

Company Number: 04386697

PRIVATE COMPANY LIMITED BY SHARES

NEW

ARTICLES OF ASSOCIATION

(Adopted by Written Resolution passed on 25 March 2002

And amended by Special Resolution passed on 3 October 2017)

- of -

MEDSCREEN HOLDINGS LIMITED

SATURDAY



A788WEF5
A16 16/06/2018 #129
COMPANIES HOUSE

1. **PRELIMINARY**

- 1.1 The regulations contained in Table A in the Companies (Tables A-F) Regulations 1985 (as amended prior to the adoption of these Articles) ("**Table A**") shall apply to the Company save in so far as they are excluded or varied hereby or to the extent inconsistent herewith.
- 1.2 The following Regulations of Table A shall not apply to this Company viz: 3, 24, 35, 39, 40, 46, 47, 50, 53, 54, 64 to 69 (inclusive), 73 to 77 (inclusive) 80, 81, 88, 89, 93 to 98 (inclusive) 115 and 118.
- 1.3 In these Articles, unless the context otherwise requires the words standing in the first column of the following table bear the meanings set opposite them respectively in the second column:

"**Act**" means Companies Act 1985;

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

"**business day**" means a day (not being a Saturday) on which banks generally are open for business in London;

"**Chris Spanoudakis**" or "**CS**" means Chris Spanoudakis of The Old Vicarage, High Street, Hardingstone, Northampton, Northamptonshire, NN4 6BZ;

"**Controlling Interest**" means an interest (within the meaning of Schedule 13 Part 1 and section 324 of the Act) in shares conferring in the aggregate more than fifty per cent of the total voting rights conferred by all the shares in the equity share capital of the Company for the time being in issue and conferring the right to vote at all General Meetings;

"**Default Period**" means any period in which, except with Special Director Consent or Investor Consent:

- (a) the Company or any member of the Group (other than a dormant subsidiary) is insolvent within the meaning of the Insolvency Act 1986 or the Directors of the Company admit the Company is insolvent; or
- (b) an event of default (by whatever name called) is outstanding and, if capable of remedy, not remedied within 14 days of default for the purpose of any borrowings or similar financial facilities from time to time of the Group (including without limitation the Loan Notes); or
- (c) any of the special rights or privileges attaching to any Investor Shares in these Articles shall have been breached and (if remediable) not remedied within fourteen days of notice of the breach to the satisfaction of the Special Director or the holders of the Investor Shares concerned in accordance with Article 5; or
- (d) the Director party to the Subscription Agreement is in material breach of any of her obligations detailed in the Subscription Agreement and (if remediable) shall have failed within fourteen days of notice of the breach having been served on the relevant party to remedy the same to the satisfaction of the Special Director or of the holder of the Investor Shares in accordance with Article 5; or

- (e) the Company is in breach of any of the financial tests set out in schedule 6 of the Subscription Agreement (and in the case of any dispute calculated or implemented pursuant to any determination of the Auditors pursuant to such schedule);

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

"Equity Shares" Preferred Ordinary Shares and Ordinary Shares;

"Flotation" means the effective admission of any part of the equity share capital of the Company to the Official List of the UK Listing Authority or the grant of effective permission by the London Stock Exchange for dealings to take place in the same on the Alternative Investment Market of the London Stock Exchange or the commencement of dealings in the same on any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000) (whichever is the earlier);

"Group" means the Company and its subsidiaries and subsidiary undertakings for the time being;

"Investor" means any person being a subscriber of Investor Shares and/or Loan Notes pursuant to the Subscription Agreement and/or any related transferee (within the meaning of Article 9) of such a subscriber (or of any intermediate of such permitted transferee) from time to time holding shares in the Company;

"Investor Consent" means the consent of the holders of each class of Investor Shares given in accordance with Article 5;

"Investor Shares" means Preferred Ordinary Shares and any other class of share which, by Investor Consent, is designated as a class of Investor Share;

"Loan Notes" means the Variable Rate Loan Notes of the Company issued or to be issued pursuant to the Subscription Agreement;

"London Stock Exchange" means London Stock Exchange plc;

"Neil Stafford" or **"NS"** means Neil Stafford of Upper Farm Barn, Taynton, Burford, Oxon;

"Official List" means the Official List of the UK Listing Authority;

"Ordinary Shares" means Ordinary Shares of £0.001 each in the Company;

"Permanent Incapacity" means circumstances where the individual is permanently prevented from working due to an illness where such illness would be categorised as a "critical illness" for the purposes of generally available critical illness insurance cover;

"Permitted Option" means an option to subscribe for Ordinary Shares granted after Completion of the Subscription Agreement with any necessary Investor Consent required under the Articles and/or such Agreement;

"Preferred Ordinary Shares" means Preferred Ordinary Shares of £0.001 each in the Company;

"Sagitta" means Sagitta Asset Management Limited of 4th Floor, Berkeley Square House, Berkeley Square, London W1J 6BL;

"**Sale**" a Sale shall mean:

- (a) the sale (except as permitted by Article 9.6 below) of a majority of the issued Equity Shares to a single purchaser (or to one or more purchasers as part of a single transaction); or
- (b) the acquisition (whether or not as part of a single transaction but excluding any acquisition of shares as permitted under Article 9.6 below) of at least a majority of the issued Equity Shares by any person or by any group of persons who are connected persons of each other and who did not previously hold such percentage of the issued Equity Shares;

"**Special Director**" or "**Special Representative**" means any Special Director and/or Special Representative and in office from time to time after appointment pursuant to Article 15;

"**Special Director Consent**" means Special Director Consent as defined in Article 5.5.

"**Statutes**" means the Act and every other Act for the time being in force concerning companies and affecting the Company;

"**Subscription Agreement**" means the Subscription Agreement entered into on the date of the passing of the resolution adopting these Articles between (1) the Investors (2) the Company (3) the Director and (4) Neil Stafford and Christopher Spanoudakis therein mentioned, as from time to time amended supplemented or novated; and

"**Subscription Price**" in relation to any share, the total amount paid up on that share including any premium.

1.4 In these Articles:

- (A) references to a document being executed include references to its being executed under hand or under seal or as a deed or by any other method;
- (B) references to writing include references to any visible substitute for writing and to anything partly in one form and partly in another form;
- (C) words denoting the singular number include the plural number and vice versa, words denoting the masculine gender include the feminine gender and words denoting persons include corporations;
- (D) words or expressions contained in the Articles bear the same meaning as in the Act but excluding any statutory modification thereof not in force at the date of adoption of the Articles;
- (E) subject to the preceding paragraph, references to any provision of any enactment or of any subordinate legislation (as defined by section 210) of the Interpretation Act 1978) include any modification or re-enactment of that provision for the time being in force;
- (F) references to an "**associated company**" of a company shall mean a subsidiary or holding company for the time being of such company or a subsidiary for the time being of such a holding company and references to "**an Investor Group**" means,

in relation to any corporate Investor, that Investor and its associated companies from time to time;

(G) references to a connected person of any person shall mean any connected person thereof for the purposes of section 839 of the Income and Corporation Taxes Act 1988;

(H) references to the amount paid up on a share shall include all amounts credited as paid up thereon including any premium;

(I) references to a dormant subsidiary of the Company are references to any subsidiary of the Company which at the relevant time is dormant for the purposes of section 250(1)(a) or (b) of the Act; and

(J) the headings are inserted for convenience only and shall not affect the construction of the Articles.

1.5 The Company is a private company limited by shares and accordingly any offer to the public of shares in or debentures of the Company or any allotment of or agreement to allot shares in or debentures of the Company with a view to their being offered for sale to the public is prohibited.

2. SHARES

The authorised share capital of the Company as at the date of the adoption of these Articles is £1,000 divided into 875,000 Preferred Ordinary Shares and 125,000 Ordinary Shares.

