

Company No. 4037250

THE COMPANIES ACTS 1985 TO 1989

COMPANY LIMITED BY SHARES

RESOLUTIONS

- of -

BIS LIMITED



Passed on **27th** March 2001

At an extraordinary general meeting of the above-named Company duly convened and held at 38 St. Mary Axe, London EC3A 8BH on the above date the following resolutions were duly passed:

ORDINARY RESOLUTIONS

1. The existing 10,000 authorised shares in the capital of the Company be reclassified as A[✓] Ordinary Shares, having the rights and restrictions as set out in the Articles of Association to be adopted pursuant to Resolution 4 below.

2. The authorised share capital of the Company be increased to £ 67,000 by the creation of :-

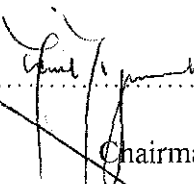
20,000 Preferred Shares of £1 each
10,000 A Ordinary Shares of £1 each
20,000 B Ordinary Shares of £1 each
4,000 A Deferred Shares of £1 each
3,000 B Deferred Shares of £1 each

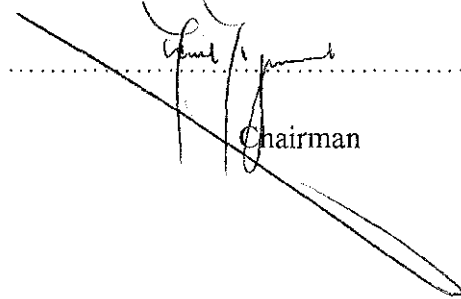
having the rights and restrictions as set out in the Articles of Association to be adopted pursuant to resolution 4 below.

3. That the directors of the Company be generally and unconditionally authorised in accordance with section 80 of the Companies Act 1985 to exercise all the powers of the Company to allot relevant securities (as defined in that section) up to an aggregate nominal amount of £57,000. The authority conferred by this resolution shall be for a period of five years from the date of the passing of this resolution except that the Company may before the end of such period make any offer or agreement which would or might require equity securities to be allotted after such period, and the directors of the Company may allot equity securities in pursuance of any such offer or agreement as if the power conferred by this resolution had not expired.

SPECIAL RESOLUTION

- 1
4. That articles of association in the form attached to this resolution and initialled for the purposes of identification be adopted as the articles of association of the Company in place of its existing articles of association, such adoption to take place immediately after the issue by the Company of 1,455 Preferred Shares, 3,636 A Deferred Shares and 1,454 B Deferred Shares.


.....
Chairman



THE COMPANIES ACTS 1985 to 1989

PRIVATE COMPANY HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION

- of -

BIS LIMITED

ASHURST MORRIS CRISP

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THE COMPANIES ACTS 1985 to 1989

PRIVATE COMPANY HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION

- of -

BIS LIMITED

(adopted by special resolution passed on 27th March 2001)

PRELIMINARY

1. DEFINITIONS AND INTERPRETATION

- 1.1 In the interpretation of these articles, the headings shall not affect the construction and, unless the context otherwise requires, the following words and expressions shall have the following meanings:-

"A Shareholders" means holders of Ordinary A Shares;

"the Acts" means the Companies Act 1985 and the Companies Act 1989, and (in either case) any statutory modification, amendment, variation or re-enactment thereof for the time being in force;

"Admission" means (i) the admission of any share capital of the Company on the London Stock Exchange or to any other Recognised Investment Exchange or NASDAQ, EASDAQ or the New York Stock Exchange in accordance with the rules of the relevant Recognised Investment Exchange or NASDAQ, EASDAQ or the New York Stock Exchange; or (ii) the granting of an application by the Company for the dealing of any shares of the Company or its ultimate holding company on any other public securities market in the United Kingdom (including the Alternative Investment Market at the United Kingdom Listing Authority) or in the United States of America whereby such shares can be freely traded and the approval for such dealing becoming effective, whether such listing is effected by way of an offer for sale, a new issue of shares, on introduction, a placing or otherwise;

"B Shareholders" means holders of Ordinary B Shares;

"Board" means the Board of Directors of the Company from time to time;

"Business" means the business of the Group in providing communications and internet services to customers in the shipping and insurance communities and other industries as the Board may from time to time agree and the building of new international network infrastructure to extend the reach within the existing vertical markets internationally (and services associated therewith as agreed by the Board from time to time) and such services as are more particularly described in the Business Plan;

"Business Development Milestone" means certain conditions as determined by reference to and in accordance with the Relevant Agreement and which the Company is to achieve by a given date;

"Business Plan" means in respect of each financial year the business plan of the Company to be approved by the Board;

"Closing Date" means the date of the Company's adoption of these articles;

"Company" means BIS Limited;

"connected" in the context of determining whether one person is connected with another, shall be determined in accordance with the provisions of section 839 of the Income and Corporation Taxes Act 1988;

"Converting Deferred Share" means a Deferred Share required to be converted to either a Preferred Share or an Ordinary A Share in accordance with these articles;

"DD" means Dimension Data Limited (No.3093656) whose registered office is at 9 Hurst Road, Longford, Coventry CV6 3EG;

"DD Preferred Director" means the Preferred Director appointed to the Board by DD pursuant to article 30.2;

"Deemed Liquidation" means any Sale or Admission where the Market Capitalisation is less than the Pre-Money Valuation;

"A Deferred Share" means a redeemable convertible A Deferred Share of £1 in the capital of the Company, having the rights and being subject to the restrictions set out in these articles;

"B Deferred Share" means a redeemable convertible B Deferred Share of £1 in the capital of the Company, having the rights and being subject to the restrictions set out in these articles;

"Deferred Share" means an A Deferred Share or a B Deferred Share;

"Director" means a Director for the time being of the Company;

"Exit" means a Sale or an Admission;

"Financing Milestone Adjustment" means the adjustment to the percentage equity holding of the Preferred Shareholders by the conversion of some or all of the B Deferred Shares into Preferred Shares or of the percentage equity holding of the A Shareholders by the conversion of some or all of the A Deferred Shares into Ordinary A Shares;

"Financing Milestone Date" means the first anniversary of the Closing Date;

"Financing Milestone" means the payment and subscription for the share capital of the Company by any New Investors in an amount determined by reference to and in accordance with the Relevant Agreement and these articles and which the Company is to achieve by a given date;

"Financial Year" means an accounting period of 12 months in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Acts;

"First Milestone Date" means the date which falls 6 calendar months from the Closing Date;

"First Milestone Adjustment" means the adjustment (if any) to be made to the number of Preferred Shares and Deferred Shares held by Preferred Shareholders and the Pre-Money Valuation by reference to the Business Development Milestone as contained in article 8;

"Group" means the Company and any company which is a subsidiary of the Company, a holding company of the Company or a subsidiary of such holding company from time to time;

"holder" means, in respect of any share in the capital of the Company, the person or persons for the time being registered by the Company as the holder(s) of that share;

"in competition with" means being interested in, or offering substantially the same business as the Business;

"Insolvency Event" means in relation to a member of the Company, that member being or becoming unable to pay its debts as and when they fall due within the meaning of the Acts, the Insolvency Act 1986 and any other relevant legislation and includes entering into any compromise or resolving to enter into any arrangement with the member's creditors, the member suspending payment of its debts generally, having either any distress attachment or execution issued against or enforceable upon any assets of that member, a receiver, manager or administrative receiver, trustee in bankruptcy, liquidator or provisional liquidator being appointed in respect of any business or assets of that member, or any holding company of that member, where a judgement is obtained against such member and not set aside within seven days or where an application or order or resolution passed for administration or winding up or any steps in relation thereto is made in respect of that member;

"Listing Rules" means the rules of the United Kingdom Listing Authority from time to time made for the purposes of Part IV of the Financial Services Act 1986;

"Managers" means each of Mr Peter David Pyemont, Mr Nicholas Peter Teagle and Mr Robert Porter;

"Market Capitalisation" means:

- (a) in the case of an Admission, the price per share at which the Pre-Closing Shares are proposed to be sold or issued in connection with such Admission (in the case of an offer for sale, being the underwritten price (or, if applicable, the minimum tender price) and in the case of a placing, being the placing price) multiplied by the number of shares in the Company as will be in issue immediately following the Admission that represent the Pre-Closing Shares;
- (b) in the case of a Sale, the aggregate consideration expressed as a cash price (whether that consideration is to be satisfied in cash, shares, loan stock or a combination thereof or otherwise) paid pursuant to an agreement or offer to acquire, or a series of agreements or offers, for the whole of the issued share capital of the Company multiplied by a fraction where the numerator equals the number of ordinary shares that represent the Pre-Closing Shares and the denominator represents the total number of Ordinary Shares and Preferred Shares in issue at the date of the Sale;

