

**WRITTEN RESOLUTION OF THE SHAREHOLDERS OF  
ONLINE RENTALS LIMITED**

(registered number: 4392195) (the "Company")

We, the undersigned, being the Members for the time being of the above named Company entitled to receive notice of and to attend and vote at General Meetings of the Company, **HEREBY PASS** the following resolutions as written special resolutions in accordance with Section 381A of the Companies Act 1985 (as amended) (the "Act") and agree that the said resolutions shall, for all purposes, be as valid and effective as if the same had been passed at a General Meeting of the Company duly convened and held.

**IT IS RESOLVED THAT** the following resolutions be and are hereby passed as Special Resolutions of the Company:

1. **THAT** the regulations set forth in the printed document produced to this meeting and for the purposes of identification initialled by the undersigned, be approved and adopted as the articles of association of the Company, in substitution for, and to the exclusion of, all existing articles of association; and
2. **THAT** the new articles of association of the Company be filed at Companies House.

Signed:



Paul Gardner

Dated: 8 October 2003

Signed:

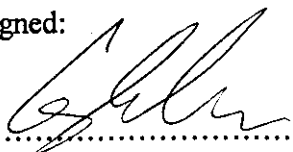


Jason Emmett

Dated: 8 October 2003



Signed:

A handwritten signature in black ink, appearing to read 'G. Boshier', written over a dotted line.

Graham Boshier

Dated:.....8.....October 2003

Company No: 4392195

**THE COMPANIES ACT 1985**  
**COMPANY LIMITED BY SHARES**  
**NEW**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**ONLINE RENTALS LIMITED**  
**(the "Company")**

(Adopted by Special Resolution of the Members passed on 8 October 2003)

**1 PRELIMINARY**

1.1 In these Articles and (where appropriate) in Table A:

**"the Act"** means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being;

**"Affiliate"** means with respect to any person:

- (a) any other person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with such person and for the purposes of this definition, the term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise; or
- (b) where that person is a partnership, another partner in that partnership or a linked partnership or fund;

**"Articles"** means these Articles of Association as varied from time to time;

**"Bad Leaver"** means:

- (a) a Management Shareholder who ceases to be an employee of the Company by reason only of:

- (i) the termination of his contract of employment with the Company in circumstances entitling the Company to dismiss the relevant Management Shareholder:

- (A) summarily; or

- (B) for cause in accordance with the employee's contract of employment;

in each case otherwise than by reason of death, serious illness, permanent disability or incapacity;

- (ii) his or her contract of employment being terminated by his or her giving notice to the Company to terminate such contract within the period of 12 months from the date of the adoption of these Articles; or

(b) a Deemed Bad Leaver;

**"the Board"**

means the board of directors of the Company;

**"clear days"**

in relation to the period of a notice, means that period excluding the day when the notice shall be given or deemed to be given and the day for which it shall be given or on which it shall be deemed to be given or on which it shall take effect;

**"Deemed Bad Leaver"**

means a Management Shareholder who, after he or she has ceased to be an employee of the Company, breaches the provisions of clause 13 of the Shareholders Agreement;

**"Competitor"**

means any business competing with the whole or part of any business carried on by the Company or any subsidiary or holding company from time to time;

**"Directors"**

means the directors from time to time of the Company;

**"executed"**

includes any mode of execution;

**"holder"**

in relation to Shares means the Member whose name is entered in the register of Members of the Company as the holder of the Shares;