3. AUTHORITY TO ALLOT

3.1 Subject to the provisions of Articles 3.2 and 4 below, the unissued shares in the capital of the Company for the time being shall be under the control of the Directors, who are hereby generally and unconditionally authorised to allot, grant options over, or otherwise dispose of or deal with any unissued shares and relevant securities (as defined in section 80(2) of the Act) to such persons, on such terms and in such manner as they shall think fit, but subject to any agreement binding on the Company provided that the authority contained in this Article insofar as the same relates to relevant securities (as defined aforesaid) shall, unless revoked or varied in accordance with section 80 of the Act:

(A) be limited to a maximum nominal amount of shares equal to the amount of the authorised but unissued share capital of the Company immediately following the time of the passing of the Resolution adopting these Articles; and

(B) expire on the fifth anniversary of the date of the passing of such Resolution but without prejudice to any offer or agreement made before that anniversary which would or might require the exercise by the Directors after such anniversary of their powers in pursuance of the said authority.

In exercising their authority under this Article the Directors shall not be required to have regard to section 89(1) or (insofar as the exclusion of the application of such sub sections is permitted by the Act) section 900 to (6) (inclusive) of the Act which sub-sections shall be excluded from applying to the Company.

3.2 Subject to the special rights of the respective classes of shares and as hereinafter provided and (subject thereto) as may otherwise be resolved by Special Resolution or agreed or directed by Investor Consent, any unissued shares (whether forming part of the original share capital or not) shall, before they are issued, be offered as follows to the members:

- (A) the offer shall be made by notice in writing to all the members specifying the number and class of shares on offer limiting the time (not being less than twenty-one days) within which the offer may be accepted;
- (B) acceptances shall be given to the Company by notice in writing and in such acceptance the applicant shall state the number of the shares on offer which he is willing to subscribe for;
- (C) after the expiration of such offer period or after the Company shall have received notice of the acceptance or as the case may be refusal of such offer from every offeree (whichever shall be the earlier event) the Directors shall allot the shares offered to the members accepting the offer as follows:
 - (1) where shares of a particular class already in issue are on offer, first to and amongst the applicants who are registered as holders of shares of the same class (and to the extent there is competition between such applicants pro-rata to the number of such shares of which they are the registered holders) and secondly (if any such shares offered remain after such applicants have been satisfied in full) to and amongst the remaining applicants, and to the extent there is competition between such remaining applicants on the competition basis set out in Article 3.2(C)(2) below;
 - (2) except where Article 3.2(C)(1) above applies, first to and amongst the applicants who are registered as holders of the then issued Equity Shares of the Company and, to the extent there is competition between such applicants, pro-rata to the number of Equity Shares of which they are respectively registered as holders and, secondly (if any of the offered shares shall remain after such applicants have been satisfied in full) to and amongst the remaining applicants (and to the extent there is competition pro-rata according to the number of shares of the Company, not being Equity Shares, in respect of which they are registered as holders)

PROVIDED THAT no applicant shall be obliged to take more than the maximum number of offered shares specified by him in his application as aforesaid.

3.3 The provisions of Article 3.2 shall not apply to Equity Shares to be allotted pursuant to Clause 5 of the Subscription Agreement nor the grant of Permitted Options and/or any issue of Ordinary Shares on exercise thereof

4. RIGHTS ATTACHING TO SHARES

The special rights and restrictions attached to and binding on respectively the Preferred Ordinary Shares and Ordinary Shares are as follows:

4.1 Income

for information only

Company No. 04386697

MEDSCREEN HOLDINGS LIMITED
(the "Company")

**WRITTEN RECORD OF SOLE MEMBER'S DECISION
PURSUANT TO SECTION 357
OF THE COMPANIES ACT 2006**

The following decision was taken by us on 3 October, 2017, in our capacity as the sole member of the Company and such decision is effective for all purposes as if agreed by the Company in general meeting and passed as a **SPECIAL RESOLUTION**:

THAT, a new article be inserted into the Company's articles of association as follows:

"A Shareholder or Shareholders having the right to attend and vote at any general meeting of the company and holding 75 per cent. or more in nominal value of the shares giving that right may from time to time by notice in writing or (subject to the Act) in electronic form to the company remove any director from office or appoint any person to be a director, and any such removal or appointment shall be deemed to be an act of the company and not only of such Shareholder or Shareholders. Any such notice may consist of one or more documents each executed by or on behalf of such Shareholder or Shareholders and shall take effect at and from the time when such notice is received at the registered office of the company or produced to a meeting of the directors of the company."

Neil James

Neil James
for and on behalf of
Alere Toxicology Plc



TH

A06

A756ZLSR

03/05/2018

#36

COMPANIES HOUSE

Subject to the class rights attaching to the Investor Shares, any profits available and resolved to be distributed upon the recommendation of and in the amount determined by the Board in any financial year or period shall be distributed amongst the holders of each class of Equity Shares (pro rata to the number of such Equity Shares respectively held by them).

4.2 Capital: all classes of share

On a return of assets on liquidation or otherwise, the assets of the Company remaining after payment of its debts and liabilities and available for distribution to holders of Equity Shares (the "**Remaining Assets**") shall be applied first in paying to the holders of Preferred Ordinary Shares an amount equal to the aggregate Subscription Price of the Preferred Ordinary Shares held by them and second in paying to the holders of Ordinary Shares an amount equal to the aggregate Subscription Price of the Ordinary Shares held by them and thereafter each holder of Equity Shares shall participate in the remaining assets of the Company available for distribution (if any such assets remain) pro rata to their percentage holdings of Equity Shares.

4.3 Voting: Equity Shares

- (A) Subject to Article 4.3(B) below each holder of Equity Shares present in person or by proxy or corporate representative shall be entitled on a show of hands to one vote and on a poll to one vote for each Equity Share of which he is the holder.
- (B) During a Default Period the holders of Ordinary Shares present shall be entitled to attend but not vote at any general meeting of the Company and accordingly the holders of the Preferred Ordinary Shares shall be the only members entitled to vote at any such meeting.
- (C) For so long as any privileged relation and/or Family Trust of an original member (or of any person deemed by the Subscription Agreement to be such an original member in relation thereto) shall hold shares in the Company and such original member shall be physically able to do so and the circumstances in Article 14.12(C)(1) and 14.12(C)(2) do not apply to him all votes attaching to the shares so held shall only be voted by or under direction of such original member, except to the extent otherwise agreed from time to time by the holders of a majority of the Investor Shares or Sagitta on their behalf.

4.4 Class Consents: Investor Shares

Without prejudice to the restrictions contained in these Articles as to the modification of the rights attached to classes of shares or the provisions of the Subscription Agreement, the consent or sanction of the Special Director (given in accordance with Article 5 below) shall be required before the Company or (to the extent that the Company or any other member of the Group has power to prevent the same) any other member of the Group shall:

- (A) except as expressly provided in the Subscription Agreement or for or pursuant to any Permitted Options above, create or allot or issue any further shares or grant or agree to grant to any person any option or right to subscribe for convert into or otherwise to require the issue or allotment of any shares or the creation or allotment or issue of shares, except to the Company or a subsidiary thereof;

- (B) pass a resolution for the reduction or cancellation of its share capital or the reduction of any uncalled liability in respect thereof-
- (C) purchase or redeem the whole or any part of its share capital other than in accordance with the terms of issue of any class of share capital;
- (D) modify vary alter or abrogate any of the rights privileges or restrictions attaching to any of the classes of its share capital;
- (E) sell, transfer, lease, licence or otherwise dispose of the whole or any material part of its business undertaking or assets whether by a single transaction or series of transactions related or not;
- (F) make or permit any material alteration (including cessation) to the general nature of the business carried on by it from time to time;
- (G) establish or adopt or operate any retirement death or disability scheme or any bonus or profit sharing scheme or any share option scheme SAYE employee share ownership plan or employees trust or other similar incentive scheme save as expressly contemplated by any budget expressly approved by the Special Director in writing for this purpose;
- (H) change its corporate name or any name under which it carries on its business or any part thereof;
- (I) make any alteration to its Memorandum and Articles of Association;
- (J) pass any resolution or seek any order or take any steps with a view to the liquidation, winding up or striking off dissolution or administration or receivership of any member of the Group or the equivalent in any other jurisdiction;
- (K) approve or adopt its annual audited accounts or any subsequent modification thereto;
- (L) issue (except pursuant to the Subscription Agreement) or prepay or redeem or purchase any Loan Notes or prepay any bank debt; or
- (M) enter into any agreement commitment or arrangement to do any of the foregoing.