"Market Capitalisation Date" means:

- (a) where the market capitalisation is by way of an Admission, the date on which dealings commence under the Listing Rules in respect of the shares for which Admission has been obtained; and
- (b) in the case of a Sale, the date of receipt from the purchaser or purchasers of the consideration payable in respect of such Sale;

"New Investor" means any new party or parties investing in the Company in exchange for any shares following the Closing Date and, for the avoidance of doubt, includes any investor or investors who make a subscription for shares as part of the Financing Milestone;

"Nomura" means Nomura International plc (No.1550505) whose registered office is at Nomura House, 1 St Martin's-Le-Grand, London, EC1A 4NP;

"Nomura Preferred Directors" means the Preferred Directors appointed to the Board by Nomura pursuant to article 30.1 and **"Nomura Preferred Director"** means any one of them;

"non-executive Director" means a Director who is not a full-time employee of the Company;

"Ordinary A Directors" means Directors appointed by the A Shareholders pursuant to article 30;

"Ordinary Shares" means Ordinary A Shares and Ordinary B Shares;

"Ordinary A Shares" means Ordinary A Shares of £1 each in the capital of the Company having the rights and being subject to the obligations set down in these articles;

"Ordinary B Shares" means the Ordinary B shares of £1 each in the capital of the Company having the rights and being subject to the obligations set down in these articles;

"Preferred Director" means a Director appointed as a Nomura Preferred Director and/or a DD Preferred Director pursuant to article 30 and **"Preferred Directors"** means the Nomura Preferred Directors and the DD Preferred Director;

"Preferred Shares" means cumulative convertible 8 per cent. Preferred Shares of £1 each in the capital of the Company having the rights and being subject to the obligations set down in these articles;

"Preferred Shareholders" means holders of Preferred Shares;

"Preferred Shareholder Majority" means the holders of 70 per cent. or more of Preferred Shares and Ordinary B Shares for the time being in issue;

"Pre-Closing Shares" means the ordinary shares which represent the entire issued share capital of the Company immediately prior to the Closing Date and any shares represented by or resulting from the conversion, consolidation or sub-division of such ordinary shares;

"Pre-Money Valuation " means the valuation of the Company having reference to any Relevant Agreement as at a time immediately before (and without taking account of) the allotment of the Preferred Shares and the Deferred Shares;

"Qualifying Admission" means an Admission where (i) the gross proceeds raised by such offering is not less than £25 million; (ii) the valuation of the Company (calculated on a fully diluted basis) implied by the price at which such offering is made (which, for the avoidance of doubt, shall include the value of any new shares issued pursuant to such offering) is not less than £100 million; and (iii) the exchange upon which the Admission takes place has been approved by a majority of the Board and the Shareholders will procure that any Directors appointed by them will act reasonably in considering a resolution to approve an exchange for this purpose;

"Recognised Investment Exchange" has the meaning provided in Section 207 of the Financial Services Act 1986;

"Redemption Date" means any date or time when Deferred Shares are to be redeemed in accordance with these articles;

"Relevant Agreement" means any agreement relating (in whole or in part) to the management and/or affairs of the Company which is binding from time to time on the Company and the members and which (expressly or by implication) supplements and/or prevails over any provisions of these articles;

"Sale" means the sale of either (i) the whole or substantially the whole of the Business carried on by the Group as a whole at the relevant time; or (ii) the entire issued share capital of the Company;

"Security Interest" means any encumbrance whatsoever over the whole or any part of the Company's undertaking property or assets (including, without prejudice to the generality of the foregoing, any right to acquire, any option over, or any right of pre-emption) or any mortgage, charge, pledge, lien (other than liens arising in the ordinary course of the business) or assignment, or any other encumbrance, priority or security interest or arrangement of whatsoever nature;

"Shareholders" means the holders of any shares in the Company from time to time;

"Table A" means Table A in the schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No. 805) as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (SI 1985 No. 1052).

- 1.2 Words and expressions defined in or having a meaning provided by either of the Acts (but excluding any statutory modification not in force on the date of adoption of these articles) shall, unless the context otherwise requires, have the same meanings when used in these articles.
- 1.3 Words and expressions defined in or having a meaning provided by the Relevant Agreement shall, unless the context otherwise requires, have the same meanings when used in these articles.
- 1.4 In the event of any inconsistency between the Acts (other than Table A) and these articles, the provisions of the Acts shall prevail, to the extent of such inconsistency.
- 1.5 Subject to the meaning in these articles of "Preferred Shareholder Majority", any reference in these articles to the determination or decision of, or action to be taken by, the holders of any class of shares shall require such decision or action, as the case may be, to be approved or determined by the majority of the holders of shares of that class, such approval or determination to be resolved in writing by the holders of a majority of shares of that class or with the sanction of an ordinary resolution passed at a meeting of the holders of that class but not otherwise. Members (not being members of the class of shares so resolving) and the Company shall not be required to enquire as to the validity of any such resolution save in the case of manifest error.
- 1.6 In these articles, a person shall include partnerships, corporations and unincorporated associations.
2. **TABLE A**
 - 2.1 The regulations contained in Table A, save in so far as they are expressly excluded or varied by these articles, and the regulations contained in these articles shall together constitute the regulations of the Company.
 - 2.2 The regulations of Table A numbered 24, 26, 40, 73 to 77 (inclusive), 80, 96, 101 and 118 shall not apply to the Company.
 - 2.3 Regulation 115 of Table A shall be modified by the deletion of the words "48 hours" and the substitution for them of the words "24 hours".

SHARE RIGHTS

3. AUTHORISED SHARE CAPITAL

The authorised share capital of the Company at the date of adoption of these articles is £67,000.00 divided into:-

- (a) 20,000 Ordinary A Shares of £1.00 each;
- (b) 20,000 Ordinary B Shares of £1.00 each;
- (c) 20,000 Preferred Shares of £1.00 each;
- (d) 4,000 A Deferred Shares of £1.00 each; and
- (e) 3,000 B Deferred Shares of £1.00 each.

4. SPECIAL RIGHTS AND RESTRICTIONS

The special rights and restrictions attached to and imposed on each class of share capital of the Company are as set out in articles 5 to 13 (inclusive).

5. RESTRICTION ON DEFERRED SHARES

- 5.1 Subject to these articles, where a Shareholder holds Deferred Shares, that Shareholder is prohibited from transferring, assigning, granting a security interest over or otherwise disposing of that Shareholder's Ordinary Shares or Preferred Shares separately from such Deferred Shares or vice versa.
- 5.2 No person other than a holder of Ordinary Shares or Preferred Shares shall be entitled to hold Deferred Shares.

6. CAPITAL

- 6.1 Having regard to any Relevant Agreement in the event of any liquidation, Deemed Liquidation, dissolution or winding up of the Company any debts which have become due on the shares in the Company shall only be paid in accordance with the provisions of this article 6. The assets of the Company available for distribution to holders remaining after payment of all other debts and liabilities of the Company (and of the costs, charges and expenses of any such winding up) shall be applied in the following manner and order of priority:-
 - (a) first, in paying to the holders of the Preferred Shares and Ordinary B Shares an amount up to their paid investment and cumulative preferential dividend;
 - (b) secondly, in distributing the balance to the Ordinary A Shareholders up to the amount of their paid investment; and

- (c) thirdly, in distributing any additional amounts to all Shareholders pro rata to their respective holdings of Ordinary Shares and Preferred Shares (as a single class of shares on an as if converted basis) PROVIDED THAT after the distribution of the first £100,000,000,000 of such balance, the Deferred Shares then in issue (if any) shall be entitled to receive an amount equal to the nominal value of such Deferred Shares.

6.2 For the purposes of article 6.1:-

- (a) any payment to the holders of shares of a particular class shall be made in proportion to the numbers of shares of the relevant class held by each of them; and
- (b) any payment in respect of unpaid arrears and accruals of any dividend on Preferred Shares shall be calculated down to (and including) the date of payment and shall be payable irrespective of what profits (and of whether any profits) have been made or earned by the Company and irrespective of whether or not such unpaid arrears and accruals have become due and payable in accordance with the provisions of article 11.3.

7. **CONVERSION OF PREFERRED SHARES**

7.1 Voluntary conversion of Preferred Shares to Ordinary B Shares shall occur at any time at the option of the holders of 70 per cent. or more of the Preferred Shares.

7.2 Automatic conversion of Preferred Shares shall occur:

- (a) immediately prior to a Qualifying Admission; or
- (b) if 51 per cent. or more of the originally issued Preferred Shares have been converted into Ordinary B Shares.