|                                  |   |
|----------------------------------|---|
| <b>"holding company"</b>         | means a holding company as defined in section 736 of the Act;   |
| <b>"Investor"</b>                | means Arts Alliance Media (BVI) Limited or any successor or transferee thereof where such transferee is an Affiliate of the Investor or a fund under the same management as the Investor or an Affiliate of the Investor; |
| <b>"Investor Director"</b>       | has the meaning set out in Article 16.2;  |
| <b>"Leaver Shareholder"</b>      | means any holder of Leaver Shares;  |
| <b>"Leaver Shares"</b>           | means all of the Ordinary Shares in respect of which a Leaver Transfer Notice is served by the Company;   |
| <b>"Leaver Transfer Date"</b>    | means the date for completion of the sale and purchase of the Leaver Shares specified by the directors in accordance with Article 6.15.4;   |
| <b>"Leaver Transfer Notice"</b>  | has the meaning given thereto in Article 6.15.1;  |
| <b>"Leaver Transfer Price"</b>   | shall (for the purposes of the mandatory transfer provisions under Article 6.15) be the Reduced Price;  |
| <b>"Leaver Transferee(s)"</b>    | means such person or persons to whom any Leaver Shares shall be allocated pursuant to Article 6.15;   |
| <b>"Leaver Transferor"</b>       | means the transferor of Leaver Shares in accordance with Article 6.15; and  |
| <b>"Management Shareholders"</b> | means together Paul Allan Gardner and Graham Bosher and <b>"Management Shareholder"</b> means any one of them;  |
| <b>"Member"</b>                  | means any holder for the time being of Shares;  |
| <b>"Mr Emmett"</b>               | means Mr Jason Emmett;  |
| <b>"Office"</b>                  | means the registered office of the Company;   |
| <b>"Ordinary Shares"</b>         | means ordinary shares of £0.001 each in the share capital of the Company;   |
| <b>"Prescribed Price"</b>        | has the meaning given thereto in Article 6.6;   |
| <b>"Reduced Price"</b>           | means an amount equal to 75 per cent of the Prescribed Price as at the date at which the relevant Leaver Transferor becomes a Bad Leaver;   |
| <b>"seal"</b>                    | means the common seal of the Company;   |

- |                                 |  |
|---------------------------------|--|
| <b>"Secretary"</b>              | means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;  |
| <b>"Shareholders Agreement"</b> | means the agreement dated on or around the date of adoption of these Articles between, inter alios, the Company, the Investor and the Management Shareholders relating to the management of the Company and regulating the rights of the Investor, Mr Emmett and the Management Shareholders in relation to the Company; |
| <b>"Share Option Agreement"</b> | means the agreement dated on or around the date of adoption of these Articles between Mr Emmett and the Investor relating to Mr Emmett's Shares;   |
| <b>"Shares"</b>                 | means all or any of the Ordinary Shares or any shares in the capital of the Company from time to time;   |
| <b>"subsidiary"</b>             | means in relation to any company both a subsidiary of such company as defined in section 736 of the Act and a subsidiary undertaking in relation to such company as defined in section 258 of the Act;   |
| <b>"Table A"</b>                | means Table A in the Companies (Tables A to F) Regulations 1985 (Statutory Instrument Number 805);   |
| <b>"United Kingdom"</b>         | means Great Britain and Northern Ireland.  |
- 1.2 A reference to any statute or provision of a statute includes a reference to any statutory modification or re-enactment of it for the time being in force.
- 1.3 Unless the context otherwise requires:
- 1.3.1 words in the singular include the plural and vice versa;
  - 1.3.2 words importing any gender include all genders;
  - 1.3.3 a reference to a person includes a reference to a body corporate and to an unincorporated body of persons;
  - 1.3.4 words or expressions contained in these Articles bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these Articles were adopted by the Company;
  - 1.3.5 a person shall be deemed to be **"connected with"** another if that person is either:
    - 1.3.6 connected with such other within the meaning of section 839 of Income and Corporation Taxes Act 1988 or within the meaning of section 249 of the Insolvency Act 1986; or

1.3.7 is an associate of such other within the meaning of section 435 of the Insolvency Act 1986;

1.4 The headings are inserted for convenience only and do not affect the construction of these Articles.

1.5 The following regulations of Table A shall not apply to the Company: 3, 5, 12, 14, 16, 23 to 25 (inc), 32, 34 to 55 (inc), 57, 60 to 62 (inc), 64 to 81 (inc), 84 to 98 (inc), 111, 112 and 115. In addition to the remaining Regulations of Table A as varied hereby the following shall be the Articles of Company.

## **2 SHARE CAPITAL**

2.1 The authorised share capital of the Company on the date of adoption of these Articles is £891 divided into 891,000 Ordinary Shares.

2.2 The Shares shall, except where otherwise provided herein, entitle the holders thereof to the same rights and privileges and subject them to the same restrictions and provisions hereinafter appearing.