4.5 Matters Requiring Special Director Consent

Special Director Consent shall be required before the Company or (to the extent the Company or any other member of the Group has power to prevent the same) any other member of the Group shall:

- (A) make or provide any loan or financial facility (other than (i) credit given in the ordinary course of business or (ii) loans to the Company or any subsidiary thereof or (iii) loans not exceeding £2,500 in the aggregate to any individual director or employee by way of advance to cover reasonable business expenses or (iv) by way of season ticket loan to any individual director or employee);
- (B) give any guarantee suretyship or indemnity or similar liability in respect of the obligations of any person firm or company other than the Company or a wholly owned subsidiary thereof;

- (C) enter into any factoring or invoice discounting arrangements in respect of its debts;
- (D) except for the mortgages and charges in existence at the date of completion of the Subscription Agreement (as disclosed in the Disclosure Letter therein mentioned), create issue or enter into or allow to subsist or arise any mortgage or charge or other encumbrance whatsoever over any of its assets or undertaking or give any other form of security to any person firm or company save for liens arising in the ordinary course of business securing monies not yet due for payment and fully provided for;
- (E) *acquire whether by formation or otherwise share or loan capital of another company wherever incorporated (other than by way of formation of a wholly owned subsidiary) or any business or undertaking nor permit the disposal or dilution of its interest directly or indirectly in any subsidiary or subsidiary undertaking;*
- (F) save as expressly contemplated by the Business Plan and the Projections referred to in the Subscription Agreement or any subsequent budgets expressly approved by the Special Director in writing for this purpose, incur in any accounting period any capital expenditure or enter into any capital commitment (which expression shall include without limitation the entry into any transactions involving the taking by it or its own acquisition on hire or hire purchase of plant machinery or any conditional sale or deferred payment arrangement) exceeding in the aggregate £50,000 or such other limit may from time to time be approved by Special Director Consent or in accordance with Article 5;
- (G) vary or agree to any material variation in the extent or terms of its borrowings and similar facilities or the extent or terms of any security given in respect thereof or open any new bank account or amend the terms of any mandate relating to the operation of any of its bank accounts;
- (H) acquire change develop dispose relocate or close any business or undertaking or any property or premises (freehold or leasehold) or any interest therein other than, in relation to any such property or premises, by way of renewal of any lease previously held by the Company on fair market terms;
- (I) enter into any agreement to occupy or permit any third party to occupy any property or premises (whether freehold or leasehold) or vary any of the material terms under which it occupies or permits any third party to occupy any property or premises;
- (J) engage or dismiss or enter into any agreement of service or for services with or make any material change to the remuneration or benefits or other terms of employment of, or make payment by way of bonus or profit share to, any of its directors or Senior Executives (a Senior Executive being a person in receipt of remuneration (including for this purpose all amounts paid by way of commission or bonus or under any profit sharing bonus or incentive scheme or by way of pensions contribution) in excess of £50,000 per annum (or such increased amount as may from time to time have been approved by Special Director Consent);

- (K) appoint or remove any director (other than an alternate director or a Special Director pursuant to these Articles);
- (L) enter into any transaction which is not either properly ancillary to or in the normal and ordinary course of conducting its business;
- (M) enter into any transaction which is not on arm's length terms;
- (N) enter into or in any material respect vary the terms of or grant any material waiver in respect of an agreement or a transaction with a director or shareholder of the Company or connected person of a director or shareholder (save as expressly contemplated by the Subscription Agreement or for an agreement or transaction in the ordinary course of its trade and which in the reasonable opinion of the Special Director is not material to the Group as a whole). For this purpose:
 - (1) an agreement or a transaction with a director or shareholder or connected person aforesaid thereof means any agreement or transaction with the Company or any member of the Group referred to in section 330 of the Act or for which approval would be required under section 320 of the Act if the requisite value therein were £5,000 and as if references to directors therein also included shareholders and connected person of a director or shareholder thereof, or an agreement or transaction where the Company or any member of the Group takes an interest in a company whether existing or about to be formed in which a director a shareholder or an associate of either is, is to be, or has in the previous six months been, a shareholder; and
 - (2) "director" means any person who is or has been at any time in the immediately preceding twelve month period a director or shadow director of the Company or any member of the Group;
- (O) remove its Auditors or appoint any new or additional Auditors, except in the case of a subsidiary or subsidiary undertaking of the Company to remove its auditors and appoint in their place the auditors of the Company; or change its accounting reference date (except, in the case of a subsidiary, to conform with that of the Company);
- (P) make any distribution by way of dividend or otherwise out of the profits or reserves of the Company;
- (Q) seek to take any steps to achieve a Flotation or a Sale; or
- (R) enter into any agreement, commitment or arrangement to do any of the foregoing.

5. VARIATION OF RIGHTS

- 5.1 If at any time the share capital is divided into different classes of shares, the rights attached to any class may, whether or not the Company is being wound up, be varied modified abrogated or cancelled only with the approval of an Extraordinary Resolution passed at a separate class meeting of the holders of the issued shares of that class, or with the consent in writing of the holders of three quarters or more in nominal value of the issued shares of that class (or such higher percentage as may be required by the Act).

- 5.2 To every separate class meeting referred to in Article 5.1 above the provisions of these regulations relating to General Meetings shall apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy or corporate representative three quarters or more in nominal value of the issued shares of the class and that any holders of shares of the class present in person or by proxy may demand a poll and on a poll each share concerned shall carry one vote PROVIDED THAT where there is only one holder of the issued shares of the relevant class a quorum shall be that holder alone present in person or by proxy or corporate representative.
- 5.3 *Except as provided below in Article 5.4, nothing in these Articles or otherwise shall confer any special rights or privileges or class rights or entitlements on the holders of the Ordinary Shares during any Default Period and nothing done in a Default Period (or thereafter as a necessary consequence of anything done or any right or entitlement granted during a Default Period) by the Company or any member of the Group or any other shareholder thereof shall constitute or be deemed to constitute any variation modification or abrogation of the rights of or require any consent to be obtained from the holders of the Ordinary Shares or any of them other than anything which imposes upon the holder of any such shares any liability greater than that to which the subscriber of the same was subject at the time of their issue.*
- 5.4 For the avoidance of doubt and subject to Article 5.3 above, the variation modification abrogation or cancellation of this Article or of any provision of these Articles which contains or affects any class rights shall (save as expressly provided herein) require the consent aforesaid of the holders of shares of the class or classes concerned to be effective.
- 5.5 For the purposes of these Articles, Special Director Consent shall mean either (i) the express written consent of a Special Director in office at the relevant time or, (ii) where the Special Director has voted in favour of the matter at a Board meeting of the Company, minutes of such meeting expressly signed by the Special Director PROVIDED THAT where there is no Special Director in office or the Special Director in office is unable or unwilling or unavailable to provide any consent for the purposes of these Articles a class consent of the holders of the Preferred Ordinary Shares given in accordance with this Article shall suffice as Special Director Consent for the purposes of these Articles.
- 5.6 For the avoidance of doubt, the provisions of Article 4.5 (matters requiring Special Director Consent) are special rights of (and only of) the Preferred Ordinary Shares and this Article 5 shall be construed accordingly.
- 5.7 In exercising any class rights as the holder of any particular class of share such holder shall be entitled to exercise such rights in its absolute discretion as it sees fit including for the avoidance of doubt without regard to the interests of any other holder of the same class of shares or the rights of holders of that particular class as a whole,

6. **PART V COMPANIES ACT 1985**

- 6.1 Subject to the provisions of Part V of the Act and to the rights of the holders of the respective classes of shares of the Company the Company may:
- (A) issue shares which are to be redeemed or are liable to be redeemed at the option of the Company or the shareholder;

- (B) purchase its own shares (including any redeemable shares);
- (C) make a payment in respect of the redemption or purchase, under section 160 or (as the case may be) section 162 of the Act and the relevant power under 6.1.1 or 6.1.2 above, of any of its own shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares to the extent permitted by section 171 of the Act.

