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THE COMPANIES ACTS 1985 to 1989

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PRIVATE COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

- of -

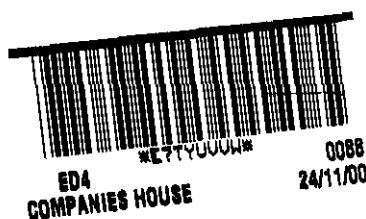
NEW BAXI HOLDINGS LIMITED

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PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

- of -

NEW BAXI HOLDINGS LIMITED

(adopted by special resolution passed  
on November, 2000)

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 bear the following meanings:-

**"acting in concert"** has the meaning set out in the City Code on Takeovers and Mergers;

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

**"Agreement"** means a shareholders' agreement of even date with the date of adoption of these articles made between (1) Electwealth, (2) the Managers (as therein defined), (3) the Subscribers (as therein defined) and (4) the Newmond Shareholders (as therein defined), as the same may be supplemented, varied or amended hereafter;

**"Board"** means the board of directors of the Company from time to time or, as the context may require, any duly authorised committee thereof;

**"Company"** means New Baxi Holdings 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;

**"Directors"** means the directors for the time being of the Company;

**"Electwealth"** means Electwealth Limited (No.4061959);

**"Electwealth "C" Shares"** means the "C" ordinary shares of 10 pence each in the capital of Electwealth;

**"Electwealth Ordinary Shares"** means the ordinary shares of £1 each in the capital of Electwealth;

**"Electwealth Preferred Ordinary Shares"** means the convertible preferred ordinary shares of 0.01 pence each in the capital of Electwealth;

**"equity share capital"** as defined in section 744 of the Companies Act 1985;

**"Financial Year"** means an accounting period of twelve months (save for the first) in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Acts;

**"Funding Agreements"** means:-

- (a) the credit agreement proposed to be made between the Banks, The Royal Bank of Scotland plc, Société Générale and Deutsche Bank AG London as Arrangers and The Royal Bank of Scotland plc as Facility Agent, Issuing Bank and Overdraft Bank (as such terms are defined therein) and the Company and certain other companies named therein as borrowers as amended, varied, supplemented, restated or novated from time to time;
- (b) the Mezzanine Loan Agreement; and
- (c) the subordination agreement proposed to be made between, inter alia, the Company, the Bondholders (each as defined therein) and The Royal Bank of Scotland plc as security trustee as amended, varied, supplemented, restated or novated from time to time;

**"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;

**"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;

**"Issue Price"** means, in respect of a share in the capital of the Company, the aggregate of the amount paid up (or credited as paid up) in respect of the nominal value thereof and any share premium thereon;

**"Listing"** means the admission of any part of the share capital of Electwealth to the Official List of the London Stock Exchange or to trading on the Alternative Investment Market of the London Stock Exchange or to trading on any recognised investment exchange (as that term is used in the Financial Services Act 1986);

**"Listing Rules"** means the rules of the UK Listing Authority made for the purposes of Part IV of the Financial Services Act 1986;

**"Loan Notes"** means the £161,822,310 subordinated unsecured loan notes 2010 in the Company constituted by a deed of the Company dated on or about the date of the adoption of these Articles;

**"Loan Note Warrantholders"** means those holders of warrants to subscribe for Preferred Ordinary Shares issued by Electwealth to the holders of Loan Notes;

**"Loan Note Warrantholders Majority"** means those Loan Note Warrantholders holding more than 50 per cent. of such loan note warrants (by reference to the nominal value of the Preferred Ordinary Shares to be issued on the exercise of such warrants) in issue from time to time and representing at least two Institutions (as defined in the Agreements);

**"London Stock Exchange"** means London Stock Exchange plc;

**"Mezzanine Loan Agreement"** means the mezzanine loan agreement proposed to be made between the Lenders and RBS Mezzanine Limited, Société Générale and Deutsche Bank AG London as Arrangers and RBS Mezzanine Limited as Facility Agent (as such terms are defined therein) and the Company as amended, varied, supplemented, restated or novated from time to time;