2.3 Subject to the provisions of the Act and these Articles, all unissued Shares shall be at the disposal of the Directors and they may allot, grant rights, options or warrants to subscribe or otherwise dispose of them to such person, at such times, and on such terms as they think proper.

2.4 The Company shall have power to purchase its own Shares (whether issued on the terms that they are, or are liable, to be redeemed or not) subject to the requirements of Sections 162 to 170 (inclusive) of the Act.

2.5 Subject to the provisions of Sections 80 and 159 to 161 (inclusive) of the Act, any Shares may, with the sanction of an ordinary resolution, be issued on the terms that they are, at the option of the Company or the Member holding any such shares, liable to be redeemed on such terms and in such manner as the Company before the issue of the shares may by ordinary resolution determine.

2.6 The Company shall have power to redeem or purchase its Shares out of capital subject to the provisions of Sections 171 to 177 (inclusive) of the Act.

2.7 Except as required by law, and even when the Company shall have express notice thereof, no person shall be recognised by the Company as holding any Share upon any trust and (except as otherwise provided by the Articles or by law) the Company shall not be bound by or recognise any interest in any Share except an absolute right to the entirety thereof in the holder.

## **3 CALLS ON SHARES**

3.1 Subject to the terms of allotment, the Directors may make calls upon the Members in respect of any sums whether in respect of nominal value or premium that are unpaid on their Shares and are not payable at fixed times under the same terms of the allotment. Each Member shall, subject to receiving at least 14 clear days' notice specifying when and where payment is to be made, pay to the Company as required by the notice the amount so called on his Shares. A call may be revoked in whole or in part before receipt by the

Company of any sum due thereunder and payment of a call may be postponed in whole or part as the Directors think fit.

- 3.2 The holder of a Share at the time a call is due to be paid shall be the person liable to pay the call, and in the case of joint holders they shall be jointly and severally liable.
- 3.3 If any amount payable in respect of a Share on allotment or at a fixed date, whether in respect of nominal value or premium or as an instalment of a call, is not paid, the provisions of these Articles and (in so far as applicable) Table A shall apply as if that amount had become due and payable by virtue of a call.

#### **4 TRANSFER OF SHARES**

- 4.1 No transfer, disposal, charge or other dealing in any Shares shall occur other than the transfer of the whole legal and equitable title to such Shares free from all liens, charges and encumbrances and with all rights, title and interest in existence at the date of transfer together with all rights which may arise in respect thereof thereafter (and "transfer of shares" shall be construed accordingly).
- 4.2 No Share or any interest therein shall be transferred to or otherwise become vested in any person or body save in the circumstances permitted by Articles 5 and 6.
- 4.3 No Share shall be transferred unless the Directors shall have resolved to register such transfer. Unless and until the Directors shall resolve to register a transfer they shall be deemed to have declined to register it. The Directors shall be bound to register any transfer made in accordance with these Articles or pursuant to the terms of the Share Option Agreement.

#### **5 PRE-EMPTION ON ISSUE**

- 5.1 Apart from any Shares issued pursuant to the exercise of the options granted by the Company pursuant to any share option scheme of the Company, any Shares which the Company proposes to allot wholly for cash shall first be offered for subscription to the holders of the Shares of the Company in the proportion that the number of such Shares for the time being held respectively 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 holder is entitled and limiting a time (being not less than 21 days) within which the offer, if not accepted, will be deemed to be declined.
- 5.2 Members who accept the above offer shall be entitled to indicate that they would accept, on the same terms, Shares (specifying a maximum number) that have not been accepted by other Members ("**Excess Shares**") and any Excess Shares shall be allotted to Members who have indicated they would accept Excess Shares. Excess Shares shall be allotted pro rata to the aggregate number of Shares held by Members accepting Excess Shares providing that no such Member shall be allotted more than the maximum number of Excess Shares such Member 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 the foregoing provisions in such manner as the Board may think most beneficial to the Company.
- 5.3 Section 89(1) of the Act shall not apply to any allotment of equity securities made by the Company.