7.3 Any conversion of Preferred Shares into Ordinary B Shares shall, in circumstances where such conversion has occurred for the purpose of effecting a Deemed Liquidation, be without prejudice to the right of the relevant holders of Preferred Shares immediately before conversion to any unpaid arrears or accruals of the fixed cumulative preferential dividend in accordance with the provisions of article 11.3(a) (and whether or not the same shall have become due and payable as at conversion).

7.4 Any conversion pursuant to this article 7 shall, subject to forgoing provisions of this article 7 having been complied with, be made on the following terms:-

- (a) conversion shall take effect automatically at no cost to the relevant holders;
- (b) forthwith after such conversion in accordance with article 7.4(a) the Company shall (subject always to the holder of the Preferred Shares surrendering his certificate(s) in respect of those Preferred Shares), issue to the persons entitled thereto certificates for the Ordinary B Shares resulting from the conversion of the converting Preferred Shares and the certificates for the shares so converted shall upon issue of the new certificates be cancelled and deemed invalid for all purposes;

- (c) where any Preferred Shares are to be converted in accordance with this article 7 the relevant holders shall be bound to deliver the relevant certificates therefor to the Company for cancellation; and
- (d) the Ordinary B Shares resulting from such conversion of Preferred Shares shall cease to accrue the fixed cumulative preferential dividend referred to in article 11.3(a).

8. **CONVERSION OF DEFERRED SHARES UNDER THE BUSINESS DEVELOPMENT RATCHET**

- 8.1 Within ten (10) business days following the First Milestone Date the Company and the Preferred Shareholders, having regard to the Relevant Agreement, shall endeavour to agree whether the Company has achieved the Business Development Milestone as at the First Milestone Date and the Company and the Managers shall also procure that the Company produce a report in accordance with the provisions of the Relevant Agreement.
- 8.2 In the event that it is agreed pursuant to article 8.1 or determined pursuant to article 8.3 that such Business Development Milestone has been achieved then no First Milestone Adjustment shall be made to the Shareholders' respective percentage equity shareholdings in the Company nor shall the Deferred Shares there upon be converted.
- 8.3 In the event that the Company and the Preferred Shareholders have not reached agreement as to whether or not the Company has achieved the Business Development Milestone as at the First Milestone Date within ten (10) business days of the First Milestone Date, then any Director or any Preferred Shareholder entitled to do so having regard to the Relevant Agreement, shall be entitled to require that an Independent Accountant (appointed by agreement between the Company and the Preferred Shareholders or, in the absence of agreement on the application of either the Company, a Director or any Preferred Shareholder by the President of the Institute of Chartered Accountants of England and Wales) be appointed and instructed to conduct a review of the Company in accordance with the provisions of the Relevant Agreement in order to assess whether or not the Company has achieved the Business Development Milestone. Such Independent Accountant shall act as an expert and not as an arbitrator in determining the First Milestone Adjustment and the Independent Accountant's determination will be final and binding on the Company and the Shareholders. The costs of the Independent Accountant shall be paid by the Company.
- 8.4 In the event it is agreed pursuant to article 8.1 or determined pursuant to article 8.3 that such First Business Development Milestone has not been achieved then such number of B Deferred Shares as is equal to X in the following formula shall automatically convert, if requested in accordance with article 8.10, in the manner set out in article 8.9 to an equal number of fully paid Preferred Shares to take effect retrospectively from the First Milestone Date.

$$\frac{X + 1,455}{X + 8,727} = \frac{6}{15 + 6}$$

- 8.5 The number of B Deferred Shares to convert pursuant to the First Milestone Adjustment shall be calculated pro rata by reference to the proportion of Preferred Shares and Ordinary B

Shares held by that Preferred Shareholder to the aggregate number of Preferred Shares and Ordinary B Shares in issue on the First Milestone Date.

- 8.6 To the extent that the number of B Deferred Shares held by any Shareholder to convert automatically into Preferred Shares pursuant to article 8.4 is not an integer, the number of B Deferred Shares to convert into Preferred Shares shall be to the nearest integer as is appropriate to give effect to article 8.4.
- 8.7 The Shareholders shall procure that the Company passes such resolution or resolutions as may be necessary to facilitate or effect the conversion of B Deferred Shares to Preferred Shares under this article 8.
- 8.8 B Deferred Shares converted pursuant to the First Milestone Adjustment can be converted back into B Deferred Shares pursuant to a Financing Milestone Adjustment in the manner set out in article 9.
- 8.9 Any conversion pursuant to this article 8 shall, subject to the written request being submitted to the Company pursuant to article 8.10, be made on the following terms:-
- (a) conversion shall take effect automatically at no cost to the relevant holders;
 - (b) forthwith after such conversion in accordance with article 8.9(a) the Company shall (subject always to the holder of the B Deferred Shares surrendering his certificate in respect of those B Deferred Shares), issue to the persons entitled thereto certificates for Preferred Shares resulting from the conversion of the Converting B Deferred Shares and the certificates for the shares so converted shall upon issue of the new certificates be cancelled and deemed invalid for all purposes; and
 - (c) where any B Deferred Shares are to be converted in accordance with this article 8 or redeemed in accordance with article 10 the relevant holders shall be bound to deliver the relevant certificates therefor to the Company for cancellation.
- 8.10 The conversion of the Deferred Shares envisaged by this article 8 shall occur automatically upon the submission to the Company of a written request therefor signed on behalf of the Preferred Shareholder Majority.

9. **CONVERSION OF DEFERRED SHARES UNDER THE FINANCING MILESTONE RATCHET**

- 9.1 On the Financing Milestone Date, or such earlier date upon which the Financing Milestone is achieved, the Company and the Preferred Shareholders shall meet to agree, having regard to the Relevant Agreement, whether the Company has achieved the Financing Milestone on or prior to the Financing Milestone Date.
- 9.2 In the event that the Company and the Preferred Shareholders have not reached agreement as to whether or not the Company has achieved the Financing Milestone as at the Financing Milestone Date within five (5) business days of the Financing Milestone Date, then any Director or any Preferred Shareholder entitled to do so having regard to the Relevant Agreement, shall be entitled to require that an Independent Accountant (appointed by

agreement between the Company and the Preferred Shareholders or, in the absence of agreement on the application of either the Company, a Director or any Preferred Shareholder by the President of the Institute of Chartered Accountants of England and Wales) be appointed and instructed to conduct a review of the Company in accordance with the provisions of the Relevant Agreement in order to assess whether or not the Company has achieved the Financing Milestone. Such Independent Accountant shall act as an expert and not as an arbitrator in making its determination and the Independent Accountant's determination will be final and binding on the Company and the Shareholders. The costs of the Independent Accountant shall be paid by the Company.

9.3 In the event that it is agreed pursuant to article 9.1 or determined pursuant to article 9.2 that the Financing Milestone has not been achieved then the conversion of B Deferred Shares on the same basis as is described in article 8.4 shall take place retrospectively from the Financing Milestone Date or such earlier date on which it is agreed pursuant to article 9.1 or determined pursuant to article 9.2 that the Financing Milestone has not been achieved, unless that conversion has already occurred.

9.4 In the event that it is agreed pursuant to article 9.1 or determined pursuant to article 9.2 that the Company has achieved the Financing Milestone on or before the Financing Milestone Date, then subject to article 9.7 (and irrespective of whether or not any B Deferred Shares have previously converted into Preferred Shares pursuant to article 8), such number of Preferred Shares as is equal to Y in the following formula shall be the number of Preferred Shares held by the Preferred Shareholders (excluding those allotted on Closing) whether by way of conversion of B Deferred Shares into Preferred Shares or vice versa, with such conversion deemed to have taken effect retrospectively from the Financing Milestone Date or such earlier date on which the Financing Milestone is achieved. If the value of Y is not an integer then Y shall be deemed to be the next integer above Y.

$$\frac{Y + 1,455}{Y + 8,727} = \frac{6}{6 + (\frac{1}{2} * SFIV)}$$

Where:

"Y" is the number (being an integer) of Preferred Shares held by the Preferred Shareholders (excluding those allotted on Closing) following the Financing Milestone Adjustment (as contemplated by this article 9) whether by conversion of B Deferred Shares into Preferred Shares, or vice versa.

"SFIV" means the weighted arithmetic mean Pre-Money Valuation implied by the percentages and subscription prices of equity share capital subscribed for after the Closing Date and on or before the Financing Milestone Date,

Provided That:

- (i) in the event that the SFIV is less than or equal to £30 million, the SFIV shall always be £30 million;
- (ii) if SFIV is more than £60 million, this article 9.4 shall not apply and article 9.7 shall apply.