**"Mezzanine Warrant Instrument"** means the warrant instrument pursuant to which mezzanine warrants are issued to the Mezzanine Warrantholders;

**"Mezzanine Warrantholders"** means the holders of warrants issued by Electwealth pursuant to the Mezzanine Warrant Instrument;

**"Mezzanine Warrantholders Majority"** means those Mezzanine Warrantholders holding more than 50% of such mezzanine warrants (by reference to the nominal value of the Preferred Ordinary Shares to be issued on exercise of such warrants) in issue from time to time;

**"Ordinary Shares"** means the Ordinary Shares of £1 each in the capital of the Company;

**"Preference Shares"** means the 1 per cent. cumulative redeemable preference shares of 1 pence each in the capital of the Company;

**"Sale"** means the completion of an agreement for the purchase whether for cash or other consideration of all the Electwealth Preferred Ordinary Shares, Electwealth Ordinary Shares and Electwealth "C" Shares (to the extent not already owned by the purchaser or by persons acting in concert with or connected with the purchaser), or the acceptance of an offer as a result of which the offeror becomes entitled or bound to acquire the remainder of such shares in accordance with the Acts (or would have become so entitled or bound had the Electwealth Preferred Ordinary Shares already been converted at the time the offer was made in accordance with article 7 of the articles of association of Electwealth);

**"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); and

**"Trustees"** means the trustee or trustees of a retirement benefit scheme and/or a family trust set up wholly for the benefit of one or more of an employee of the Group, his or her spouse, children, grandchildren or step children or step grandchildren.

- 1.2 Words and expressions defined in or having a meaning provided by 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.
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, 82, 96, 101 and 118 shall not apply to the Company.
- 2.3 Regulation 62 of Table A shall be modified by the deletion of the words "not less than 48 hours" in paragraph (a) and the deletion of the words "not less than 24 hours" in paragraph (b).
- 2.4 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 £10,505,000, divided into:-

- (a) 10,000,000 Ordinary Shares; and
- (b) 50,500,000 Preference Shares.

### **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 these articles, including in particular (but without limitation) articles 5 to 10 (inclusive).

5. **Income**

5.1 **Preference Shares**

- (a) In respect of each Financial Year the Preference Shares shall confer upon the holders thereof (as a class) the right to receive, in priority to any payment or accrual by way of dividend to or in favour of the holders of any other shares in the capital of the Company (but subject to the accrual or (on and after a Payment Event) payment of all dividends accrued and in arrears on the Preference Shares in respect of any earlier Financial Year), and accordingly the Company shall accrue or (on and after a Payment Event) pay to or in favour of the holders thereof, a fixed cumulative preferential dividend (the "**Fixed Dividend**") on each Preference Share at the rate of one per cent. per annum (exclusive of the imputed tax credit available to the holders thereof) of the nominal value thereof.
- (b) The Fixed Dividend shall accrue from day to day and shall be paid only on the occurrence of a Payment Event in cash in respect of the period from the date on which the relevant share is issued down to (and including) the date of payment, on the date of payment.
- (c) For the purposes of this article 5.1, a "**Payment Event**" means the first to occur of the following:
  - (i) a Sale;
  - (ii) a Listing; and
  - (iii) (in respect only of Preference Shares redeemed or to be redeemed on that date) any date upon which Preference Shares are redeemed in accordance with article 7.
- (d) The Preference Shares shall not confer any further right of participation in the profits of the Company.

5.2 Notwithstanding the provisions of article 5.1, no "Payment Event" shall be deemed to have occurred and no dividend shall be declared or paid on the Preference Shares unless the Loan Notes have been repaid in full and all amounts due to repay the monies advanced pursuant to the Mezzanine Loan Agreement have been paid in full or, in each case, will be repaid in full on such Payment Event.