**6 PRE-EMPTION ON TRANSFER, MANDATORY TRANSFERS AND OFFERS TO PURCHASE**

6.1 Unless otherwise agreed in writing by all the Members or pursuant to the terms of Articles 6.2 and 6.3 the right to transfer Shares shall be subject to the following restrictions namely:

6.1.1 Subject to Article 6.2, no Management Shareholder shall be entitled to transfer any Shares then held by such holder save with the consent of the Investor (which may be given or withheld by the Investor in its sole discretion);

6.1.2 Before transferring any Shares (the "**Sale Shares**") the person proposing to transfer the same ("**Proposing Transferor**") shall give notice in writing ("**Transfer Notice**") to the Board that he proposes to transfer the same, the person to whom he proposes to sell the Sale Shares (the "**Proposed Transferee**"), the price per Sale Share at which he wishes to sell ("**Offer Price**") and whether he wishes to transfer some only or all of the Sale Shares. If no Offer Price is stated by the Proposing Transferor, the Offer Price shall be the Prescribed Price.

6.1.3 The Directors may require the Proposing Transferor to furnish them with such evidence ("**Further Information**") as they require about the bona fide nature of the Offer Price where such price has been offered by a third party purchaser to whom the Proposing Transferor proposes to sell the Sale Shares and may refuse to offer the Sale Shares for sale or to register their transfer if, in the Directors' absolute discretion, they honestly determine that the Offer Price offered by such proposed purchaser and/or the willingness of the proposed purchaser to purchase the Sale Shares are not for any reason bona fide.

6.1.4 Subject to the aforesaid, the Transfer Notice shall constitute the Board as the Proposing Transferor's agent for the sale of the Sale Shares therein mentioned in accordance with the following provisions of this Article 6. Save as hereafter provided, a Transfer Notice once given or deemed to be given shall not be revocable.

6.1.5 Within 3 days after receipt of the Transfer Notice, and Further Information, if any, the Board shall in writing offer the Sale Shares at the Offer Price or Prescribed Price (as the case may be) to the Investor and such offer (the "**Investor Transfer Offer**") shall invite the Investor to state in writing within 14 days from the date of the Investor Transfer Offer ("**Investor Offer Period**") whether it is willing to purchase any of the Sale Shares at the Offer Price or Prescribed Price (as the case may be) and, if so, how many Sale Shares it desires to purchase, failing which the Investor shall be deemed to have declined the Investor Transfer Offer. At the expiration of the Investor Offer Period the Board shall allocate such Sale Shares to the Investor if it has notified its willingness to purchase them as aforesaid.

6.1.6 Within 3 days after the expiry of the Investor Offer Period or receipt by the Company of the written acceptance of the Investor Transfer Offer (whichever is the earlier) the Board shall in writing offer those Sale Shares in relation to which the Investor Transfer Offer has not been accepted to the Members (excluding the Investor) (the "**Other Members**") pro rata to their existing holdings of Shares (calculated as if the Investor's Shares and the Sale Shares were not issued) at the Offer Price or Prescribed Price (as the case may be) and such offer (the

"**Members Transfer Offer**") shall invite each of the Other Members to state in writing within 14 days from the date of the Members Transfer Offer ("**Members Offer Period**") whether he is willing to purchase any of his entitlement to such Sale Shares at the Offer Price or Prescribed Price (as the case may be) and, if so, how many Sale Shares he desires to purchase (up to his pro-rata entitlement), failing which that Other Member shall be deemed to have declined the Members Transfer Offer. At the expiration of the Members Offer Period the Board shall allocate such Sale Shares to the Other Members as have notified their willingness to purchase them as aforesaid.