- 9.5 The number of Deferred Shares held by each Preferred Shareholder to convert automatically into Preferred Shares pursuant to the Financing Milestone Adjustment contained in article 9.4 shall be calculated pro rata by reference to the proportion of Preferred Shares held by that Preferred Shareholder to the aggregate number of Preferred Shares in issue immediately prior to the Final Financing Date (or such earlier date on which the Financing Milestone is achieved).
- 9.6 To the extent that the number of Deferred Shares held by each Preferred Shareholder to convert automatically into Preferred Shares pursuant to article 9.4 is not an integer, the number of Deferred Shares to convert into Preferred Shares shall be the nearest integer as is appropriate to give effect to the purpose of article 9.4.
- 9.7 In the event that it is agreed pursuant to article 9.1 or determined pursuant to article 9.2 that the Company has achieved the Financing Milestone on or before on the Final Financing Date in circumstances where SFIV is greater than £60 million then all shares held by Preferred Shareholders which were previously B Deferred Shares shall be automatically reconverted into the same number of B Deferred Shares and such number of A Deferred Shares held by A Shareholders as is equal to Z in the following formula shall automatically convert into the same number of fully paid Ordinary A Shares with such conversion deemed to have taken effect retrospectively from the Final Financing Date or such earlier date on which the Financing Milestone is achieved.

$$\frac{Z + 7,272}{Z + 8,727} = 1 - \left(\frac{6}{6 + (\frac{1}{2} * SFIV)} \right)$$

Where:

"Z" is the number (being an integer) of A Deferred Shares to be converted into Ordinary A Shares and "SFIV" has the same meaning as in article 9.4,

Provided that in the event that the SFIV is greater than or equal to £90 million, the SFIV shall always be £90 million.

- 9.8 The number of A Deferred Shares held by each A Shareholder to automatically convert into Ordinary A Shares pursuant to the Financing Milestone Adjustment contained in article 9.7 shall be calculated pro rata by reference to the proportion of A Deferred Shares held by that A Shareholder to the aggregate number of A Deferred Shares in issue immediately prior to the Final Financing Date (or such earlier date on which the Financing Milestone is achieved).
- 9.9 To the extent that the number of A Deferred Shares held by each A Shareholder to automatically convert into Ordinary A Shares pursuant article 9.7 is not an integer, the number of A Deferred Shares to convert into Ordinary A Shares shall be the next integer as is appropriate to give effect to the purpose of article 9.7.
- 9.10 The Shareholders shall procure that the Company passes such resolution or resolutions as may be necessary to facilitate or effect the conversion of Deferred Shares to Ordinary Shares or

Preferred Shares to Deferred Shares pursuant to the Financing Milestone Adjustment in accordance with this article 9.

10. **REDEMPTION**

10.1 Subject to the provisions of the Acts, the Shareholders shall procure that the Company redeems the Deferred Shares in accordance with the terms of any Relevant Agreement and this article 10.

10.2 (a) Within 20 business days of the conversions (if any) to occur pursuant to article 9, any Deferred Shares in issue ("**Non-Converting Deferred Shares**") are to be redeemed at par.

(b) In the event of the Company not having sufficient distributable profits, the Shareholders will subscribe pro rata as nearly as may be to their existing holdings thereof and in the same classes for such nominal number of Ordinary Shares and Preferred Shares as required to provide sufficient funds to enable the Company to redeem the nominal value of remaining Deferred Shares. The Shareholders and the Company will pass all such resolutions as may be necessary to effect this redemption of Non-Converting Deferred Shares.

10.3 If, by reason of the provisions of the Acts, the Company is unable to redeem in full on the date fixed for redemption ("**Redemption Date**"), the Deferred Shares falling for redemption on that Redemption Date, the Company shall, on that Redemption Date, redeem as many of the Deferred Shares as, in accordance with the Acts, and any Relevant Agreement as can be properly redeemed.

11. **SHARE RIGHTS**

11.1 The rights attaching to the shares of the Company set out in this article 11, are in addition to the rights set out in articles 5 to 10 inclusive.

11.2 The rights attached to and imposed on the Deferred Shares are as follows:-

(a) **Income and Capital**

The Deferred Shares shall not confer on the holders thereof any entitlement to any participation in the profits or the assets of the Company, except for the right to a deferred return of capital as set out in article 6.1(c).

(b) **Voting**

The Deferred Shares shall not confer on the holders thereof any entitlement to receive notice of or to attend or vote at any general meeting of the Company.

(c) **Conversion**

(i) Subject to the written request being submitted to the Company pursuant to article 8.10, the B Deferred Shares shall convert to Preferred Shares in

accordance with articles 8 and 9 and (subject to the written request being submitted to the Company pursuant to article 8.10) in the event of a holder of B Deferred Shares not complying with articles 8 or 9 such holder shall be deemed to have conferred an irrevocable authority on the Board, at any time thereafter to appoint any person to execute (on behalf of the relevant holder of the B Deferred Shares) any documents and to do any act or thing resolved by the Board to be necessary or desirable to give effect to articles 8 and 9.

- (ii) The A Deferred Shares shall convert to Ordinary A Shares in accordance with article 9 and, in the event of a holder of A Deferred Shares not complying with article 9, such holder shall be deemed to have conferred an irrevocable authority on the Board, at any time thereafter to appoint any person to execute (on behalf of the relevant holder of the A Deferred Shares) any documents and to do any act or thing resolved by the Board to be necessary or desirable to give effect to article 9.

(d) **Redemption and Transfer**

- (i) If a holder of Deferred Shares either transfers some or all of the Preferred Shares or Ordinary Shares (as the case may be) held by him, a corresponding proportion (calculated by reference to number of Preferred Shares or Ordinary Shares transferred as a fraction of the total number of Preferred Shares or Ordinary Shares held) of that holder's Deferred Shares (the "**Specified Portion**") shall be transferred to the transferee.
- (ii) In the event that a holder of Deferred Shares fails to comply with article 11.2(d)(i) the Company may (in the discretion of the Board) either appoint any person to execute on behalf of such holder a transfer and/or an agreement to transfer the relevant Specified Portion of that holder's Deferred Shares for £1 to the transferee.

11.3 The rights attached to and imposed on the Preferred Shares are as follows:-

(a) **Income and Capital**

- (i) The Preferred Shares confer on the holders the right to receive in priority to any payment by way of dividend to the holders of any other shares in the capital of the Company a fixed cumulative preferential dividend on each Preferred Share at a rate of 8 per cent. per annum (exclusive of any imputed tax credit available to the holders thereof) on the purchase price paid in the event of:
 - (A) an Insolvency Event;
 - (B) a Deemed Liquidation.
- (ii) All payments due under this clause shall be paid in accordance with article 6 and the Preferred Shareholders' (or the holders of the Ordinary B Shares resulting from the conversion of Preferred Shares) entitlement to any unpaid

arrears or accruals of the fixed cumulative preferential dividend shall only arise in the event of an Insolvency Event or a Deemed Liquidation as referred to in articles 11.3(a)(i)(A) and 11.3(a)(i)(B) above.

- (iii) For the avoidance of doubt, upon the conversion of any Preferred Shares into Ordinary B Shares pursuant to article 7, the Ordinary B Shares resulting from such conversion of Preferred Shares shall cease to accrue the fixed cumulative preferential dividend referred to in this article 11.3(a).

(b) **Voting**

The Preferred Shares confer on the holder thereof an entitlement to attend and vote at general meetings of the Company together with the Ordinary Shares as a single class and subject to article 30.3 each Preferred Share entitles the holder to one vote at a general meeting of the Company.

11.4 The rights attached to and imposed on the Ordinary Shares are as follows:-

(a) **Income and Capital**

The Ordinary Shares confer on the holders the right to participate in the profits or assets of the Company in accordance with these articles and any Relevant Agreement, and each Ordinary Share ranks equally with all other Ordinary Shares in respect of such entitlements.

(b) **Voting**

The Ordinary Shares confer on the holder thereof an entitlement to attend and vote at general meetings of the Company and each Ordinary Share entitles the holder to one vote at general meetings of the Company.

11.5 The rights attached to and imposed on the Preferred Shares and Ordinary Shares are as follows:

(a) **Appointment and Removal of Preferred Directors and Ordinary A Directors**

The rights contained in article 30.

12. **SALE**

In the event of a Sale then, notwithstanding anything to the contrary in the terms and conditions governing such Sale (unless all the selling holders immediately prior to such Sale have agreed to the contrary for the purposes of this article 12) the selling holders (immediately prior to such Sale) shall procure that the consideration (whenever received) shall be paid into a designated trustee account and shall be distributed amongst such selling holders in the same order of priority as set out in article 6.1 as if the date of such Sale were the date of the return of capital for the purposes of article 6.1 and as if the consideration for such Sale represented all of the assets of the Company available for distribution to holders.

