose (subject to a maximum period of 40 days), the Transferor and the Directors shall have agreed a price per Share as representing the fair value of the Sale Shares or as being acceptable to the Transferor and not more than the fair value thereof then such price shall be the Sale Price and the Prescribed Period shall commence on the date on which such agreement is reached and shall expire two months thereafter; or
- (b) failing such agreement, upon the expiry of 21 days (or such longer period (if any) as aforesaid) after the date on which the Transfer

Notice was given or was deemed to be given the Directors shall instruct the auditors for the time being of the Company to determine and report the sum per Share considered by them to be the fair value of the Sale Shares as at the date when the Transfer Notice was given or deemed to have been given (as the case may be) as between a willing buyer and a willing seller on an arm's length basis no deduction being made for a minority interest and the sum per Share so determined and reported shall be the Sale Price and the Prescribed Period shall commence on the date on which the auditors shall so determine and report and shall expire two months thereafter.

- 5.7 For the purposes of article 5.6, the auditors shall act as experts and not as arbitrators and (save only for manifest error) their determination shall be final and binding upon the Company and all Members. The costs and expenses of the auditors in relation to the making of their determination shall be borne by the Company unless the Sale Price as so determined is the same as, or substantially the same as, that (if any) which the Directors had notified to the Transferor as being in their opinion the Sale Price, in which event such costs and expenses shall be borne by the Transferor). For the purposes of this article, the fair value of Sale Shares shall be the market value thereof as between a willing buyer and a willing seller on an arms length basis, having regard to the fair value of the business of the Company as a going concern and as the auditors may in their absolute discretion determine.

- 5.8 Sale Shares shall be dealt with in the following manner:

- (a) if and to the extent such Shares consist of A Ordinary Shares, such Shares shall be offered in writing by the Company first to the holders for the time being of A Ordinary Shares (other than the Transferor or any Associate of the Transferor) and next (if and insofar as not accepted following such offer) to the holders for the time being of Ordinary Shares (other than the Transferor or any Associate of the Transferor) and next (if and insofar as not accepted following such further offer) to the Company and next (if and insofar as not accepted following such further offer), to such person or persons (if any) as the Directors think fit; or
- (b) if and to the extent such Shares consist of Ordinary Shares, such Shares (subject to any direction to the contrary made pursuant to article 6.4) shall be offered in writing by the Company first to the holders for the time being of Ordinary Shares (other than the Transferor or any Associate of the Transferor) and next (if and insofar as not accepted following such offer) to the Company and next (if and insofar as not accepted following such further offer) to the holders for the time being of A Ordinary Shares (other the Transferor or any Associate of the Transferor) and next (if and

insofar as not accepted following such further offer) to such person or persons (if any) as the Directors think fit.