5.3 In the event that, whether by reason of any principle of law or the provisions of article 28, the Company is unable to pay in full any dividend on the due date for payment under articles 5.1 and 5.2 (each of which dates is a "**Dividend Date**") any instalment of a dividend which

would otherwise be required to be paid pursuant to article 5.1 or, as the case may be, article 5.2 on that Dividend Date (a "**Relevant Dividend**", which expression shall also include in the case of the Ordinary Shares such further dividend payable in respect thereof and calculated in accordance with the provisions of article 5.4), then the following provisions shall apply:-

- (i) on the Dividend Date the Company shall pay to the relevant holders (on account of the Relevant Dividend) the maximum sum (if any) which can then consistently with any such principle of law or article 28 properly be paid by the Company. Such sum shall be divided among the relevant holders pro rata to the number of Preference Shares or Ordinary Shares (as the case may be) held by each such holder; and
- (ii) the Company shall pay the balance of the Relevant Dividend (whether in one or more instalments) as soon after the relevant Dividend Date as may then be consistent with any principle of law or the provisions of article 28 and such payment shall be made in priority to any dividend which shall have accrued on the same class of share in respect of a period subsequent to the relevant Dividend Date.

5.4 In the event that any part of any such dividend is not paid for any reason within 28 days of the relevant Dividend Date in accordance with article 5.2, the amount of the overdue dividend shall be increased by way of a further cumulative dividend at the rate of 8 per cent. per annum (exclusive of the imputed associated tax credit available to the holders thereof), calculated on a daily basis and compounded on the anniversary of the relevant Dividend Date.

5.5 The Company shall procure that, if any of its subsidiary undertakings have profits available for distribution for the purposes of the Acts, such profits will (to the extent necessary) be distributed to the Company so as to enable the payment or accrual on the relevant Dividend Date of the Relevant Dividend.

## 6. **Capital**

6.1 In the event of a winding up of the Company or other return of capital (but excluding the redemption of Preference Shares in accordance with article 7), any debts which have become due in accordance with articles 5.1 or 5.2 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 Preference Shares (in proportion to the numbers of Preference Shares held by them) all unpaid arrears and accruals of any Fixed Dividend, such arrears and accruals to be calculated down to (and including) the date of payment and to 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 articles 5.1 and/or 5.3;

- (b) Secondly, in paying to the holders of the Preference Shares (in proportion to the numbers of Preference Shares held by them) the Issue Price of such shares;
- (c) Thirdly, in paying to the holders of the Ordinary Shares all unpaid arrears and accruals of any dividend attributable to such Ordinary Shares, such arrears and accruals to be calculated down to (and including) the date of payment and to 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 5.3.
- (d) Fourthly, in paying to the holders of the Ordinary Shares the Issue Price of such shares;
- (e) Lastly, in distributing the balance amongst the holders of the Ordinary Shares.

## 7. **Redemption**

- 7.1 Subject to the provisions of the Acts, and (i) with the consent or sanction of the holders of the Preference Shares given in accordance with article 9 and (ii) only if the Loan Notes have been repaid in full and all amounts due to repay the monies advanced pursuant to the Mezzanine Loan Agreement have been paid in full the Company shall have the right to redeem all or any of the Preference Shares for the time being outstanding and fully paid up.
- 7.2 Provided that the Loan Notes have been repaid in full and all amounts due to repay the monies advanced pursuant to the Mezzanine Loan Agreement have been repaid in full then on the earlier of a Listing or a Sale the Preference Shares then in issue shall, be redeemed in full.
- 7.3 Provided that the Loan Notes have been repaid in full and all amounts due to repay the monies advanced pursuant to the Mezzanine Loan Agreement have been repaid in full then on the tenth anniversary of the date of adoption of these articles or, if at that date any amounts remain outstanding under the Mezzanine Loan Agreement and/or the Loan Notes, the date upon which all amounts due under both the Mezzanine Loan Agreement and the Loan Notes have been repaid in full, the Preference Shares then in issue, shall, be redeemed in full.
- 7.4 If, by reason of the provisions of the Acts or article 28 the Company is unable to redeem in full on the Redemption Date the Preference Shares falling for redemption on that Redemption Date, the Company shall, on that Redemption Date, redeem as many of the Preference Shares as can consistently with the Acts or article 28 properly be redeemed and shall redeem the balance as soon thereafter as the Acts or article 28 shall permit.
- 7.5 The Preference Shares to be redeemed in accordance with this article 7 shall be selected as nearly as may be to ensure that the number of Preference Shares of each relevant holder is reduced, by such redemption, in the same proportion.