13. VARIATION OF RIGHTS

- 13.1 Whenever the share capital of the Company is divided into different classes of share, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding-up) either (i) with the consent in writing of the holders of more than three-fourths of the issued shares of that class, or (ii) with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of that class. To every such separate general meeting all the provisions of these articles relating to general meetings of the Company (and to the proceedings at such general meetings) shall, mutatis mutandis, apply, except that (i) the necessary quorum shall be two holders, present in person or by proxy or by duly authorised representative (if a corporation), who together hold or represent at least one-third in nominal value of the issued shares of the relevant class (unless all the shares of that class are registered in the name of a single holder, in which case the quorum shall be that holder, his proxy or duly authorised representative (if a corporation)), but so that if, at any adjourned meeting of such holders, such a quorum is not present, then those holders who are present (in person or by proxy or by duly authorised representative (if a corporation)) shall be a quorum, (ii) any holder of shares of the relevant class present in person or by proxy or by duly authorised representative (if a corporation) may demand a poll, and (iii) the holders of shares of the relevant class shall, on a poll, have one vote in respect of every share of that class held by each of them.
- 13.2 Without prejudice to the restrictions contained in these articles as to the modification of rights attached to any class of shares in the Company, the rights conferred upon the holders of the Preferred Shares and Ordinary B Shares shall be deemed to be varied by, and the prior consent or sanction of all of the holders of the Preferred Shares and Ordinary B Shares shall be required for the undertaking by the Company and/or any of its subsidiaries of any of the matters referred to in article 13.3.
- 13.3 The matters referred to in article 13.2 are as follows:-
- (a) a Sale or an Admission after the date of adoption of these articles; or
 - (b) the giving of notice of any resolution to wind-up the Company, or the filing of any petition for the appointment of an administrator or liquidator, or the making of an invitation to any person to appoint an administrative receiver.

14. SUBSCRIPTION RIGHTS

- 14.1 Subject to the provisions of Article 18, but notwithstanding any other provision of these articles, and subject to any direction or authority contained in any resolution of the Company, the Board is generally and unconditionally authorised (for the purposes of section 80 of the Companies Act 1985) to allot relevant securities PROVIDED THAT the authority hereby granted to the Board:-
- (a) shall not permit the Board to allot relevant securities in an amount which is in excess of the unissued share capital of the Company immediately following the date of adoption of these articles; and

- (b) shall expire on the fifth anniversary of the date of adoption of these articles, save that the Board may, after the expiry of the authority hereby granted, allot relevant securities in pursuance of an offer or agreement made by the Company before such authority expired.

14.2 Sections 89(1) and 90(1) to (6) inclusive of the Companies Act 1985 shall not apply to any allotment of shares in the Company pursuant to any Relevant Agreement and these articles.

15. **VOTING RIGHTS**

15.1 Regulation 54 of Table A shall be modified in accordance with the following provisions of this article 15 and article 13.

15.2 A proxy shall be entitled to vote on a show of hands.

15.3 Without prejudice to article 30.3, on a poll every holder shall have one vote for every Ordinary Share and/or Preferred Share which he is the registered holder and which is fully paid up or credited as fully paid.

15.4 For the avoidance of doubt the Deferred Shares shall not confer or carry any rights to vote at a general meeting.

TRANSFER OF SHARES

16. **GENERAL**

16.1 No transfer of any share in the capital of the Company shall be made or registered unless such transfer complies with the provisions of these articles and the transferee has first entered into an appropriate deed of adherence pursuant to any Relevant Agreement.

16.2 No Shareholder may dispose of any interest in or otherwise create any Security Interest over the shares registered in his name other than in accordance with the provisions of these articles and the Relevant Agreement.

16.3 For the purposes of these articles a transfer by a holder of shares in the Company shall include the following:-

- (a) any direction (by way of renunciation or otherwise) by a holder entitled to an allotment or transfer of shares that a share be allotted or issued or transferred to some person other than himself; and
- (b) any sale or any other disposition of any legal or equitable interest in a share (including any voting right attached to it), (i) whether or not by the relevant holder, (ii) whether or not for consideration, and (iii) whether or not effected by an instrument in writing.

16.4 (a) Any holder being a body corporate shall be entitled to transfer all or any of its shares to any other body corporate which is for the time being its subsidiary or holding company or another subsidiary of its holding company or to any of its associates (as such term is defined in section 52 of the Companies Act 1989) (each such body

corporate being a "**Group Company**") provided that if such Group Company, whilst it is a holder of any shares in the Company, ceases to be a Group Company in relation to the body first holding the relevant shares following their allotment or following a transfer made in accordance with this article 16 (otherwise than pursuant to this article 16.4) it shall, within 21 days of so ceasing, transfer the shares held by it to such body or any Group Company of such body and failing such transfer the holder shall be deemed to have given a Transfer Notice pursuant to article 17.

- (b) Subject as herein provided any holder who is an individual (the "**Original Member**") may transfer all or any of his shares or any beneficial interest therein for whatever consideration to any of that Original Member's associates (as such term is defined in section 52 of the Companies Act 1989) provided that if such associate ceases to be an associate of the Original Member it shall, within 21 days of so ceasing, transfer the shares held by it to the Original Member or to a person who is an associate of the Original Member and failing such transfer, the holder shall be deemed to have given a Transfer Notice pursuant to article 17.

17. **PRE-EMPTION - TRANSFERS**

17.1 Any holder who wishes to transfer shares (in this article 17, the "**Vendor**") other than in the case of permitted transfers pursuant to article 16.4, shall give notice in writing (the "**Transfer Notice**") to the Company, each of the Preferred Shareholders and Mr David Pyemont of his wish specifying:-

- (a) the number and class(es) of shares which the Proposed Transferee (as defined below) has offered to purchase from the Vendor (and for the avoidance of doubt, where a holder holds both Ordinary and Deferred Shares or both Preferred Shares and Deferred Shares, a Transfer Notice will be deemed invalid if it does not specify the Specified Portion (determined by reference to article 11.2(d)(i)) of Deferred Shares to be transferred with the relevant Ordinary Shares or Preferred Shares (as appropriate) set out therein which must be in accordance with article 5) (the "**Sale Shares**");
- (b) the name of the third party or third parties to whom the Vendor proposes to sell the Sale Shares (together the "**Proposed Transferee**");
- (c) the price which the Proposed Transferee has offered for the Sale Shares (which shall be deemed to be fair value as determined by the Auditors pursuant to article 21 if no price is specified) (the "**Transfer Price**"); and
- (d) whether or not the Transfer Notice is conditional upon all, and not part only, of the Sale Shares being sold pursuant to the offer hereinafter mentioned and, in the absence of either such stipulation, it shall be deemed not to be so conditional.

17.2 Where any Transfer Notice is deemed to have been given in accordance with these articles, the deemed Transfer Notice shall be treated as having specified:-

- (a) that all of the shares registered in the name of the Vendor shall be included for transfer;

- (b) that the price for the Sale Shares shall be as unanimously agreed between the Board and the Vendor or, failing agreement, shall be for fair value as determined by the Auditors pursuant to article 21; and
 - (c) that no condition as referred to in article 17.1(d) shall apply.
- 17.3 No Transfer Notice once given or deemed to be given in accordance with these articles shall be withdrawn unless the Vendor is obliged to in order to comply with the Acts or unless with the prior written consent of the Company and the Preferred Shareholder Majority. In such events the Vendor shall be required to withdraw such Transfer Notice, without liability to any person, prior to completion of any transfer.
- 17.4 The Transfer Notice shall appoint the Company as agent of the Vendor for the sale of the Sale Shares at the Transfer Price.
- 17.5
 - (a) The Company shall as soon as practicable (and in any event, within ten (10) business days) following receipt of a Transfer Notice or, where later, upon the determination of the Transfer Price, give notice in writing to each of the holders of the Preferred Shares and to Mr David Pyemont informing them that the Sale Shares are available, the name of the Proposed Transferee and of the Transfer Price. Such notice shall invite each such Shareholder to state, in writing within ten (10) business days from the date of such notice (which date shall be specified therein), whether he is willing to purchase any and, if so, how many of the Sale Shares at the Transfer Price.
 - (b) All Sale Shares of whatever class shall be offered, in the first instance, to the Preferred Shareholders pro rata according to the number of Preferred Shares held by each such Preferred Shareholder and, in the second instance, to Mr David Pyemont.
 - (c) The Sale Shares shall be offered to each offeree on terms that, in the event of competition, the Sale Shares offered shall be sold in the first instance, to the Preferred Shareholders accepting the offer in proportion (as nearly as may be) to their existing holdings of shares of the class or classes to which the offer is made (the "**Proportionate Entitlement**"). It shall be open to each such Preferred Shareholder to specify if he is willing to purchase shares in excess of his Proportionate Entitlement ("**Excess Shares**") and, if the holder does so specify, he shall state the number of Excess Shares. For the avoidance of doubt, the Sale Shares shall then be offered in the second instance to Mr David Pyemont.
 - (d) After the expiry of the offers to be made pursuant to article 17.5(a) (or sooner if all the Sale Shares offered shall have been accepted in the manner provided in article 17.5(a)), the Board shall allocate the Sale Shares in the following manner:-
 - (i) subject to articles 17.1(d) and 17.7, if the total number of shares applied for is equal to or less than the available number of Sale Shares the Company shall allocate the number applied for in accordance with the applications; or
 - (ii) if the total number of shares applied for is more than the available number of Sale Shares, each holder shall be allocated his Proportionate Entitlement (or such lesser number of Sale Shares for which he may have applied);

applications for Excess Shares shall be allocated in accordance with such applications or, in the event of competition, (as nearly as may be) to each Preferred Shareholder applying for Excess Shares in the proportion which the Preferred Shares held by such Preferred Shareholder bear to the total number of Preferred Shares then in issue PROVIDED THAT such Preferred Shareholder shall not be allocated more Excess Shares than he shall have stated himself willing to take; and