7. LIEN

- 7.1 The Company shall have a first and paramount lien on all shares (not being a fully paid share if the Company is a public company) standing registered in the name of any person indebted or under liability to the Company, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company.
- 7.2 If any PA YE or national insurance contribution (or similar or substituted tax) liability and/or related interest penalties, fines, costs and expenses (together "**employee related tax liability**") becomes payable by the Company and/or any subsidiary thereof by reference to any shares held or disposed of by any member (even if the employee or director or former employee or director of the Company or other relevant Group member by reference to which the relevant employee related tax liability arises or arose is a person other than that member) the member concerned shall be liable on demand by the Company or Special Director and without right of reimbursement from the Group, to make payment to the Company of such amount as on an after tax basis will meet the employee related tax liability concerned.
- 7.3 Notwithstanding anything in these Articles , the lien referred to in Article 7 shall not apply to shares that have been mortgaged or charged to Secured Institution.

8. TRANSFERS - GENERAL

- 8.1 No shares or any interest therein shall be transferred and the Directors shall not register any transfer of shares in the Company except in circumstances where the transfer is permitted by this Article and Articles 9 to 12.1 (inclusive) (a "**permitted transfer**").
- 8.2 For the purposes of the provisions of these Articles relating to transfer of shares, a transfer of shares includes a renunciation of any allotment of shares or of any rights to subscribe for or receive an allotment of shares and any other disposition of any interest in any share whether legal beneficial or otherwise and whether or not for consideration or by written disposition or otherwise.
- 8.3 Any transfer or purported transfer of any share or of any interest therein made otherwise than in accordance with these Articles shall be void and of no effect whatsoever. In addition the Directors shall be at liberty by notice in writing to the registered holders thereof to disenfranchise any shares which are the subject of a transfer not made in accordance with these Articles until such time as the Directors (acting reasonably) are satisfied that the provisions of these Articles relating to transfer of shares have been complied with.
- 8.4 Subject only to Article 8.5 below, the Directors shall be obliged to register a permitted transfer.

- 8.5 The Directors may in their absolute discretion and shall if required by any Special Director, and without assigning any reason therefor, decline to register (i) any transfer of
- 8.6 any share over which the Company has a lien; (ii) any transfer to more than four transferees; (iii) any transfer comprising shares of more than one class; (iv) any transfer of any share which is not fully paid to a person of whom the Directors do not approve; or (v) any transfer to an infant bankrupt or person suffering from mental disorder as that expression is used in Regulation 81(c) of Table A; or (vi) any transfer made in breach of clauses 5.2 and 10 of the Subscription Agreement or otherwise than in accordance with Regulation 24(a) of Table A.
- 8.7 The transferor of any share shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register of Members in respect thereof
- 8.8 For the purposes of these Articles and in particular the provisions thereof relating to the transfer of shares:
- (A) an "**Employees Trust**" means any trust established by the Company (with any consent required under Article 4) to acquire and hold shares in the capital of the Company for the benefit of employees and/or ex-employees of the Group and/or their dependants;
 - (B) "**Family Trust**" means in relation to any member (the "**original member**") trusts (whether arising under a settlement inter vivos or a testamentary disposition by whomsoever made or on intestacy) under which no immediate beneficial interest in the shares in question is for the time being vested in any person other than the original member or privileged relations of such member or any charity or charities or default beneficiaries (meaning that such charity or charities have no immediate beneficial interest in any of the settled property or the income therefrom when the trust is created but may become so interested if there are no other beneficiaries from time to time except another such charity or charities) and no power of control over the voting powers conferred by such shares is for the time being exercisable by or subject to the consent of any person other than the trustees as trustees or the original member or privileged relations of such member;
 - (C) "**Mandatory Transfer**" means any transfer of shares required pursuant to Article 10 or which is given by any person at a time when he could be required under Article 10 to make such a transfer, in which it shall be deemed so given;
 - (D) "**Mandatory Transfer Notice**" means a Transfer Notice given or deemed to be given pursuant to Article 10 or given by a person at a time when he could be required under Article 10 to give such a Transfer Notice;
 - (E) "**privileged relation**" means the wife or husband or children or step-children or remoter issue of a member;
 - (F) "**Transfer Notice**" means a Voluntary Transfer Notice or a Mandatory Transfer Notice, as the case may be;
 - (G) the "**Transfer Value**" means the value attributable to the shares comprised in any Transfer Notice determined as provided in Article 12.10;

(H) **"Voluntary Transfer"** means any transfer of shares other than a Mandatory Transfer; and

(I) **"Voluntary Transfer Notice"** means a Transfer Notice other than a Mandatory Transfer Notice.

9. TRANSFERS EXPRESSLY PERMITTED

9.1 Any share may be transferred at any time by a member to any other person with the written consent of the holders of not less than three quarters in nominal value of the issued Equity Shares or (except where Article 11 applies) with Special Director Consent.

9.2 Without prejudice to Regulation 5 of Table A, any share held (in accordance with these Articles) by a member as bare nominee may be transferred to any other person or persons provided that the transferor and transferee certifies to the Company and the Directors (including the Special Director) are satisfied that no beneficial interest in such shares passed by reason of the transfer.

9.3 Any share may be transferred by a member or the personal or other legal representatives of a deceased member (in each case, an **"original member"**) to a privileged relation of such original member or to the trustees of a Family Trust of such original member.

9.4 Any share in the name or names of the trustees of a Family Trust may be transferred to a beneficiary of that Family Trust or to the original member whose Family Trust it is or to any of his privileged relations.

9.5 Any share in the name or names of the trustees of a Family Trust may be transferred to new or continuing trustees of that Trust.

9.6 Any Investor or a transferee pursuant to this Article 9.6 or a nominee for any of the foregoing may at any time transfer all or any of its shares to another Investor or to a related transferee and each person holding shares as a result of any such permitted transfer shall also be an Investor for the purposes of these Articles. A related transferee for these purposes shall mean:

(A) any member for the time being of the same Investor Group as the transferor;

(B) any body corporate controlled by the Investor or another member of its Investor Group or which immediately following such transfer will be such a body corporate;

(C) any investment fund or trust or partnership controlled or managed or advised or promoted by the Investor or another member of its Investor Group;

(D) any trustee or manager or beneficiary or partner of any investment fund or trust or partnership referred to in Article 9.6(C) above;

(E) any directors or employees of the Investor or of another member of its Investor Group; or

(F) a nominee for or trustee(s) of any trusts established for the benefit of any of the foregoing.

9.7 Any shares may be transferred to the trustees of an Employees Trust or by the trustees of an Employees Trust to any director or employee of any member of the Group, provided

in any such case such transfer is in accordance with the terms of such trust and has been approved by Special Director Consent.