- 7.6 The Company shall give to the holders of the Preference Shares previous notice in writing of an impending Redemption Date which (i) in the case of a redemption falling within articles 7.1 and 7.3 shall not be less than 28 days, (ii) in the case of a Listing, shall not be less than 28 days nor more than 35 days before the expected date of Listing and (iii) in the case of a Sale, as soon as the prospect of such a Sale has come to the attention of the Company. For the avoidance of doubt, if redemption is occasioned by a proposed Listing or Sale, and the same shall not occur there shall be no redemption and the said notice shall be revoked.
- 7.7 (a) Any notice of an impending Redemption Date shall specify (i) the particular Preference Shares to be redeemed, (ii) the date fixed for redemption (or, if not then known, the expected date for redemption), and (iii) the place at which the certificates for such Preference Shares are to be presented for redemption.
- (b) Upon such Redemption Date, each of the holders of the shares to be redeemed shall be bound to deliver to the Company (at the place specified in such notice of redemption) the certificate for the shares to be redeemed which are held by him in order that the same may be cancelled, or shall deliver an indemnity (in a form reasonable satisfactory to the Board) in respect of any lost certificate.
- (c) Upon such delivery, the Company shall pay to each relevant holder (or, in the case of joint holders of any shares to be redeemed, to the holder whose name stands first in the register of members of the Company) the amount due to him in respect of such redemption (as set out in article 7.8) against the delivery of a proper receipt for the redemption moneys payable in respect thereof.
- (d) If any certificate so delivered to the Company includes any Preference Shares not falling to be redeemed on that Redemption Date, a fresh certificate for such Preference Shares shall be issued to the relevant holder (or, as the case may be, holders) as soon as practical after such certificate has been delivered to the Company and, in any event, within 14 days of such delivery.
- 7.8 There shall be paid on the redemption of each Preference Share an amount equal to the Issue Price thereof, together with all arrears and accruals of any Fixed Dividend, such arrears and accruals to be calculated down to (and including) the Redemption Date and to 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 articles 5.1 and/or 5.5.
- 7.9 As from any relevant Redemption Date the Fixed Dividend (in respect only of any Preference Shares falling to be redeemed on such date) shall cease to accrue, except on or in relation to any Preference Share in respect of which, on presentation of the certificate relating thereto or an indemnity (in a form reasonably satisfactory to the Board) in respect of a lost certificate, payment of the redemption moneys (and/or arrears and accruals of the Fixed Dividend) is refused.

## **8. Variation of Rights**

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 seventy-five per cent. 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 persons, 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 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.

## **9. Subscription Rights**

9.1 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.

9.2 All shares which the Company proposes to allot wholly for cash shall first be offered for subscription to the holders of the Ordinary Shares in the proportion that the aggregate nominal value of such shares for the time being held by each such holder bears to the total number of such shares in issue. Such offer shall be made by notice in writing specifying the number of shares to which the relevant holder is entitled and limiting a time (being not less than four weeks) within which the offer (if not accepted) will be deemed to have been declined. Holders who accept the offer shall be entitled to indicate that they would accept, on the same terms, shares (specifying a maximum number) which have not been accepted by other holders ("Excess Shares"). Any Excess Shares shall be allotted to holders who have indicated they would accept Excess Shares. Excess Shares shall be allotted pro rata to the aggregate number of Ordinary Shares held by holders accepting Excess Shares (provided that no such holder shall be allotted more than the maximum number of Excess Shares such holder has indicated he is willing to accept). After the expiration of such time, or upon

receipt by the Company of an acceptance or refusal of every offer so made, the Board shall be entitled to dispose of any shares so offered, and which are not required to be allotted in accordance with this article 9.2, in such manner as the Board may think most beneficial to the Company. If, owing to the inequality of the number of new shares to be issued and the number of shares held by holders entitled to receive the offer of new shares, any difficulties shall arise in the apportionment of any such new shares amongst the holders such difficulties shall (in the absence of direction by the Company) be determined by the Board. The provisions of section 89(1) and section 90(1) to (6)(inclusive) of the Companies Act 1985 shall not apply to the Company.