- 6.1.7 If at the expiration of the Members Offer Period any Sale Shares comprised in the Transfer Notice shall still remain unallocated the Board shall forthwith in writing make a further offer (the "**Second Members Transfer Offer**") offering the unallocated Sales Shares to the Members (other than the Investor and those Members who did not take up their full entitlement under the Members Transfer Offer) and such Second Members Transfer Offer shall state the number of Sale Shares remaining unallocated and shall invite the recipients thereof to state in writing within 7 days from the date of the Second Members Transfer Offer ("**Second Members Offer Period**") whether or not they are willing to purchase further, and if so, what number of, Sale Shares at the Offer Price or Prescribed Price (as the case may be). At the expiration of the Second Members Offer Period the Board shall allocate the remaining Sale Shares comprised in the Transfer Notice to the Member or Members as the case may be who shall have notified their willingness to purchase further Sale Shares as aforesaid and in the event of competition in proportion (as nearly as may be and without increasing numbers sold to any member beyond the number applied for by him) in which such claims are made.
- 6.1.8 The Board, within 7 days after the expiry of the Members Offer Period or, if required to be made, the Second Members Offer Period, shall give notice in writing to the Proposing Transferor of the numbers of Sale Shares allocated to the Investor and the Other Members. Every such notice shall state the number of Sale Shares agreed to be purchased and the Offer Price or Prescribed Price (as the case may be). If the Board shall pursuant to the foregoing provisions of Article 6.1.5, 6.1.6 and 6.1.7 have allocated all the Sale Shares concerned, the Proposing Transferor shall be bound on receipt of the Offer Price or Prescribed Price (as the case may be) to transfer the Sale Shares to the Investor and/or the Other Members (as the case may be).
- 6.1.9 The sale and purchase of Sale Shares shall be completed as soon as reasonably practicable at a place and time (but no later than 14 days after the Board has allocated all the Sale Shares) to be appointed by the Board when, against payment of the Offer Price or Prescribed Price (as the case may be) and any relevant stamp duties, the Investor and/or the Other Members (as the case may be) shall be registered as the holder(s) of the relevant Sale Shares in the register of Members of the Company and Share certificate(s) in the name(s) of the Investor and/or the Other Members (as the case may be) and in respect of the relevant Sale Shares shall be delivered to the Investor and/or the Other Members (as the case may be).
- 6.1.10 If in any case a Proposing Transferor, after having become bound to transfer any Sale Shares to the Investor and/or the Other Members (as the case may be), shall make default in so doing, the Board shall on behalf of such Proposing Transferor authorise some person to execute any necessary transfers in favour of the Investor

and/or the Other Members (as the case may be) and shall receive the purchase money and shall thereupon cause the name of the Investor and/or the Other Members (as the case may be) to be entered into the register of Members as the holder of the relevant Sale Shares and hold the purchase money in trust for the Proposing Transferor but shall not be bound to earn or pay interest thereon. The receipt of the Company of the purchase money shall be a good discharge to the Investor and/or the Other Members (as the case may be) who shall not be bound to see to the application thereof and after the name(s) of the Investor and/or the Other Members (as the case may be) has been entered in the register of Members of the Company in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person.

6.1.11 If the Investor and/or the Other Members (as the case may be) shall not pursuant to the foregoing provisions of Articles 6.1 have purchased all the Sale Shares, the Proposing Transferor shall be at liberty to transfer the remaining Sale Shares to the Proposed Transferee at a price not being less than the Offer Price or Prescribed Price (whichever was applicable to the Investor Transfer Offer and the Members Transfer Offer) at any time within two months after receipt of the notice referred to in Article 6.1.8 provided that the Board shall require to be satisfied, in its reasonable opinion, that:

- (a) such Sale Shares are being transferred in pursuance of a bona fide sale for a consideration not less than such price without any deduction, rebate or allowance whatsoever to the purchaser; and
- (b) the Proposed Transferee is not a competitor or connected with a competitor of the business of the Company and/or any subsidiary of the Company and/or any holding company of the Company other than the Investor or any of its Affiliates;

and if not so satisfied it shall refuse to register the instrument or transfer concerned.

6.2 Article 6.1 shall not apply:

6.2.1 to a transfer of Shares by a Management Shareholder or (subject to the Share Option Agreement) Mr Emmett to his or her spouse or a lineal descendant;

6.2.2 to a transfer to the trustees of a settlement or trust created inter vivos by a Management Shareholder or (subject to the Share Option Agreement) Mr Emmett under which the trustees are to hold the shares on trusts, the terms of which must throughout the period of its ownership of such shares ensure that the absolute beneficial entitlement in such shares can only pass to any person who is or may become a beneficiary under the terms of such settlement or trust who is also a Permitted Transferee and that no power or 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;

6.2.3 to a transfer of Shares for the purpose only of effecting the appointment of a new trustee;

6.2.4 to any transfer of Shares by the Investor to any person(s);