- 5.9 Any such offer as is required to be made by the Company pursuant to article 5.8 shall be made as soon as practicable following the determination of the Sale Price for the relevant Sale Shares and shall limit a time (not being less than 14 days or more than 21 days) after such offer is made within which it must be accepted or, in default will lapse. Following any such offer, if acceptances are received in respect of an aggregate number of Shares in excess of that offered, the number of Sale Shares shall be allocated amongst those who have accepted the same in proportion to the number of Shares of the relevant class held by each acceptor (or in the case of any such offer made to persons who are not already Members of the Company on such basis as the Directors shall determine) provided that no acceptor shall be obliged to acquire more Sale Shares than the number for which he has applied and so that the provisions of this article 5.9 shall continue to apply mutatis mutandis until all Shares which any such acceptor would but for this proviso have acquired on the proportionate basis specified above have been allocated accordingly. Nothing in Article 5.8 or this Article 5.9 shall oblige any shares to be offered to any person who has in writing waived his right to be offered such shares; nor is the Company to be obliged to leave any offer open pursuant to Article 5.8 or 5.9 for the full period of such offer if such offer is rejected in writing by all possible acceptors before the end of such offer period in which case such offer period may, if the Directors so decide, end upon receipt of the rejection from the last possible acceptor.
- 5.10 If a Transfer Notice shall validly contain a Total Transfer Condition then any such offer as aforesaid shall be conditional upon such condition being satisfied and no acceptance of an offer of Sale Shares will become effective unless such condition is satisfied. Subject thereto, any such offer as is required to be made by the Company pursuant to article 5.8 shall be unconditional.
- 5.11 If prior to the expiry of the Prescribed Period the Company shall, pursuant to the foregoing provisions, find Members or other persons (herein called "Approved Transferees") to purchase some or (if article 5.10 shall apply) all the Sale Shares it shall forthwith give notice in writing thereof to the Transferor and the Approved Transferees. Every such notice shall state the name and address of each of the Approved Transferees and the number of the Sale Shares agreed to be purchased by him and shall specify a place and time and date (not being less than three days nor more than seven days after the date of such notice) at which the sale and purchase shall be completed. Upon the giving by the Company of any such notice as aforesaid the Transferor shall be bound (subject only to due payment of the Sale Price) to complete the sale of the Sale Shares to which such notice relates in accordance with its terms.

- 5.12 If a Transferor shall (save only for reason that an Approved Transferee does not duly pay the Sale Price) fail to duly transfer any Sale Shares to an Approved Transferee, the Directors shall be entitled to, and shall, authorise and instruct some person to execute and deliver on his behalf the necessary transfer and the Company may receive the purchase money in trust for the Transferor and shall cause such Approved Transferee to be registered as the holder of such Shares. The receipt of the Company for the purchase money shall be a good discharge to the Approved Transferee (who shall not be bound to see to the application thereof) and after the Approved Transferee has been registered in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person.
- 5.13 If the Company shall not, prior to the expiry of the Prescribed Period, find Approved Transferees willing to purchase some, or, if the relevant Transfer Notice validly contained a Total Transfer Condition, all, of the Sale Shares, it shall give notice in writing thereof to the Transferor and the Transferor, at any time thereafter up to the expiration of two months from the date of such notice, shall, (subject as hereinafter provided) be at liberty to transfer those of the Sale Shares not purchased by Approved Transferees or all the Sale Shares (as the case may be) to the Proposing Transferee or, where the Transfer Notice did not contain details of a Proposing Transferee, to any one person on a bona fide sale at any price not being less than the Sale Price. The Directors may require the Transferor to provide evidence to them (to their reasonable satisfaction) that such Shares are being transferred in pursuance of a bona fide sale for the consideration stated in the transfer without any deduction, rebate, allowance or indulgent terms whatsoever to the purchaser thereof and if not so satisfied may refuse to register the instrument of transfer and/or serve a Disenfranchisement Notice with the effect set out in article 6.7(b) in respect of such Shares as shall have been so sold.
- 5.14 Any Share required to be transferred by a Transferor to an Approved Transferee pursuant to this article shall be transferred free from any mortgage, charge, lien, option or other encumbrance and with the benefit of all rights and entitlements attaching thereto and if, in determining the Sale Price, there was taken into account any entitlement to any dividend which has been paid prior to the date on which the transfer is registered then the Transferor shall be liable to account to the Approved Transferee for the amount thereof (and the Approved Transferee, when making payment for such Share, may set-off such amount against the Sale Price payable).

## **6. Special provisions relating to share transfers**

- 6.1 If any person shall purport to transfer or otherwise dispose of any Share or any interest in or right arising from any Share otherwise than as permitted under article 4(d) or in accordance with the provisions of article 5, such person and any Associate of such person who holds Shares originally held by

such Member shall, unless and to the extent (if any) that the Directors otherwise determine at the relevant time, be deemed to have given on the date on which the Directors give notice to such person that they have become aware of the purported transfer or other disposal, a Transfer Notice in respect of the Shares the subject of such purported transfer or disposal.