9.8 Notwithstanding anything contained in these Articles, the Directors shall not decline to register any transfer of shares, nor may they suspend registration thereof where such transfer: -

- (A) is to any bank or institution to which such shares have been charged by way of security, or to any nominee of such a bank or institution (a "**Secured Institution**"); or
- (B) is delivered to the Company for registration by a Secured Institution or its nominee in order to perfect its security over the shares in accordance with the terms of the security documents pursuant to which the bank or institution has become a Secured Institution; or
- (C) is executed by a Secured Institution or its nominee pursuant to the power of sale or other power under such security,

and furthermore notwithstanding anything to the contrary contained in these Articles no *transferor of any shares in the Company or proposed transferor of such shares* to a Secured Institution or its nominee and no Secured Institution or its nominee shall be required to offer the shares which are or are to be the subject of any transfer aforesaid to the shareholders for the time being of the Company or any of them, and no such shareholder shall have any right under the Articles or otherwise howsoever to require such shares to be transferred to them whether for consideration or not

10. **MANDATORY TRANSFERS**

10.1 In the event of a Family Trust ceasing for any reason to be a Family Trust as defined in Article 8.6 any shares held by such trust as a result of a transfer under Article 9.3 and any shares deriving therefrom or which are attributable or have accrued to the same shall be transferred (either directly or upon trust) to the original member whose Family Trust it is or to privileged relation(s) of that member within fourteen days of that event failing which the trustees shall be deemed to have given a Mandatory Transfer Notice at such time as the Directors of the Company (failing whom the Special Director) shall think fit in respect of all such shares held by the trustees and the provisions of these Articles will apply accordingly.

10.2 If any person holding shares as a bare nominee as contemplated by Article 9.2 above ceases to be such a nominee and shall fail within twenty-one days of such event to transfer all the shares concerned to a continuing related transferee then such person shall be deemed on the expiry of such twenty one day period to have given a Mandatory Transfer Notice in respect of such shares.

10.3 In the event of the termination for whatever reason of the employment or directorship or engagement of any person (other than Neil Stafford or Chris Spanoudakis) who is an employee or director of or provider of consultancy advice or services to any member of the Group or the termination of any consultancy or similar agreement under which the services of any person (other than Neil Stafford or Chris Spanoudakis) are supplied to the Group whether by him or a third party (in circumstances where such person does not remain or become a director or employee of or a consultant to any member of the Group

(a **"leaving employee/director/consultant"**) the leaving employee/director/consultant (and any transferees referred to below) shall, if required by the Directors or a Special Director by notice in writing given to him (or his personal representative, as appropriate) at any time and from time to time during the period of twelve months thereafter, give a Mandatory Transfer Notice or Notices in respect of all or any of those shares registered, at the time the notice from the Directors or Special Director is given, in his name or in respect which he is unconditionally entitled to be registered and all or any of the shares then held for him or at any time transferred by him pursuant to and still held by any transferee permitted within the terms of Articles 9.2 to 9.5 inclusive (including as a result of any subsequent such permitted transfer and any person who under the terms of the Subscription Agreement is deemed to be such a transferee) and any shares deriving from or attributable or accruing to such shares and the provisions of these Articles shall apply accordingly.

- 10.4 In the event that any leaving employee/director/consultant shall, after ceasing to be such an employee or director or consultant, become registered or unconditionally entitled to be registered as the holder of shares in the Company pursuant to a right or opportunity made available to him prior to ceasing to be so employed or a director or consultant he shall upon becoming so registered or entitled be deemed (unless otherwise agreed by all the Directors with Special Director Consent) to have served a Mandatory Transfer Notice in respect of all such shares whereupon the provisions of these Articles shall apply accordingly.
- 10.5 A person entitled to shares in consequence of the death bankruptcy receivership or liquidation of a member shall be bound at any time within six months of becoming so entitled, if and when called upon in writing by the Directors or the Special Director so to do, to give a Mandatory Transfer Notice in respect of all shares then registered in the name of the deceased or insolvent member unless such person is, or shall (within twenty-eight days of becoming so entitled) transfer such shares to, a person to whom shares may be transferred pursuant to Article 9 and the Directors including the Special Director approve such transfer. Regulations 20 to 31 inclusive of Table A shall be modified accordingly.
- 10.6 For the purpose of ensuring that a transfer of shares is in accordance with the provisions of these Articles and duly authorised hereunder or that no circumstances have arisen whereby a Transfer Notice is required to be given hereunder the Directors may (and shall if required by a Special Director) from time to time require any member or past member (including any one or more of joint holders of shares) or the legal personal representatives or the trustee in bankruptcy of any member or any person named as a transferee in any instrument of transfer lodged for registration, to furnish to the Company such information and evidence as the Directors (including any Special Director) may reasonably think fit regarding any matter which they may reasonably deem relevant to such purpose. Failing such information or evidence being furnished to the reasonable satisfaction of the Directors (including any Special Director) within a reasonable time after request, the Directors may (and will if required by any Special Director) refuse to register the transfer in question or (in case no transfer is in question and if reasonably requested to do so by the Special Director) require by notice in writing that a Transfer Notice be given in respect of the shares concerned. If such information or evidence discloses that in the reasonable opinion of the Directors a Transfer Notice ought to have been given in respect of any shares the Directors may (and will if reasonably required by any Special

Director) by notice in writing require that a Mandatory Transfer Notice is given pursuant to these Articles in respect of the shares concerned.

- 10.7 In any case where under the provisions of these Articles a Mandatory Transfer Notice is required to be given in respect of any shares a Mandatory Transfer Notice shall if not actually given within a period of fourteen days of demand therefor being made or within any other period specified, be deemed to have been given on the fourteenth day after such demand is made or at the end of the relevant specified period, as appropriate.

11. **LIMITATION ON TRANSFER OF CONTROL**

- 11.1 No sale or transfer of any shares (the "**Specified Shares**") shall be made which would result if made and registered in a person or persons not being an Investor or Investors or related transferees thereof obtaining a Controlling Interest in the Company unless (i) the proposed transferee or transferees or his or their nominees has or have offered to purchase
- 11.2 all of the issued share capital of the Company at the Specified Price as defined below and (ii) all Loan Notes issued pursuant to the Subscription Agreement shall be redeemed in full in accordance with their terms.
- 11.3 For the purpose of this Article the expression The "**Specified Price**" shall mean a price per share at least equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees respectively for the Specified Shares to the holder or holders thereof plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holder or holders of the Specified Shares which having regard to the substance of the transaction as a whole can reasonably be regarded as in addition to the price paid or payable for the Specified Shares *PROVIDED THAT* if any part of the price per share is payable otherwise than by cash any member may at his option elect to take a price per share of such cash sum as may be reasonably agreed by him having regard to the substance of the transaction as a whole *PROVIDED FURTHER THAT* in the case of any Investor Shares, the Specified Price must not be less than the amount paid up or credited or paid up on the same (or if higher their fair value determined under Article 12.10 below) and must include also an additional amount to cover any arrears of dividend and interest due thereon and the related associated tax credit.
- 11.4 In the event of disagreement as to the calculation of the Specified Price for the purposes of this Article any such disagreement shall be referred to an umpire (acting as expert and not as arbitrator) nominated by the parties concerned (or in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales on application by any such party) whose decision shall be final and binding (in the absence of manifest error) and the costs of such umpire shall be borne as he shall direct or, in default of such a direction, equally by the parties to the dispute or disagreement.
- 11.5 If any offer is made pursuant to the terms of this Article and is approved by the holders of at least fifty per cent (50%) in nominal of the issued Preferred Ordinary Shares (even if including the purchaser or any persons connected with it or acting in concert with it) (the "**accepting shareholders**") then (provided that the proposed purchaser is someone other than a person to whom an Investor may transfer Preferred Ordinary Shares pursuant to Article 9 above) the holders of the other shares (including those to be issued

on or before completion of such purchase under any options or similar entitlements) shall, if so required in writing by the accepting shareholders, and provided the Specified Price is at least equal to the fair value of their shares determined by the Determining Accountant as provided in Article 12.10, accept such offer and if they shall fail to do so within twelve business days of being so required, shall be deemed hereby to accept the same and to authorise the accepting shareholders to exercise such documents on their behalf to effect the sale of their shares pursuant thereto, and Article 12.9 shall apply mutatis mutandis for these purposes. Article 12 shall not apply to any transfer of shares made under this Article 11.4 in circumstances where the holders of all the other shares accept or are hereby deemed to accept such offer.