- 6.2.5 to any transfer of Shares by any Management Shareholder to the other Management Shareholder; and
  - 6.2.6 to any transfer of Shares to any person(s) pursuant to the Share Option Agreement;
- any such person or entity being a "**Permitted Transferee**".
- 6.3 If any Shares have, pursuant to the provisions of Article 6.2, come to be held by trustees of a settlement or trust and in the reasonable opinion of the Directors the absolute beneficial entitlement to or control of any such Shares so held has passed or is about to pass to persons other than the trustees of such settlement or trust or Permitted Transferees, the Directors may by notice in writing to the registered or last known address of the holder of the Shares concerned request that such holder transfers back such Shares to the original transferor and until such time may direct that until further notice from the Directors:
- 6.3.1 any transfer of the relevant Shares shall be void;
  - 6.3.2 no voting rights shall be exercisable in respect of the relevant Shares;
  - 6.3.3 no further Shares shall be issued as of right to the Member concerned or in pursuance of any offer made to the holder of them;
  - 6.3.4 except in a liquidation, no payment shall be made of any sums due from the Company on the relevant Shares whether in respect of capital or otherwise.
- 6.4 The Directors (acting only with the consent of the Investor) may by notice in writing remove or relax any of the restrictions referred to in Article 6.3 in whole or in any particular case at any time and will in any case remove any such restrictions upon the rectification of the matters set out in that Article to their satisfaction.
- 6.5 A Transfer Notice shall be deemed to have been given in respect of any Shares forthwith upon the occurrence of the following events:
- 6.5.1 a Permitted Transferee ceasing to be a Permitted Transferee by reason of divorce; or
  - 6.5.2 the trustee of the relevant settlement ceasing to be a permitted trustee, or the settlement ceasing to be an authorised settlement, in each case pursuant to Article 6.2, save where the holder of the Shares transfers the Shares to a Permitted Transferee of the original Member or any other person to whom the original Member would be entitled to transfer the Shares under Article 6.2.
- 6.6 The expression the "**Prescribed Price**" shall mean in respect of each Sale Share (or each Leaver Share as the case may be) the price per Sale Share (or Leaver Share) certified by the auditors as considered by them to represent the fair value thereof as between a willing buyer and willing seller calculated as a direct proportion of the value of the Shares as a whole with no discount or premium to reflect the size of the holding or the percentage of the issued share capital of the Company represented by the Sale Shares or any restrictions on the transfer of such shares. Any such certification shall set out in full the reason for and basis upon which the auditors determined the price per Sale Share (or Leaver Share).

Where appropriate, the auditors shall determine the Reduced Price based on their calculation of the Prescribed Price.

- 6.7 The auditors shall also be entitled to employ and rely upon the advice of or any information obtained from any valuer, broker, banker, accountant or other expert.
- 6.8 If the auditors are asked to certify the Prescribed Price as aforesaid, the Company shall, as soon as it receives the auditors' certificate, provided that the Board are satisfied that such auditors' certificate accurately represents the fair value of each Sale Share (or Leaver Share), notify the Proposing Transferor and furnish him with a copy of the certificate.
- 6.9 The auditors in certifying the Prescribed Price (and where appropriate the Reduced Price) shall at the cost and expense of the Company (or, in the case of a certification required in respect of any Leaver Shares, at the cost and expense of the relevant Leaver Transferor) act as experts and not as arbitrators and their determination shall be final and binding on all persons concerned save for manifest error and for circumstances in which the Board determines to refer the certification of the Prescribed Price to an independent chartered accountant in accordance with Article 6.10.
- 6.10 If the Board or the Proposing Transferor or the relevant Leaver Transferor is not satisfied that the auditors' certificate referred to in Article 6.8 accurately represents the fair value of the Sale Shares (or the Leaver Shares as the case may be), the valuation shall be submitted as soon as practicable to an independent firm of chartered accountants as agreed between the Proposing Transferor or the relevant Leaver Transferor and the Board or in default of agreement as nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales, such firm of chartered accountants to be deemed to be an expert and whose decision as to the value of the Prescribed Price shall be final and binding on all persons save for manifest error. The fees and expenses of the independent firm of chartered accountants shall be borne by such person or persons as determined by such firm.
- 6.11 The Board shall not be entitled to decline to register the transfer of any Shares made pursuant to the provisions of Article 6 unless they have substantial reasons for believing that a transfer purportedly made in accordance with the provisions of Article 6 was not in fact in any material respect in accordance therewith in which event it shall decline to register such transfer. For the purpose of ensuring that a transfer of Shares is in accordance with the provisions of Article 6 and duly authorised hereunder the Board may require any Member, the personal representatives of any Member, the administrator or the liquidator of any corporate Member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the Board shall think fit regarding any matter which they may deem relevant to such purpose. If such information or evidence has not been furnished to the satisfaction of the Board within a reasonable time after such request the Board may refuse to register the transfer in question.
- 6.12 **Drag Along**
- 6.12.1 If the holder(s) of not less than sixty per cent in nominal value of the aggregate of the Ordinary Shares (the "**Drag Along Sellers**") intend to sell their holdings of Shares (or any interest in such shares) (the Shares to be sold by the Drag Along Sellers being referred to as "**Selling Shares**") to a proposed purchaser or purchasers acting in concert (the "**Proposed Purchaser**") who has made a bona fide offer on arm's length terms for all of the issued Shares, the Drag Along