- 6.2 If any person becomes entitled to Shares in consequence of the death, bankruptcy or liquidation of a Member in circumstances where the provisions of article 6.3 do not apply then (unless a transfer to such person would be a Permitted Transfer or the Directors and an Investor Majority determine otherwise at the relevant time) a Transfer Notice shall be deemed to have been given on the date on which the Directors become aware that such entitlement has arisen in respect of all Shares held by the Member and any Associate(s) of such Member.
- 6.3 If at any time any director (not being a director appointed pursuant to Article 3.6(a)) or employee of or consultant to any Group Company shall cease (for whatever reason including (without limitation) death, bankruptcy or liquidation) to be such a director or an employee or consultant ("a Leaver") and such person and/or any Associate(s) of such person shall be the holder of ~~X~~ Ordinary Shares, then (unless and to the extent that an Investor Majority, agrees otherwise there shall be deemed to have been given on the date of such cessation a Transfer notice in respect of:-
- (a) in the case of a Good Leaver, the greater of (i) 50% of all Shares then held by such person and any Associate(s) of such person or (ii) such member of Shares then held by such person and any Associate(s) of such person as shall leave such persons (together) holding Shares representing 9.99% of the Equity Shares then in issue following such transfers;
  - (b) in the case of a Bad Leaver, all Shares then held by such person and any Associate(s) of such person

Provided always that, as regards any Shares to be retained by a Good Leaver (or any Associate(s) thereof) no later than 14 days following the date of cessation, the holders thereof shall duly execute a power of attorney in favour of any Director as regards all voting rights attached to such Shares for the period of ownership of such Shares by the Leaver and/or any Associate(s) thereof (and provided further that for the purpose of this Article 6.3 an Associate shall only include such persons as are mentioned in Article 7.1(c)(i), (ii) and (iii)).



- (a) If any Transfer Notice is deemed to be given pursuant to article 6.3, and the Directors resolve within 30 days thereafter (an "Employee Priority Notice") that all or any Shares to which such Transfer Notice relates should be made or kept available either for any person or persons who is or are (an) existing Director(s) and/or employee(s) of a Group Company or a person or persons (whether or not then ascertained) who it is proposed should be appointed as (a) Director(s) and/or employee(s) of a Group Company whether or not in place of the person by whom the relevant Transfer Notice was deemed to be given (a "New Employee") then the provisions of paragraph (b) below shall apply.
- (b) If an Employee Priority Notice is given, then, in relation to the Shares the subject thereof (the "Employee Shares") the provisions of article 5.8 shall not apply and the Employee Shares shall either:
  - (i) be offered to the person(s) (and, in the case of more than one, the proportions) specified in the Employee Priority Notice (conditional, in the case of any prospective director and/or employee, upon his taking up his proposed appointment with a Group Company (if not then taken up)); or
  - (ii) if the relevant Employee Priority Notice so requires, be offered to not less than two persons designated by the Directors to be held (in the event of their acquiring the Employee Shares) upon trust for a New Employee as and when appointed (but so that such New Employee may be required to make payment for the Employee Shares at the time when the same are transferred to him by reference to the Sale Price agreed or determined as at the date of the deemed transfer in accordance with Article 5.6)
- (c) in the event that such shares reserved for a New Employee pursuant to an Employee Priority Notice are not transferred to a New Employee within 120 days from the date of the Employee Priority Notice then such Sale Shares shall be offered at the Sale Price in accordance with Article 5.8 and the provisions of Articles 5.9, 5.11, 5.12, 5.13 and 5.14 shall apply thereto mutatis mutandis save that the Prescribed Period shall be a period of 3 months commencing on the day after the expiry of the 120 day period referred to in this article 6.4 (c).