**10. Voting Rights**

- 10.1 Regulation 54 of Table A shall be modified in accordance with the following provisions of this article 10.
- 10.2 A proxy shall be entitled to vote on a show of hands.
- 10.3 Without prejudice to article 8, on a poll every holder shall have one vote for every Ordinary Share of which he is the registered holder and which is fully paid up or credited as fully paid.
- 10.4 The Preference Shares shall not confer or carry any rights to vote at a general meeting.

**TRANSFER OF SHARES**

**11. Transfers: General**

- 11.1 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, if so required by the terms of the Agreement or otherwise, first entered into an appropriate deed of adherence pursuant to the Agreement. Subject thereto, the Board shall sanction any transfer so made unless (i) the registration thereof would permit the registration of a transfer of shares on which the Company has a lien or (ii) the Board is otherwise entitled to refuse to register such transfer pursuant to these articles. Any transfer, or purported transfer, of any shares in the Company in breach of these articles shall be void.
- 11.2 The Board shall sanction any transfer of shares made pursuant to the enforcement of any security granted under the Funding Agreements.
- 11.3 For the purposes of these articles the following shall be deemed (but without limitation) to be a transfer by a holder of shares in the Company:-
  - (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 (including by way of charge or other security interest) 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.

## 12. Permitted Transfers

Preference Shares may only be transferred to a transferee of Electwealth Preferred Ordinary Shares where such transfer of Electwealth Preferred Ordinary Shares is made in accordance with the provisions of the articles of association of Electwealth as adopted from time to time.

## GENERAL

## 13. General Meetings

- 13.1 No business shall be transacted at any general meeting unless a quorum of holders is present at the time when the meeting proceeds to business and for its duration. Two persons, being holders present in person, by proxy or by duly authorised representative (if a corporation), shall be the quorum at any general meeting. If a meeting is adjourned under regulation 41 of Table A because a quorum is not present, and at the adjourned meeting a quorum is not present within half an hour from the time appointed for that adjourned meeting, the holders then present shall form a quorum, and regulation 41 of Table A shall be modified accordingly.
- 13.2 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.
- 13.3 Regulation 37 of Table A shall be modified by the deletion of the words "eight weeks after receipt of the requisition" and the substitution for them of the words "28 days after receipt of the requisition or, subject to obtaining any necessary consents to the meeting being held on short notice, such earlier date as may be specified in the notice requisitioning the meeting".

## 14. 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.

## 15. Accounts and Annual General Meetings

- 15.1 Every Financial Year of the Company shall commence on 1 January and end on 31 December (the "Accounts Date") in the following year (save that the first Financial Year shall commence on the date of incorporation of the Company and end on 31 December 2000). 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**").

- 15.2 An annual general meeting of the Company shall be held not later than the last business day of the month of April in each calendar year (in respect of the Financial Year ended on the immediately preceding 31 December), 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.

**16. Directors**

- 16.1 Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum and the minimum number of directors shall be two. Regulation 64 of Table A shall not apply to the Company.
- 16.2 A director shall be entitled to vote as a director and be counted in the quorum in respect of any resolution concerning a matter in which he has, directly or indirectly, an interest or duty (whether or not it may conflict with the interests of the Company). Regulations 94 to 98 (inclusive) of Table A shall not apply to the Company.