Sellers shall have the right to give to the Company at least 15 days' advance written notice prior to selling the Selling Shares. That notice (the "**Selling Notice**") will include details of the Selling Shares and the proposed price for each Selling Share to be paid by the Proposed Purchaser, details of the Proposed Purchaser, the place and the date and time of completion ("**Selling Shares Completion**") of the proposed purchase, which shall be on a date not less than 15 days after the date of receipt of the Company of the Selling Notice.

6.12.2 Immediately upon receipt of the Selling Notice, the Company shall give notice in writing (a "**Drag Along Notice**") to each of the Shareholders (other than the Drag Along Sellers) (the "**Other Members**") giving the details contained in the Selling Notice requiring each of them to sell to the Proposed Purchaser at Selling Shares Completion all of their holdings of Shares on the same terms as those contained for the Selling Shares in the Selling Notice in each case subject to the provisions set out below.

6.12.3 Each Member who is given a Drag Along Notice shall sell all of his Shares referred to in the Drag Along Notice at the highest price per Selling Share to be sold to the Proposed Purchaser on Selling Shares Completion by the Drag Along Sellers and on the terms set out in the Selling Notice which shall be at least as favourable terms as the terms offered for the Selling Shares provided however that the warranty cover to be provided by such Member shall not exceed the value of their pro rata holdings of Shares or such lesser sum as may be agreed.

6.12.4 If any of the Member(s) (the "**Defaulting Member(s)**") fails to comply with any provision of this Article 6.12, the Company shall be constituted the agent of each Defaulting Member for the sale of his Shares in accordance with the Drag Along Notice (together with all rights then attached thereto) and the Board may authorise any person to execute and deliver on behalf of and as attorney for each Defaulting Member the necessary instrument(s) of transfer. The Company's receipt of the relevant purchase money shall be good discharge to the Proposed Purchaser who shall not be bound to see to the application thereof. The Company shall thereafter hold the purchase money on trust for each of the Defaulting Members and, subject to stamping, register the Proposed Purchaser as the holder of such shares. After the Proposed Purchaser has been entered in the Register of Members of the Company in purported exercise of these powers the validity of the proceedings shall not be questioned by any person. The Company shall not pay the purchase money due to the Defaulting Member(s) until such Defaulting Member shall have delivered to the Company his Share certificate(s) or a suitable indemnity. No Member shall be required to comply with a Drag Along Notice unless the Drag Along Sellers shall sell the Selling Shares to the Proposed Purchaser on Selling Shares Completion, subject at all times to the Sellers being able to withdraw the Selling Notice at any time prior to Selling Shares Completion by giving notice to the Company to that effect, whereupon each Drag Along Notice shall cease to have effect.

6.12.5 Article 6.1 shall not apply to the transfer of Selling Shares pursuant to this Article 6.12.

### 6.13 Tag Along

6.13.1 If the holder(s) of Shares (the "**Tag Along Sellers**") intend to sell all or a part of their holdings of Shares (or any interest in such shares) which in aggregate

amounts to not less than sixty per cent in nominal value of the aggregate of the Ordinary Shares (the Shares to be sold by the Tag Along Sellers being referred to as "**Transferring Shares**") to a proposed purchaser or purchasers acting in concert (the "**Proposed Buyer**") the Tag Along Sellers shall give to the Company at least 15 days' advance written notice prior to selling the Transferring Shares. That notice (the "**Transferring Notice**") will include details of the Transferring Shares, the material terms and conditions of the intended sale, the proposed price for each Transferring Share to be paid by the Proposed Buyer, details of the Proposed Buyer, and the place and the date and time of completion ("**Transferring Shares Completion**") of the proposed purchase, which shall be on a date not less than 15 days after the date of receipt of the Company of the Transferring Notice.