- 6.5 If a corporation which is a holder and/or beneficial owner of any Share in the Company ceases to be controlled by the person or persons who were in control of the corporation at the time when the corporation became a Member of the Company, it shall, within seven days of such cessation of control, give notice in writing to the Company of that fact and unless the Directors determine otherwise at the relevant time there shall be deemed to have been given as from the date on which the Directors become aware of such cessation (however they become so aware) a Transfer Notice in respect of all Shares held and/or beneficially owned by such corporation and any Associate(s) of such corporation. For the purposes of this article 6.5 "control" shall have the same meaning as in section 416 Income and Corporation Taxes Act 1988. The provisions of this article 6.5 shall not apply to any person holding A Ordinary Shares at close of business on the date of adoption of these Articles.
- 6.6 If a person in whose favour a Permitted Transfer was made pursuant to article 4(d) shall cease to be an Associate of the person by whom such transfer was made then he shall, within seven days of such cessation, give notice in writing to the Company of that fact and unless the Directors determine otherwise at the relevant time there shall be deemed to have been given as from the date on which the Directors become aware of such cessation (however they become so aware) a Transfer Notice in respect of all Shares held by such Associate.
- 6.7 For the purpose of ensuring that a transfer of Shares is a Permitted Transfer or that no circumstances have arisen whereby a Transfer Notice is required or may be deemed to be given under any provision of article 5 or this article 6, the Directors may from time to time require any Member or the personal representatives of any deceased Member or any person named as transferee in any transfer lodged for registration or any person who was, is or may be an Associate of any of the foregoing to furnish to the Company such information and evidence as the Directors may think fit regarding any matter which they may deem relevant to such purpose. If such information or evidence discloses that a Transfer Notice ought to have been given in respect of any Shares the Directors may by notice in writing stipulate that a Mandatory Transfer Notice shall as from the date of such notice or on such future date as may be specified therein be deemed to have been given by the holders of those Shares and/or their Associates in respect of all or any of such Shares. Failing such information or evidence being furnished to the reasonable satisfaction of the Directors within a reasonable time after request, the Directors shall be entitled:
- (a) to refuse to register the transfer in question or, in case no transfer is in question, to require by notice in writing that a Transfer Notice be given by the holders of the relevant Shares in respect of all such Shares; and/or

- (b) to give to the holder(s) of the Shares in question a notice (a "Disenfranchisement Notice") stating that such Shares shall as from the date of such notice no longer confer any right to attend, speak or vote at any general meeting of the Company or at any class meeting or to receive or be entitled to receive any dividend or other distribution until such time as the Directors shall think fit and, as from such date, such Shares shall no longer confer any such rights accordingly.

6.8 A Director shall be regarded as having an interest which is material and which conflicts with the interests of the Company in (and accordingly shall not be entitled to vote in relation to) any matter which requires to be determined or otherwise decided upon by the Directors pursuant to or for the purpose of any of articles 4 or 5 or this article 6 to the extent such matter relates to any Shares held by such Director or any Associate of such Director or in which such Director is otherwise interested.

## **7. Limitation on the transfer of a Controlling Interest**

7.1 For the purposes of this Article:

- (a) the expression "Buyer" means a person who acquires Shares or any interest in Shares (in each case whether or not an existing Member of the Company);
- (b) the expression "acquire" means to be or become the legal or beneficial owner of Shares, whether directly or indirectly and whether by the issue, transfer, renunciation or conversion of Shares or otherwise and whether all at one time or not;
- (c) the expression "Associate" means:
  - (i) the husband, wife, mother, father, grandmother, grandfather, brother, sister, child (including adopted child) or other lineal descendant of the relevant person;
  - (ii) the trustees of any settlement (whether or not set up by the relevant person) under which the relevant person and/or any other Associate of the relevant person his spouse or children is or is capable of being a beneficiary;
  - (iii) any nominee or bare trustee for the relevant person or for any other Associate of the relevant person;
  - (iv) if the relevant person is a company, any subsidiary or holding company of the relevant person and any other subsidiary of any such holding company;