- (iii) to the extent that the total number of shares applied for is less than the available number of Sale Shares, Mr David Pyemont shall forthwith be offered such outstanding Sale Shares with such offer being open for acceptance by Mr David Pyemont for a period of ten (10) business days,

and in case the Company shall forthwith give notice of each such allocation (an "**Allocation Notice**") to the Vendor and each of the persons to whom Sale Shares have been allocated (a "**Member Applicant**") and shall specify in the Allocation Notice the place and time (being not later than ten (10) business days after the date of the Allocation Notice) at which the sale of the Sale Shares shall be completed.

- 17.6 Subject to article 17.7, upon such allocations being made as aforesaid, the Vendor shall be bound, on payment of the Transfer Price, to transfer the Sale Shares comprised in the Allocation Notice to the Member Applicants named therein at the time and place therein specified. If he makes default in so doing the Chairman for the time being of the Company or, failing him, one of the Directors, or some other person duly nominated by a resolution of the Board for that purpose, shall forthwith be deemed to be the duly appointed attorney of the Vendor with full power to execute, complete and deliver in the name and on behalf of the Vendor a transfer of the relevant Sale Shares to the Member Applicant and any Director may receive and give a good discharge for the purchase money on behalf of the Vendor and (subject to the transfer being duly stamped) enter the name of the Member Applicant in the register of members as the holder or holders by transfer of the shares so purchased by him or them. The Board shall forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such money on trust (but without interest) for the Vendor until he shall deliver up his certificate or certificates for the relevant shares (or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate) to the Company when he shall thereupon be paid the purchase money.
- 17.7 If the Vendor shall have included in the Transfer Notice a provision that unless all the Sale Shares are sold none shall be sold and if the total number of shares applied for by Member Applicants is less than the number of Sale Shares then the Allocation Notice shall refer to such provision and completion of the sales in accordance with the preceding paragraphs of this article 17 shall be conditional upon such provision as aforesaid being complied with in full.
- 17.8 In the event of all the Sale Shares not being sold under the preceding paragraphs of this article 17 the Vendor may, at any time within one (1) calendar month after receiving confirmation from the Company that the pre-emption provisions herein contained have been exhausted, transfer any Sale Shares (which have not been sold) to the Proposed Transferee at any price not less than the Transfer Price PROVIDED THAT:-

- (a) the Board shall be entitled to refuse registration of the Proposed Transferee if the Proposed Transferee is or is believed to be a nominee for a person or entity reasonably considered by the Board to be in competition with the Group;
- (b) if the Vendor stipulated in the Transfer Notice that unless all the Sale Shares were sold none should be sold, the Vendor shall not be entitled, save with the written consent of all of the other holders of the Preferred Shares and Ordinary Shares of the Company, to sell hereunder only some of the Sale Shares comprised in the Transfer Notice to the Proposed Transferee; and
- (c) any such sale shall be a bona fide sale and the Board may require to be satisfied in such manner as it may reasonably require that the Sale Shares are being sold in pursuance of a bona fide sale for not less than the Transfer Price without any deduction, rebate or allowance whatsoever to the Proposed Transferee and, if not so satisfied, may refuse to register the instrument of transfer.

18. PRE-EMPTION - ISSUE OF NEW SHARES

- 18.1 Subject to and in accordance with the terms of any Relevant Agreement or any employee share option scheme operated and approved by the Company in accordance with the terms of any Relevant Agreement and unless otherwise determined by special resolution of the Company in general meeting and subject as provided in articles 18.3 and 18.4, any unissued shares in the capital of the Company from time to time shall before they are issued, be first offered to Preferred Shareholders pro rata in the proportion which the Preferred Shares held by such Preferred Shareholders bear to the total number of Preferred Shares then in issue (with each such Preferred Shareholder being entitled to apply for any amount of unissued shares in the capital of the Company whether or not in excess of such Preferred Shareholders' pro rata entitlement); and second, offered to Mr David Pyemont; and such offer shall be at the same price and on the same terms to each Preferred Shareholder and Mr David Pyemont, irrespective of the class of Preferred Shares and/or Ordinary Shares held. Such offer shall be made by notice specifying the number and class of shares offered, the proportionate entitlement of the relevant member, the price per share and limiting a period (not being more than ten (10) business days) within which the offer, if not accepted, will be deemed to be declined and after the expiration of such period the Board shall, (if agreed) have the discretion to (and shall not be obliged to) offer the shares so declined to the persons who have, within the said period, accepted all the shares offered to them in the same manner as the original offer and limited by a period of not less than ten (10) business days. If any shares comprised in such further offer are declined or deemed such further offer shall be withdrawn in respect of such shares. At the expiration of the time limited by the notice(s) the Directors shall allot the shares so offered to or amongst the members who have notified their willingness to take all or any of such shares in accordance with the terms of the offer. No member shall be obliged to take more than the maximum number of shares he has indicated his willingness to take. Section 89(1) and sub-sections (1) to (6) of Section 90 of the Act shall not apply to the Company.
- 18.2 Any shares not accepted pursuant to article 18.1 (whether the Board has exercised its discretion or not) or where such shares are not capable of being so offered except by way of fractions and any shares released from the provisions of this article by special resolution as therein specified shall, subject to the provisions of Section 80 of the Act and these articles, be

at the disposal of the Board who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper, provided that no shares shall be issued at a discount and provided further that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of on terms which are more favourable to the subscribers thereof than the terms on which they were offered to the members.

- 18.3 The discretion of the Directors contained in articles 18.1 and 18.2 as to the allotment and disposal of and the granting of any option over the Company's shares shall in any event be subject to the provisions of any Relevant Agreement relating thereto binding on the Company for the time being.
- 18.4 Save with the prior written consent of the holders for the time being of Preferred Shares and Ordinary B Shares no shares shall be allotted on terms that the right to take up the shares allotted may be renounced in favour of, or assigned to another person, and no person entitled to the allotment of a share may direct that such share be allotted or issued to any other person.
- 18.5 Save in the case of an issue of shares designated as Ordinary B Shares or Deferred Shares, any shares issued to any person who is not a member shall be automatically classified as Ordinary A Shares.

19. DRAG ALONG OPTION AND THIRD YEAR EXIT

- 19.1 At any time after the first anniversary of the Closing Date and:
- (a) at any time prior to the third anniversary of the Closing Date and in the event that a Sale or Admission is proposed where the Market Capitalisation of the Pre-Closing Shares is greater than or equal to the Drag Along Valuation applicable at the time such Sale or Admission is made; or
 - (b) at any time after the third anniversary of the Closing Date where a Sale or Admission is proposed at any valuation of the Pre-Closing Shares,

then the Preferred Shareholder Majority shall be entitled to issue a Drag Along Notice in accordance with article 19.5(a) or article 19.5(c) as appropriate.

- 19.2 In circumstances where the provisions of either 19.1(a) or 19.1(b) have been satisfied, and where the Preferred Shareholder Majority either (i) wish to transfer all of their shares in the Company pursuant to a bona fide arms' length offer to any person with the result that such person is or would (assuming all of the shares of the Company are sold to such person and assuming conversion of the Deferred Shares has occurred under and in accordance with articles 8 and 9) become the holder of all of the issued shares of the Company following completion of such an offer (treating the same for this purpose as one class of share) and such offer is conditional upon the sale of the entire issued share capital of the Company; or (ii) propose an Admission, then the Preferred Shareholder Majority shall be entitled to issue a Drag Along Notice in accordance with article 19.5(a) (in the case of a proposed transfer) or article 19.5(c) (in the case of a proposed Admission) to all other Shareholders in the Company who shall (subject to article 19.4) be bound to accept such offer and the terms of such Drag Along Notice as set out in articles 19.5(a) or 19.5(c) (as appropriate).