12. THIRD PARTY TRANSFERS

Subject to Articles 8 and 11 and save as provided in Articles 9 and 10, no shares or any interest therein shall be transferred or disposed of whether by way of sale or otherwise except in accordance with the following provisions of this Article 12:

- 12.1 Every holder of shares or person entitled to be registered in respect of a share or shares of the Company who intends to transfer or dispose of any share or shares registered in his name and/or to which he is so entitled or any interest therein (the "**Proposed Transferor**") shall give notice in writing to the Directors of such intention (a "**Transfer Notice**"). A Transfer Notice shall specify the number and class of shares which the Proposed Transferor intends to transfer and where a Transfer Notice is given or deemed given in respect of shares of more than one class a separate Transfer Notice shall be deemed to have been given in respect of each such class of share.
- 12.2 A Voluntary Transfer Notice may provide as a condition (a "**total transfer condition**") that unless all the shares specified or deemed comprised therein (the "**Offered Shares**") are sold to persons found by the Company pursuant to this Article none shall be sold, and except as hereinafter provided a Transfer Notice once given or deemed to be given shall not be revocable without the written consent of the Board including the Special Director (if any) in office at the time.
- 12.3 A Transfer Notice shall constitute the Company the agent of the Proposed Transferor to sell the Offered Shares in accordance with the provisions hereinafter in this Article appearing at their Transfer Value.
- 12.4 Upon the expiry of seven days after determination of the Transfer Value of the Offered Shares as provided in Article 12.10 below and provided the Proposed Transferor shall not have withdrawn the Transfer Notice as permitted in Article 12.14 below, the Directors shall forthwith by notice in writing inform:
 - (A) where the Offered Shares are Preferred Ordinary Shares, each of the holders of the Preferred Ordinary Shares (other than the Proposed Transferor); or
 - (B) where the Offered Shares are Ordinary Shares ("**Relevant Shares**"), such employees or proposed employees of any Group Company and/or the trustees of any Employees Trust or Trusts as the Special Director shall elect and the holders of Equity Shares (other than the Proposed Transferor);

of the number of and the price (being the Transfer Value) of the Offered Shares and invite each member or (where appropriate) other persons referred to in sub-Article

12.4(B) above ("**Special Offerees**") to whom such notice is given to apply in writing to the Company within twenty one days of the date of despatch of the notice (which shall be specified therein) for such maximum number of the Offered Shares (being all or any thereof) as he shall specify in such application.

- 12.5 The Directors shall within seven days after the expiration of the twenty one day period referred to in Article 12.4 of this Article notify the Proposed Transferor of the number of Offered Shares (if any) for which they have found a purchaser or purchasers pursuant to that Article and if the Directors have found such a purchaser or purchasers in respect of some only of the Offered Shares and the Transfer Notice properly contained a total transfer condition the Proposed Transferor shall be entitled to withdraw the Transfer Notice (in whole but not in part) within five days of such notification.
- 12.6 During the three months following the expiry of the period of seven days referred to in Article 12.5 of this Article the Proposed Transferor (whether or not the Transfer Notice has been withdrawn under that Article) shall be at liberty to transfer to any person or persons at any price per share not being less than the Transfer Value thereof agreed or determined aforesaid any share not allocated in accordance with the provisions of this Article PROVIDED THAT if the Proposed Transferor has withdrawn the Transfer Notice under Article 12.5 of this Article he shall not be entitled save with the written consent of the Special Director to sell hereunder only some of the Offered Shares.
- 12.7 If the said members shall within the period of twenty-one days referred to in Article 12.4 apply for all or (except where the Transfer Notice is withdrawn under Article 12.5) any of the Offered Shares the Directors shall allocate the Offered Shares (or so many of them as shall be applied for as aforesaid):
- (A) where the Offered Shares are Relevant Shares, first to and amongst the applicant *Special Offerees in such proportions as the Directors shall agree with the Special Director* Consent and secondly, (if any such Offered Shares remain after such applicants have been satisfied in full) to and amongst the remaining applicants as provided in sub-Articles 12.7(B) to 12.7(D) inclusive below provided that where Offered Shares are Relevant Shares not held by either CS or NS these shall first be offered to the holders of the Preferred Ordinary Shares;
 - (B) except to the extent sub-Article 12.7(A) above applies, first or, as the case may be. next to and amongst the applicants who are registered in respect of shares of the same class as the Offered Shares treating Equity Shares as one and the same class for these purposes (and to the extent there is competition between such applicants, pro rata according to the number of shares of such class of which they are registered as holders);
 - (C) next (if any of the Offered Shares shall remain after the applicants under sub-Articles 12.7(A) and 12.7(B) have been satisfied in full) to and amongst the remaining applicants who are registered holders of equity share capital of the Company (but not including any shares of the same class as the Offered Shares) and, to the extent there is competition between such remaining applicants, pro rata to the number of such shares of which they are respectively registered as holders; and
 - (D) lastly (if any of the Offered Shares shall remain after all applicants under sub-Articles 12.7(A) to 12.7(C) inclusive have been satisfied in full) to and amongst

the remaining applicants (and, to the extent there is competition between such remaining applicants, pro rata according to the amounts paid-up or credited as paid up on the shares of the Company of whatever class in respect of which they are registered as holders)

PROVIDED THAT no applicant shall be obliged to take more than the maximum number of Offered Shares specified by him as aforesaid and that all requisite adjustments shall be made in the event that any applicant allocated Offered Shares shall fail to complete the purchase of the same when required in accordance with this Article.

- 12.8 The Directors shall forthwith give notice in writing of the allocations of Offered Shares made pursuant to Article 12.7 (hereinafter called an "**Allocation Notice**") to the Proposed Transferor and to the persons to whom Offered Shares have been allocated and (provided that the aggregate number of shares so allocated coincides with the number of shares notified to the Proposed Transferor pursuant to Article 12.5) the Proposed Transferor shall thereupon be bound to transfer the shares allocated upon payment of the Transfer Value thereof. An Allocation Notice shall state the names and address of the purchasers and the number of shares agreed to be purchased by them respectively and the purchases shall be completed at

such place and such time as shall be specified by the Directors in such Notice being not less than seven days nor more than twenty eight days after the date of such Notice.

- 12.9 If in any case the Proposed Transferor having become bound as aforesaid makes default in accepting payment of the purchase price for any Offered Share or as the case may be in transferring the same the Directors or any Special Director may receive such purchase money and may nominate some person to execute an instrument of transfer of such share in the name and on behalf of the Proposed Transferor and thereafter when such instrument has been duly stamped the Directors shall cause the name of the purchaser to be entered in the Register of Members as the holder of such share and where applicable shall hold the purchase money in trust without interest for the Proposed Transferor. The receipt of the Directors or any Special Director for the purchase money shall be a good discharge to the purchaser (who shall not be bound to see to the application thereof) and after his name has been entered in the Register of Members in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person.
- 12.10 Save as provided in Articles 12.11(A) and 12.12 below, the Transfer Value per share of any shares to be transferred pursuant to the provisions of these Articles shall be such sum as may be agreed between the Proposed Transferor and the Directors (with Special Director Consent) within twenty-eight days of the service or deemed service upon the Company of a Transfer Notice in which the Offered Shares are comprised or in default of such agreement such sum as a Chartered Accountant appointed in the manner described below (the "**Determining Accountant**") shall report in writing as being in his opinion the fair value thereof on the basis of (i) a sale as between a willing vendor and a willing purchaser of the whole of the issued shares of the Company in the open market; (ii) the Transfer Value per share of the Offered Shares being determined by dividing the total value determined as aforesaid of the issued shares of the same class as (and including) the Offered Shares by the number of shares of such class then in issue but making no adjustment to reflect the fact (if it be the case) that the Offered Shares represent a minority interest in the Company. The Determining Accountant shall be appointed by agreement between the parties within seven days following the expiration of the period of

twenty-eight days referred to above or, failing agreement, shall be appointed on the application of the Proposed Transferor or the Directors by the President for the time being of the Institute of Chartered Accountants in England and Wales.