- (v) any person with whom the relevant person or any Associate of the relevant person is connected, the question of whether any such person is so connected falling to be determined for this purpose in accordance with the provisions of section 839 Income and Corporation Taxes Act 1988; and
  - (vi) any person with whom any relevant person is acting in concert (such expression to have the same definition and meaning as that ascribed thereto in the City Code on Takeovers and Mergers as for the relevant time being current);
- (d)
- (i) subject as provided in sub-paragraph (ii) below the expression a "Controlling Interest" means Shares (or the right to exercise the votes attaching to Shares) which confer in the aggregate more than 50 per cent of the total voting rights conferred by all the Shares in the capital of the Company for the relevant time being in issue and conferring the right to vote at all general meetings (and for this purpose "Shares" shall be deemed to include any securities convertible into Shares (as if the same had been fully converted) and any option or other right to acquire Shares (as if the same had been exercised in full);
  - (ii) a person, being a holder of A Ordinary Shares, shall not be deemed to have acquired a Controlling Interest by virtue of the fact that such Preference Shares shall have, pursuant to article 3.5(b), conferred upon such person the right to vote at general meetings of the Company.
- (e) the expression the "Prescribed Price" shall mean in relation to each class of Shares of the Company (Equity Shares being treated as one class for this purpose) whichever is the highest of:
- (i) the highest subscription price per Share paid for any Shares of that class; and
  - (ii) the full cash equivalent of the highest price at which the Buyer has acquired or offered to acquire any Shares of that class in the period of six months prior to the date on which the Offer as is referred to in article 7.2 is made (and so that, in relation to the calculation of such price, the provisions of article 7.7 shall apply); and
  - (iii) in the case of any class of Share which is redeemable, the amount for the relevant time being payable upon such redemption;

together in each case with a sum equal to the grossed up (at the rate of corporation tax then in force) amount of any dividends accrued but unpaid in respect of such Shares.

- 7.2 Notwithstanding anything to the contrary contained in these Articles, save with Investor Approval or Management Approval, no Buyer shall be entitled or permitted to acquire, and no person shall transfer any Shares (or any interest) if, as a result, a Buyer would acquire a Controlling Interest in the Company unless and until the Buyer has first made an offer (in accordance with article 7.3 below) to all the holders of all Shares in the Company at the relevant time (of whatever class) (other than the Buyer if he is already such a holder) to purchase from them for cash at the Prescribed Price per Share their entire holdings of Shares in the capital of the Company.
- 7.3 Any such offer as is referred to in article 7.2 (an "Offer") must be made in writing, must be open for acceptance and irrevocable for a period of not less than 30 and not more than 60 days and must not be subject to any condition save only, if the Buyer so wishes, that acceptances must be received for a specified percentage of all the Shares in respect of which the Offer is made.
- 7.4 If within 60 days of the making of an Offer, the Buyer has not acquired a Controlling Interest then such Offer shall be deemed not to have been made to the extent that the Buyer shall not be entitled to acquire a Controlling Interest at any time thereafter unless and until he has made a further Offer.
- 7.5 If a Buyer receives (within the period of 60 days referred to in article 7.4) acceptances of an Offer which will result in the Buyer owning not less than 90% per cent of all the issued share capital of the Company then, provided that an Investor Majority shall have accepted such offer within the initial offer period, the Buyer may extend the Offer to the extent that, if within 30 days of the expiry of such period of 60 days, the Buyer gives written notice to those Members who have not accepted the Offer requiring them so to do, then each of such non-accepting Members shall upon the giving of such notice:
- (a) be deemed to have accepted the same in respect of all Shares held by him in accordance with the terms of the Offer; and
  - (b) become obliged to deliver up to the Buyer an executed transfer of such Shares and the certificate(s) in respect of the same.
- 7.6 If any such non-accepting Member as is referred to in article 7.5 shall not, within 14 days of becoming required to do so, execute transfers in respect of the Shares held by such Member, then the Directors shall be entitled to, and shall, authorise and instruct such person as they think fit to execute the necessary transfer(s) on his behalf and, against receipt by the Company (on trust for such Member) of the purchase moneys payable for the relevant Shares, deliver such transfer(s) to the Buyer (or its agents) and register the

Buyer (or its nominees) as the holder thereof, and after the Buyer (or its nominees) has been registered as the holder the validity of such proceedings shall not be questioned by any person.