**17. Appointment and Retirement Of Directors**

- 17.1 The holder or holders for the time being of more than one-half of the issued ordinary shares of the Company shall have the power from time to time and at any time to appoint any person or persons as a director or directors either as additional directors or to fill any vacancy and to remove from office any director howsoever appointed. Any such appointment or removal shall be effected by an instrument in writing signed by the member or members making the same or, in the case of a member being a company, signed on its behalf by one of its directors and shall take effect upon lodgment at the registered office of the Company, or such later date as may be specified in the instrument. Regulation 81 of Table A shall be construed accordingly.
- 17.2 Unless and until otherwise determined by the Company by ordinary resolution, no director shall vacate or be required to vacate his office as a director on or by reason of his attaining or having attained the age of 70. Any director retiring or liable to retire under the provisions of these articles and any person proposed to be appointed a director shall be capable of being appointed or re-appointed as a director notwithstanding that he has attained the age of 70. No special notice need be given of any resolution for the appointment or re-appointment as a director of a person who shall have attained the age of 70, and it shall not be necessary to give to the members notice of the age of any director or person proposed to be appointed or re-appointed as such.

**18. Rotation of Directors**

The directors shall not be liable to retire by rotation, and accordingly regulations 73 to 77 (inclusive) and 80 shall not apply to the Company. In regulation 78 of Table A the words

"and may also determine the rotation in which any additional directors are to retire." shall be deleted. The second and third sentences of regulation 79 of Table A shall be deleted.

**19. Proceedings of Directors**

Any director or member of a committee of the board may participate in a meeting of the directors or such committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and any director or member of a committee participating in a meeting in this manner shall be deemed to be present in person at such meeting.

**20. Alternate Directors**

20.1 The appointment by any Director of an alternate director shall not be subject to approval by a resolution of the Board and regulation 65 of Table A shall be modified accordingly. In regulation 67 of Table A the words "but, if" and the words following them (to the end of that regulation) shall be deleted.

20.2 An alternate director shall not be entitled (as such) to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may, by notice in writing to the Company from time to time, direct, and the first sentence of regulation 66 of Table A shall be modified accordingly.

20.3 A Director, or any such other person as is mentioned in regulation 65 of Table A, may act as an alternate director to represent more than one Director, and an alternate director shall be entitled at any meeting of the Board (or of any committee of the Board) to one vote for every Director whom he represents (in addition to his own vote (if any) as a Director), but he shall count as only one for the purpose of determining whether a quorum is present at (and during) any such meeting.

**21. Lien**

The lien conferred by regulation 8 of Table A shall attach also to fully paid up shares and to all shares registered in the name of any person indebted or under liability to the Company (whether he shall be the sole registered holder of such share(s) or shall be one of two or more joint holders).

**22. The Seal**

22.1 If the Company has a seal it shall only be used with the authority of the Board or of a committee of the Board. 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 a Director and by the secretary or a 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.

22.2 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.

**23. Indemnity**

Subject to the provisions of the Acts, every Director or other officer 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 other officer 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 26 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 Director 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.

**24. Borrowing Powers**

The Board may, subject to the terms of the Agreement and these articles 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.

**25. Relationship to Funding Agreements**

- 25.1 The provisions of these articles are, for so long as there are any sums outstanding under the Funding Agreements, subject to the following provisions of this article 25.
- 25.2 Notwithstanding any other provision of these articles, no payment shall be declared or made by the Company by way of dividend or other distribution, purchase, redemption, reduction or return of shares or capital or by addition to or repayment of any dividend reserve if and to the extent that such payment is prohibited or restricted by the terms of the Funding Agreement. No dividends, distributions or other amounts payable in respect of shares, whether pursuant to the provisions of these articles or otherwise, shall constitute a debt of the Company unless permitted to be paid in accordance with the Funding Agreements. Any resolution of shareholders, any class thereof, the Board or any committee thereof which conflicts with the provisions of this article 25 shall be void.
- 25.3 Where any payment is not made because of the provisions of article 25.2, such payment shall be made forthwith upon the prohibition or restriction in the Funding Agreement ceasing to apply.