- 12.11 (A) Subject to Article 12.11(B) below, where a Voluntary Transfer Notice is given by an Investor the Transfer Value shall be such price per share as the Proposed Transferor shall specify in such Transfer Notice or, if no such price is specified the Transfer Value agreed or determined under Article 12.10 above.
- (B) Where a Transfer Notice is given pursuant to acceptance of an offer made under Article 11, the Transfer Value shall be the Specified Price of the Offered Shares concerned.
- 12.12 In circumstances where a Mandatory Transfer Notice is given or deemed given pursuant to Article 10.3 or 10.4 the Transfer Value in respect of the shares to be sold shall be determined by reference to the following:
- (A) where the leaving employee/director/consultant concerned ceased to be employed or engaged
- (1) on or before the third anniversary from the date of the adoption of these Articles ("**Third Anniversary**") for any reason or
- (2) where such cessation is after the Third Anniversary but before the seventh anniversary from the date of the adoption of these Articles as a result of the employee/director/consultant giving notice of termination of his employment/directorship/consultancy or otherwise resigning other than by reason of constructive dismissal other than provided for in Articles 12.12(B), 12.12(C) and 12.12(D) below, then except with the Special Director Consent, the Transfer Value shall not in any event exceed the amount paid up or credited as paid up on the Offered Shares (inclusive of any share premium) or, if the Transfer Value calculated according to Article 12.10 above is less than such amount, that Transfer Value;
- (B) where the leaving employee/director/consultant concerned ceased to be employed or engaged on or before the first anniversary of the adoption of these Articles for any reason of death or Permanent Incapacity or is wrongfully dismissed, then the Transfer Value shall be calculated according to Article 12.10 above;
- (C) where the leaving employee/director/consultant concerned ceased to be employed or engaged after the first anniversary of the adoption of these Articles for any reason of death or Permanent Incapacity, or is wrongfully dismissed or has not been dismissed (in the opinion of the Board) for good reason or retirement at the normal retirement age, then the Transfer Value shall be calculated according to Article 12.10 above; and
- (D) subject to Articles 12.12(A), 12.12(B) and 12.12(C) where the leaving employee/director/consultant concerned ceased to be employed or engaged after the Third Anniversary, the Transfer Value shall be calculated according to Article 12.10 above.

- 12.13 In reporting under Article 12.10 the Determining Accountant shall be deemed to be acting as an expert and not as arbitrator and his Report shall be in writing addressed and produced to the Proposed Transferor and the Company and shall be final and binding, in the absence of manifest error therein. The Directors shall procure that any Report required hereunder is obtained with due expedition and (save as provided in Article 12.14 below) the cost of obtaining such Report shall be borne by the Company.
- 12.14 In the case of a Voluntary Transfer Notice where the Transfer Value is determined by the Determining Accountant under Article 12.10, the Proposed Transferor shall have the right within seven days of the Report by the Determining Accountant as to the Transfer Value of the Offered Shares to withdraw the Transfer Notice by giving notice to the Directors in writing that he does not agree such Transfer Value and is not willing to sell the Offered Shares at that price, and in such event he shall be responsible for the said costs and expenses of the Determining Accountant referred to in Article 12.12 above.
- 12.15 Upon receipt of a written application from any member holding shares in the Company, and upon payment by him of the costs thereby incurred, the Directors shall request the Auditors of the Company for the time being to state (for illustrative purposes only, and without binding any Determining Accountant) the sum which in their opinion is the Transfer Value of the share or shares being the subject of such application and such statement shall be certified in writing by the Auditors (acting as experts and not as arbitrators). Any member holding shares in the capital of the Company shall be entitled at any time to make an application to the Directors in pursuance of this Article and such application shall not be deemed to constitute a notice of his intention to transfer shares within the meaning of these Articles.

13. GENERAL MEETINGS

- 13.1 All general meetings of the Company shall be held within the United Kingdom. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business and at all times throughout the meeting thereafter;

save as herein otherwise provided two members present in person or by proxy (or, being a corporation, by representative) shall be a quorum PROVIDED THAT in respect of any general meeting of the Company held at a time when the holders of the Preferred Ordinary Shares are entitled to vote on any resolution, one such member must be a holder of Preferred Ordinary Shares present in person or by proxy or corporate representative during consideration of such resolution and PROVIDED FURTHER THAT if at an adjourned meeting a quorum for the purposes of the foregoing provisions of this Article is not present within half an hour from the time appointed for the meeting the meeting the quorum at any such adjourned meeting shall be any one member present in person or by proxy (or, being a corporation, by representative). Regulation 41 of Table A shall be read and construed accordingly.

- 13.2 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before, or on the declaration of the result of, the show of hands) demanded by the Chairman or by any member present in person or by proxy. On a show of hands votes may be given either personally or by proxy.
- 13.3 Unless a poll is demanded as provided in Article 13.2, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a

particular majority, or lost, and an entry to that effect in the book containing the Minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.

- 13.4 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall not be entitled to a second or casting vote.
- 13.5 Subject to the Act, a resolution in writing signed by all the members for the time being entitled to vote shall be as effective for all purposes as a resolution duly passed at a general meeting of the Company duly convened and held, and may consist of several documents in the like form each signed by one or more members. In the case of a corporation the resolution may be signed on its behalf by a Director thereof or by its duly appointed or duly authorised representative.
- 13.6 Regulation 62 of Table A shall be modified by the substitution in paragraph (a) of the words "**one hour**" in place of "**48 hours**" and by the substitution in paragraph (b) of the words "**one hour**" in place of "**24 hours**".

14. **DIRECTORS**

- 14.1 Subject to the Act and unless and until the Company by Special Resolution shall otherwise determine, there shall be no maximum number of Directors and there shall be a minimum of two Directors.
- 14.2 The quorum necessary for the transaction of business of the Directors shall be two, at least one of whom shall (if he is in office or unless he otherwise agrees in writing) be a Special Director or his alternate PROVIDED THAT where not less than ten days prior notice of any proposed meeting of Directors has been given in writing (or by any other form of visible communication) to each Director or his alternate (unless absent from the United Kingdom and he has failed to leave an address at which he may be contacted by any means of visible communication) setting out in reasonable detail the matters proposed to be considered thereat and at such proposed meeting no Special Director is present as required by the foregoing, any two Directors present in person or by alternate shall constitute a quorum.
- 14.3 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit provided that unless otherwise agreed by all the Directors at the time as regards the meeting concerned all meetings of the Directors shall be held within the United Kingdom. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors. Save in the case of an emergency and unless all the Directors (or their duly appointed alternates) shall agree to the holding of a meeting by shorter notice, at least seven days' notice of every meeting of Directors shall be given either in writing or by facsimile or other similar means of visible communication to each Director, unless absent from the United Kingdom and he has failed to leave an address at which he may be contacted by facsimile or other similar means of visible communication.
- 14.4 Any Director enabled to participate in the proceedings of a meeting by means of a communication device (including a telephone) which allows all the other Directors present at such meeting whether in person or by means of such type of communication device, to

hear at all times such Director and such Director to hear at all times all other Directors present at such meeting (whether in person or by means of such type of communication device) shall be deemed to be present at such meeting and shall be counted when reckoning a quorum.