- 19.3 In accordance with the Drag Along mechanism contained in article 19.5, every Shareholder, on receipt of a Drag Along Notice, shall (subject to article 19.4) be bound within 90 days of the date of such offer (which date shall be specified therein) to accept such offer (and in default of so doing shall be deemed to have accepted the offer) and to otherwise comply with the terms of such Drag Along Notice. Until such Drag Along Notice has been issued and (i) the sale of Preferred Shares, Ordinary Shares and Deferred Shares (if any) is completed in accordance with the offer contained in the Drag Along Notice, or (ii) the Admission takes place in accordance with the terms of the Drag Along Notice, the Board shall not sanction the making and registration of the relevant transfer or transfers.
- 19.4 Upon the issue of a Drag Along Notice pursuant to articles 19.1, 19.2 and 19.5, the A Shareholders may within 90 days of the date of the Drag Along Notice offer to purchase or procure that a third party offers to purchase all of the Preferred Shares, Ordinary B Shares and Deferred Shares (if any) of the Company (other than the Ordinary A Shares) at the same or higher price as set out in the Drag Along Notice by giving each of the Preferred Shareholders, B Shareholders and Deferred Shareholders (if any) an offer in writing to purchase their respective shares in the Company provided that offer is for cash or contains a cash alternative in which case, the holders of Preferred Shares, Ordinary B Shares and Deferred Shares (if any) in the Company shall be bound to accept the offer made by the A Shareholders (or if no such offer is made by the A Shareholders pursuant to this article 19.4, the proposed purchaser) and in either case such offer will be completed within 14 days of the date of such offer, PROVIDED ALWAYS that the holders of the Preferred Shares, Ordinary B Shares and Deferred Shares (if any) are reasonably satisfied that the A Shareholders or the proposed purchasers (if different) have the financing in place to complete a purchase contemplated by this article 19.4 within the time period set out herein.
- 19.5 (a) If, in the circumstances set out in articles 19.1, and 19.2, the Preferred Shareholder Majority (in this article 19.5, the "**Vendors**") wish to transfer all of their shares in the Company pursuant to a bona fide arms' length offer (in this article 19.5(a) the "**Drag Along Offer**") by any person (the "**Purchaser**"), with the result that the Purchaser is or would (assuming all of the shares of the Company are sold to the Purchaser pursuant to this article 19.5, and assuming conversion of the Deferred Shares has occurred under and in accordance with articles 8 and 9) become the holder of all of the issued Ordinary Shares after completion of the Drag Along Offer (treating the same for this purpose as one class of share) (the "**Offered Shares**"), then the Vendors shall also have the option (subject to this article 19 and subject to the A Shareholders not having exercised their rights under article 19.4) to require all of the holders of the Ordinary Shares to transfer all of their shares to the Purchaser, or as the Purchaser directs, by giving or procuring the giving of a Drag Along Notice to that effect to all such other holders (the "**Called Shareholders**") specifying that the Called Shareholders are, or will, in accordance with this article 19.5(a), be required to transfer their shares pursuant to this article 19.5 to the Purchaser on or about the date specified in the Drag Along Notice, or (if no date is specified), on or about such date as the Vendors may by notice in writing specify (which shall not be less than seven days after the date of the Drag Along Notice) and the price (the "**Proposed Price**") at which such shares are proposed to be transferred which such price shall be a price per share at least equal to that offered or proposed to be offered to the Vendors pursuant to the Drag Along Offer provided that, in circumstances where the provisions of this

article 19.5(a) apply, the terms and conditions pursuant to which the Called Shareholders are required to transfer their shares shall be no more onerous than the terms and conditions pursuant to which the Vendors transfer their shares to the Purchaser.

- (b) If the Called Shareholders (or any of them) make default in transferring their shares pursuant to article 19.5(a), the provisions of article 17 (references therein to the Vendor, Sale Shares, Allocation Notice and Member Applicant being read as references to the holder making such default, the shares in respect of which such default is made, the Drag Along Notice and the Purchaser respectively) shall apply to the transfer of such shares mutatis mutandis but the Transfer Price shall be the price offered for such shares as set out in this article 19.5 and the provisions of article 17.1(c) shall not apply.
- (c) If, in the circumstances set out in article 19.1, the Preferred Shareholder Majority issues a Drag Along Notice in connection with an Admission, then the Preferred Shareholder Majority shall have the option (subject to this article 19 and subject to the A Shareholders not having exercised their rights under article 19.4) to require all of the holders of the Ordinary Shares do all acts and things that (subject to the terms of any Relevant Agreement) the Preferred Shareholder Majority reasonably require of them or direct them (including the transfer of their shares as part of a reorganisation of the share capital of the Company) in order to give effect to and to prepare for and to achieve the proposed Admission by giving a Drag Along Notice to that effect to all such other holders (the "**Called Shareholders**") specifying what will be required of the Called Shareholders by the Preferred Shareholder Majority in accordance with this article 19.5(c) in order to give effect to and to prepare for and to achieve the proposed Admission. and also stating the price (the "**Proposed Price**") at which such shares are proposed to be admitted pursuant to the Admission. If any Called Shareholder makes default in doing any of the matters required of him in the Drag Along Notice the Chairman for the time being of the Company or, failing him, any one of the Directors, or some other person duly nominated by a resolution of the Board for that purpose, shall forthwith be deemed to be the duly appointed attorney of that Called Shareholder with full power to execute, complete and deliver in the name and on behalf of that Called Shareholder all such documents as are required by the Drag Along Notice to be signed or produced by him.

- 19.6 For the purposes of this article 19 the "**Drag Along Valuation**" means the Market Capitalisation of the Pre-Closing Shares by a proposed Sale or Admission which would, on a notional application, deliver an annual increase in value of at least 100 per cent. per annum on the Pre-Money Valuation (as may be varied from time to time by a First Milestone Adjustment or a Financing Milestone Adjustment) calculated from the Closing Date to the Market Capitalisation Date.
- 19.7 In relation to offers to be procured in accordance with this article 19, each of the holders of Ordinary Shares must co-operate with any and all lawful and unanimous directions of the Board so as to assist in the transfer of shares as contemplated by article 19.5.
- 19.8 For the avoidance of doubt, a Drag Along Notice shall be given or shall be deemed to have been given by the Preferred Shareholder Majority to the holder(s) of any Ordinary Shares

issued after the issue of a Drag Along Notice by the Company where such Ordinary Shares have been issued pursuant to the exercise by those holder(s) of options held by them and the term "Called Shareholders" referred to in article 19.5 shall be read as including such holder(s).

20. INTENTIONALLY DELETED.

21. VALUATION OF SHARES

21.1 In the event that the Auditors are required to determine the price at which shares are to be transferred pursuant to these articles, such price shall be the amount the Auditors shall, on the application of the Board (which application shall be made as soon as practicable following the time it becomes apparent that a valuation pursuant to this article 21 is required), certify in writing to be the price which, in their opinion, represents a fair value for such shares as between a willing vendor and a willing purchaser as at the date the Transfer Notice or deemed Transfer Notice is given. In making such determination, the Auditors shall not take any account of whether the Sale Shares comprise a majority or a minority interest in the Company nor the fact that transferability is restricted by these articles (and shall assume that the entire issued share capital of the Company is being sold).

21.2 In so certifying, the Auditors shall act as experts and not as arbitrators and their decision shall be conclusive and binding on the Company and upon all of its holders for the purposes of these articles.

21.3 The costs of the Auditors shall be borne by the Company.

22. COMPLIANCE AND DISENFRANCHISEMENT

22.1 For the purpose of ensuring (i) that a transfer of shares is duly authorised under these articles or that (ii) no circumstances have arisen whereby a Transfer Notice is required to be or ought to have been given under these articles or (iii) whether a new issue of shares may be made to a person or entity other than a member of the Company, the Board may from time to time require any member or the legal personal representatives of any deceased member or any person named as transferee in any transfer lodged for registration or such other person as the Board or any such holder may reasonably believe to have information relevant to such purpose, to furnish to the Company such information and evidence as the Board may think fit regarding any matter which they deem relevant to such purpose; including (but not limited to) the names, addresses and interests of all persons respectively having interests in the shares from time to time registered in the holder's name.

22.2 Failing such information or evidence being furnished to enable the Board to determine to its reasonable satisfaction that no such Transfer Notice is required to be or ought to have been given, or that as a result of such information and evidence the Board is reasonably satisfied that such Transfer Notice is required to be or ought to have been given, where the purpose of the enquiry by the Board was to establish whether a Transfer Notice is required to be or ought to have been given, then a Transfer Notice shall be deemed to have been given by the holder of the relevant shares in respect of such shares.