- 7.7 In calculating the Prescribed Price for the purposes of sub-paragraph (ii) of paragraph (e) in article 7.1 there shall be brought into account any other consideration (in cash or otherwise) received or receivable by any member or former member (or any Associate of such member or former member) which, having regard to the substance of the relevant transaction as a whole, can reasonably be regarded as part of the consideration paid (or provided) or payable (or to be provided) for the Shares in question.
- 7.8 All other regulations of the Company relating to the allotment, issue, conversion or transfer of Shares and, in the case of transfers, the right to registration of transfers shall be read subject to the provisions of this article.
- 7.9 For the purpose of ensuring:
- (a) that no Buyer has acquired or may acquire a Controlling Interest otherwise than as permitted by this article (and to that end for the purpose of determining whether one person is an Associate of another); or
  - (b) that a price offered or proposed to be offered for any Shares is the Prescribed Price;

the Directors or an Investor Majority may from time to time require any Member to furnish to the Company or to one or more of the holders of A Ordinary Shares for the time being such information and evidence as the Directors or an Investor Majority may reasonably think fit regarding any matter which they may deem relevant for such purposes.

## **8. Appointment of Directors**

Either the Company by Ordinary Resolution or the Directors may appoint a person who is willing to act to be a director, provided that the appointment does not cause the number of Directors to exceed any maximum number fixed in accordance with these Articles.

## **9. Indemnity**

- 9.1 Subject to the provisions of the Act, every Director, auditor, secretary or other officer of the Company shall be entitled to be indemnified by the Company out of its own funds for all costs, charges, losses, expenses and liabilities incurred by him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his

powers and/or otherwise in relation to or in connection with his duties, powers or office including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the court.

9.2 Without prejudice to the provisions of article 9.1, the Directors shall have the power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers, employees or auditors of the Company or of any subsidiary undertaking of the Company including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or the exercise or purported exercise of their powers and/or otherwise in relation to or in connection with their duties, powers or offices in relation to the Company or any such subsidiary undertaking.

9.3 Subject to the provisions of the Act, a Director shall (in the absence of some other material interest as is indicated below) be entitled to vote (and be counted in the quorum) in respect of any resolution concerning any proposal concerning any insurance which the Company is empowered to purchase and/or maintain for or for the benefit of any Directors of the Company provided that for the purposes of this article 9.3 insurance shall mean only insurance against the liability incurred by a Director in respect of any such act or omission by him as is referred to in article 9.2 or any other insurance which the Company is empowered to purchase and/or maintain for or for the benefit of any groups of persons consisting of or including Directors of the Company.

## **10. Subsidiaries**

The Company shall procure that no Group Company shall do or permit to be done any act, matter or thing in relation to which the consent, approval or sanction of the holders of the A Ordinary Shares is required to be obtained under these Articles, unless such consent, approval or sanction has first been obtained.

## **11. Telephone board meetings**

The Directors or a committee of Directors, may hold meetings by telephone either by conference telephone connection(s) or by a series of telephone

conversations or by exchange or facsimile transmissions addressed to the chairman. The views of the Directors expressed by such communication(s) shall be counted as votes in favour of or against a particular resolution. A resolution passed in this manner and signed by the chairman shall be valid and effectual as if it had been passed at a meeting of the Directors (or a committee thereof) duly convened and held. Such a meeting shall be deemed to take place where the chairman is present.