- 14.5 A person may be appointed a Director notwithstanding that he shall have attained the age of seventy years and no Director shall be liable to vacate office by reason of his attaining that or any other age.
- 14.6 At any meeting of the Directors each Director (or his alternate Director if the Director himself is not present) present at the meeting shall be entitled to one vote. In the case of an equality of votes at any meeting the Chairman of such meeting shall not be entitled to a second or casting vote. Regulation 88 of Table A shall be modified accordingly.
- 14.7 Subject to the provisions of section 317 of the Act a Director (including an alternate Director) may contract with and participate in the profits of any contract or arrangement with the Company as if he were not a Director. A Director shall also be capable of voting in respect of such contract or arrangement, where he has previously disclosed his interest to the Company, or in respect of his appointment to any office or place of profit under the Company or of the arrangement of the terms thereof and may be counted in the quorum at any meeting at which any such matter is considered.
- 14.8 In Regulation 79 of Table A the last two sentences shall be deleted.
- 14.9 A resolution in writing signed by all the Directors shall be as effective for all purposes as a resolution passed at a meeting of the Directors duly convened and held, and may consist of several documents in the like form, each signed by one or more of the Directors, but so that the expression "**Director**" in this Article shall not include an alternate Director.
- 14.10 The Directors may by resolution exercise all the powers of the Company to make provision (in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the Company or any subsidiary of the Company) for the benefit of persons employed or formerly employed by the Company or that subsidiary.
- 14.11 A Director and an alternate Director shall not require a share qualification, but nevertheless shall be entitled to attend and speak at any general meeting of the Company.
- 14.12 The office of a Director shall be vacated if:
 - (A) he ceases to be a Director by virtue of any provision of the Act or he becomes prohibited by law from being a Director; or
 - (B) he becomes bankrupt or insolvent or makes any arrangement or composition with his creditors; or
 - (C) he is, or may be, suffering from mental disorder and either:
 - (1) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or

- (2) an order is made by a Court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
 - (D) (not being precluded from so doing by the terms of any contract with the Company) by notice in writing he resigns the office of Director; or
 - (E) in accordance with these Articles, he is removed from office by a resolution duly passed pursuant to section 303 of the Act or by Extraordinary Resolution (but without prejudice to any right he may have to damages by reason of such removal); or
 - (F) he shall for more than six consecutive months have been absent without permission of the Directors from meetings of the Directors held during that period and the Directors resolve that his office is vacated; or
 - (G) he is removed from office pursuant to Article 15; or
 - (H) during a Default Period, he is removed from office in the same manner as is prescribed in Article 15 as if he were a Special Director.
- 14.12 A Shareholder or Shareholders having the right to attend and vote at any general meeting of the company and holding 75 per cent, or more in nominal value of the shares giving that right may from time to time by notice in writing or (subject to the Act) in electronic form to the company remove any director from office or appoint any person to be a director and any such removal or appointment shall be deemed to be an act of the company and not only of such Shareholder or Shareholders. Any such notice may consist of one or more documents each executed by or on behalf of such Shareholder or Shareholders and shall take effect at and from the time when such notice is received at the registered office of the company or produced to a meeting of the directors of the company.

15. INVESTOR DIRECTORS

- 15.1 Before a Flotation Investors (or nominees therefor) holding a majority in nominal value of the issued Preferred Ordinary Shares or Sagitta on their behalf shall be entitled under this Article 15 to appoint two Directors of the Company who shall act as the Special Directors and to remove from office any person so appointed (and subject to removal) to appoint another person in his place.
- 15.2 During a Default Period the Investors or any Special Director may by notice to the Company declare that upon receipt of such notice the Special Director shall have that number of votes in relation to resolutions of the Board which exceed by one the number of votes in aggregate of the other Directors (including the casting vote of the chairman, if any) and each of those shares in the equity share capital of the Company held by the Investors then in issue, shall confer on a poll at least 75% of the total votes capable of being exercised at any general meeting.
- 15.3 A Special Director appointed pursuant to this Article shall not be required to hold any share qualification.

- 15.4 Any appointment or removal of a Special Director under this Article shall be by instrument in writing signed by the relevant appointor(s) served on the Company and shall take effect on and from the date on which such instrument is lodged or deposited at the registered office of the Company.
- 15.5 A Special Director appointed under this Article may appoint any person as an alternate pursuant to Article 17 without the approval of a resolution of the Directors.
- 15.6 For so long as the right to appoint a Special Director under this Article subsists, upon a poll being taken in connection with a resolution of the Company in General Meeting to remove such a Special Director or to restrict or delete this Article, the Investors entitled to appoint the same (or any nominees therefor holding shares in the Company) shall be entitled to exercise such total number of votes in respect of their holdings of Preferred Ordinary Shares as shall equal twice the total number of votes cast on such resolution by all other shareholders of the Company.
- 15.7 For so long as the right to appoint a Special Director under this Article subsists the holders of the issued Preferred Ordinary Shares entitled to appoint the same may in the same manner as provided above appoint up to two representatives (each a "**Special Representative**") or one such representative whilst a Special Director is in office and (if no Special Director is already in office) such appointors may nominate one such appointee to have all the rights of a Special Director (other than to vote at meetings of the Board) but shall not by virtue of such nomination become a director or alternate director of the Company. A Special Representative with the rights of a Special Director shall be automatically deemed to have been removed from office if his appointors appoint a Special Director.

16. **BORROWING POWERS OF DIRECTORS**

Subject as otherwise provided in these Articles, the Directors may exercise all the powers of the Company to borrow or raise money and to mortgage or charge all or part of its undertaking, property, assets (both present and future) and uncalled capital, and, subject to the provisions of these Articles and of the Act, to issue debentures, debenture stocks and other securities whether outright or as collateral security for any debt, liability or obligation of the Company or its holding Company (if any) or any subsidiary of the Company or of any third party.

17. **ALTERNATE DIRECTORS**

- 17.1 Each Director (including, for the avoidance of doubt, a Special Director) shall have the power at any time to appoint as an alternate Director either another Director or (except in the case of an Investor Director) any other person approved for that purpose by a resolution of the Directors (such approval not to be unreasonably withheld), and, at any time, to terminate such appointment. Every appointment and removal of an alternate Director shall be in writing signed by the appointor and (subject to any approval required) shall (unless all the Directors agree otherwise) only take effect upon receipt of such written appointment or removal at the registered office of the Company.
- 17.2 An alternate Director so appointed shall not be entitled as such to receive any remuneration from the Company except only 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, but shall otherwise be subject to the provisions of

these Articles with respect to Directors. An alternate Director shall during his appointment be an officer of the Company and shall not be deemed to be an agent of his appointor.

- 17.3 An alternate Director shall (subject to his giving to the Company an address at which notices may be served upon him) be entitled to receive notices of all meetings of the Directors and of any committee of the Directors of which his appointor is a member and to attend and to vote as a Director at any such meeting at which his appointor is not *personally present and generally in the absence of his appointor to perform and exercise* all functions, rights, powers and duties as a Director of his appointor and to receive notice of all General Meetings.
- 17.4 The appointment of an alternate Director shall automatically determine on the happening of any event which if he were a Director would cause him to vacate such office or if his appointor shall cease for any reason to be a Director otherwise than by retiring and being re-appointed at the same meeting.
- 17.5 A Director or any other person may act as alternate Director to represent more than one Director and an alternate Director shall be entitled at meetings of the Directors or any committee of the Directors 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.

18. NOTICES

- 18.1 Every Director of the Company and every alternate Director shall, upon supplying the Company with an address for the giving of notices therefore, be entitled to receive notices of general meetings, provided always that non-receipt of any such notice by any Director or alternate Director shall not invalidate the proceedings at the general meeting convened by such notice.
- 18.2 A notice may be given (i) by the Company to any member or Director either personally or by sending it by first class post (airmail if abroad) or special delivery post or by facsimile or other means of visible communication to him or to his registered address or to the address supplied by him to the Company for the giving of notice to him or (ii) to the Company for the purpose of these Articles by like method at its registered office for the time being. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, preparing and posting a letter containing the notice, and to have been effected at the expiration of forty-eight hours after the letter containing the same is posted. Where a notice is sent by facsimile or other means of visible communication, service of the notice shall be deemed to be effected when delivered (in the case of facsimile subject to the sender being able to show a transmission sheet confirming that the facsimile has been sent to and received at the right number of the recipient). Notwithstanding anything else provided in these Articles, any Director who has not given an address for service to the Company shall not be entitled to notices hereunder.

19. INDEMNITY

Every Director or other officer of the Company shall be indemnified out of the assets of the Company against all 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 under sections 144 and 727 of the Act, in which relief is granted to him by the Court, and 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 execution of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by section 310 of the Act.