GENERAL

23. GENERAL MEETINGS

- 23.1 No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business and for its duration. A quorum will constitute of at least two (2) Preferred Shareholders (one being Nomura and one being DD) present in person, by proxy or by duly authorised representative (if a corporation) and at least one (1) of the Managers present in person or by proxy at any general meeting. If no quorum is present within one (1) hour of the time that the Shareholders' meeting is scheduled (and of which at least 2 weeks' written notice has been given), the meeting shall be automatically adjourned until the same day, at the same time and at the same place in the following week. If, within 30 minutes of the time that the meeting is to commence, a quorum is not present the meeting may be validly held with a quorum consisting of any two (2) Shareholders or proxies thereof.
- 23.2 A poll may be demanded at a general meeting either by the Chairman of the meeting or by any holder who is present in person, by proxy or by duly authorised representative (if a corporation) and who, in any such case, has the right to vote at the meeting, and regulation 46 of Table A shall be modified accordingly.

24. BOARD MEETINGS

- 24.1 No business shall be transacted at a board meeting unless a quorum of three (3) directors, including two (2) Preferred Directors and any other Director (not being a Preferred Director), is present at the time when the meeting proceeds to business and for its duration. If no quorum is present within one (1) hour of the time the meeting is scheduled, and of which at least one (1) weeks' prior written notice has been given, the meeting shall be automatically adjourned until the same day, at the same time and at the same place in the following week. If within 30 minutes of the time that meeting is to commence a quorum is not present, the meeting may be validly held with a quorum consisting of any two (2) Directors.
- 24.2 In addition to any provisions required by law any one (1) Director may call a meeting of the Board.
- 24.3 There shall be no less than six (6) Board meetings per year.

25. WRITTEN RESOLUTIONS

In the case of a corporation which holds a share or shares in the capital of the Company, the signature of any Director or the secretary of such corporation shall be sufficient for the purposes of any resolution in writing as is referred to in regulation 53 of Table A, and regulation 53 of Table A shall be modified accordingly.

26. ACCOUNTS AND ANNUAL GENERAL MEETINGS

- 26.1 Unless otherwise determined by the Board, every Financial Year of the Company shall commence on 1 January and end on 31 December (the "**Accounts Date**"). The Board shall cause to be prepared, in accordance with the provisions of the Acts, a consolidated balance sheet of the Company and its subsidiary undertakings as at the end of each Financial Year and

a consolidated profit and loss account of the Company and its subsidiary undertakings for each Financial Year (the "**Accounts**").

- 26.2 An annual general meeting of the Company shall be held not later than the last business day of the month of June in each calendar year (in respect of the Financial Year ended on the immediately preceding 31 December), and/or at such time and place as the Board shall determine. The Board shall cause to be laid before each such annual general meeting the Accounts for the relevant Financial Year, together with the respective reports (complying with the provisions of the Acts) of the Board and of the auditors for the time being of the Company (the "**Auditors**") on such Accounts.

27. **CHAIRMAN**

- 27.1 The Board of Directors shall nominate and appoint a Chairman by simple voting majority of the Directors. The Chairman shall be appointed for a term not exceeding one (1) year and shall thereafter be nominated and appointed at the annual general meeting of the Company. A person may be re-appointed as Chairman in any year immediately following a year in which such person has served as Chairman and the Company undertakes to give effect to such appointment.
- 27.2 Subject to article 27.1, Mr Peter David Pyemont shall be Chairman for at least the first year from the Closing Date. For the duration of his initial period as Chairman, Mr Pyemont shall have a casting vote on decisions of the Board and such casting vote shall expire on the termination of Mr Pyemont's initial period as Chairman.
- 27.3 At any time after the first anniversary of the Closing Date the Preferred Shareholder Majority shall have the right to terminate Mr Pyemont's position as Chairman and thereafter the Shareholders shall use their reasonable endeavours to agree to appoint a non-executive independent person to be Chairman who shall be appointed as a seventh (7th) Director, but neither as an Ordinary A Director nor a Preferred Director. Such non-executive independent Chairman shall have the right to vote at meetings of the Board but, for the avoidance of doubt, shall not have a casting vote. In the event that the Preferred Shareholder Majority shall have terminated Mr Pyemont's position as Chairman and the Shareholders are unable to agree on the person to be appointed the non-executive independent Chairman, Mr Pyemont shall remain as Chairman without a casting vote.
- 27.4 The Chairman shall not be entitled to appoint an alternate (including any other Director of the Company) to attend or vote at any meeting of the Board in his place.

28. **RETIREMENT OF DIRECTORS**

The Directors shall not be liable to retire by rotation and, accordingly, the second and third sentences of regulation 79 of Table A shall not apply to the Company; in regulation 78 of Table A, the words "Subject as aforesaid" and the words "and may also determine the rotation in which any additional Directors are to retire" shall be deleted; and the last sentence of regulation 78 shall be deleted.

29. **APPOINTMENT OF DIRECTORS**

The authorised number of Directors from time to time is six (6) including any Preferred Directors (and excluding the non-executive independent Chairman appointed pursuant to article 27). To the extent that the number of Directors changes, this number will always be a multiple of two (2) and the Preferred Shareholder Majority shall always have the right to appoint one half of the Directors as Preferred Directors.

30. **PREFERRED DIRECTORS AND ORDINARY A DIRECTORS**

- 30.1 For so long as Nomura holds at least four (4) per cent. of the issued share capital of the Company, it shall have the right from time to time to appoint two (2) persons to be non-executive Directors of the Company (each, a "**Nomura Preferred Director**") and to remove from office any person so appointed and to appoint another person in his place. Any Nomura Preferred Directors so appointed shall have the right to be appointed as non-executive directors of each subsidiary of the Company and to be appointed to (i) any committee or sub-committee of or established by the Board (or any committee thereof) and (ii) any committee or sub-committee of or established by the board of directors of any subsidiary.
- 30.2 For so long as DD holds at least four (4) cent. of the issued share capital of the Company it shall have the right from time to time to appoint one (1) person to be a non-executive Director of the Company (a "**DD Preferred Director**") and to remove from office any person so appointed and to appoint another person in his place. Any DD Preferred Director so appointed shall have the right to be appointed as a non-executive director of each subsidiary of the Company and to be appointed to (i) any committee or sub-committee of or established by the Board (or any committee thereof) and (ii) any committee or sub-committee of or established by the board of directors of any subsidiary.
- 30.3 On any resolution to remove a Preferred Director appointed pursuant to this article 30, or to amend or alter this article 30 (or to alter its effect), shares held by the relevant appointor(s) shall together carry at least one vote in excess of 75 per cent. of the votes exercisable at the general meeting at which such resolution is to be proposed (and such votes shall be apportioned amongst the appointors in the proportion in which they hold shares conferring the right to appoint a Preferred Director).
- 30.4 Any appointment or removal pursuant to articles 30.1, 30.2 or 30.9 shall be in writing served on the Company and signed by the relevant holder(s). Such appointment or removal (which may consist of several documents) may be signed by or on behalf of any such holder by any director or the secretary of such holder (if a corporation), by its duly appointed attorney or by its duly authorised representative (if a corporation).
- 30.5 If, at any time, no Preferred Directors have been appointed under this article 30 then references in these articles to the consent or approval of the Preferred Directors shall be construed as references to the consent or approval of the holders of the Preferred Shares, given in accordance with the Relevant Agreement.
- 30.6 Any Preferred Director may appoint an alternate (including an observer or another Director of the Company) to attend and vote at any meeting in his place or give a proxy to any other Director of the Company.

38. **THE SEAL**

- 38.1 If the Company has a seal it shall only be used with the authority of the Board or of a committee of the Board which shall comprise of at least three Directors, being two (2) Preferred Directors and one other Director. The Board may determine who shall sign any instrument to which the seal is affixed and, unless otherwise so determined, it shall be signed by any Preferred Director and by the secretary or any second Director. The obligation under regulation 6 of Table A relating to the sealing of share certificates shall apply only if the Company has a seal.
- 38.2 The Company may exercise the powers conferred by section 39 of the Companies Act 1985 with regard to having an official seal for use abroad, and such powers shall be vested in the Board.

39. **INDEMNITY**

Subject to the provisions of the Acts, every Director or alternate Director of the Company shall be indemnified out of the assets of the Company against all costs, charges, expenses, losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by any court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company. No Director or alternate Director shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the proper execution of the duties of his office or in relation thereto. This article 30 shall only have effect in so far as its provisions are not avoided by section 310 of the Companies Act 1985. The Board shall have power to purchase and maintain for any insurance against any liability which, by virtue of any rule of law, would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company.

40. **BORROWING POWERS**

Subject as hereinafter provided and any Relevant Agreement, the Board 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 the provisions of the Acts, 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.