6.13.2 Immediately upon receipt of the Transferring Notice, the Company shall give notice in writing (a "**Tag Along Notice**") to each of the Shareholders (other than the Tag Along Sellers) (the "**Tag Along Shareholders**") giving the details contained in the Transferring Notice. Within 7 days of receipt of the Tag Along Notice, each Tag Along Shareholder may notify the Tag Along Sellers that such Tag Along Shareholder desires to sell Shares to the Proposed Buyer on the same terms and conditions as set out in the Tag Along Notice. Upon giving such notice to the Tag Along Sellers each such Tag Along Shareholder shall be entitled to sell to the Proposed Buyer on the same terms and conditions as set out in the Tag Along Notice its entire holding of Shares ("**Tag Along Shares**") at Transferring Shares Completion.

6.13.3 A Tag Along Shareholder shall not be deemed to have entered into a legally binding agreement to sell any Tag Along Shares unless and until such Tag Along Shareholder shall have entered into a definitive share purchase agreement in respect of his Tag Along Shares with the Proposed Buyer, and such Tag Along Shareholder agrees that any such agreement shall have terms identical or near as possible as those entered into by the Tag Along Sellers or otherwise approved by the Tag Along Sellers. If such Tag Along Shareholder is not afforded the right to participate in the transaction contemplated by the Tag Along Notice in accordance with the provisions of this Article 6.13 the Tag Along Sellers may not consummate the transaction set out in the Transferring Notice and the directors may not register the transfer by the Tag Along Sellers.

6.13.4 Article 6.1 shall not apply to the transfer of Transferring Shares pursuant to this Article 6.13.

#### 6.14 Co-Sale

6.14.1 Subject to Article 6.13 (which shall override this article) if any holder of Shares (or any two or more holders of Shares acting in concert) (the "**Co-sale Vendor**") proposes to sell or otherwise transfer Shares in a single transaction or series of connected transactions other than pursuant to Article 6.2, the Co-sale Vendor shall notify the Investor in writing of such intended sale at least 15 days prior to the date thereof, which notice (the "**Co-sale Vendor's Notice**") will include details of the prospective transferee or transferees (the "**Co-sale Offeror**"), details of the Shares to be purchased by the Co-sale Offeror from the Co-sale Vendor (the "**Prospective Sale Shares**"), the proposed price for each Prospective Sale Share to be paid by the Co-sale Offeror, the place and the date and the time of

completion of the proposed purchase, which shall be on a date not less than 15 days after the date of receipt by the Investor of the Co-sale Vendor's Notice, and confirming that the Investor is invited to participate in such sale pursuant to this Article 6.14. The portion of the Prospective Sale Shares which the Investor may require to be purchased from it by the Co-sale Offeror pursuant to this Article 6.14 following service of a Co-sale Vendor's Notice ("**Co-sale Shares**") shall be calculated pro rata to its holding of the total number of issued shares in the capital of the Company at the time of service of the Co-sale Vendor's Notice. Within 7 days of receipt of the Co-sale Vendor's Notice the Investor may notify the Co-sale Vendor in writing that it desires to sell Shares to the Co-sale Offeror. Upon giving such notice to the Co-sale Vendor, the Investor shall be entitled to sell to the Co-sale Offeror the Co-sale Shares.

- 6.14.2 The Investor shall not be deemed to have entered into a legally binding agreement to sell any Co-sale Shares unless and until it shall have entered into a definitive share purchase agreement in respect of such Co-sale Shares with the Co-sale Offeror and any such agreement shall have terms identical or near as possible as those entered into by the Co-sale Vendor or otherwise approved by the Co-sale Vendor. If the Investor is not afforded the right to participate in the transaction contemplated by the Co-sale Vendor's Notice in accordance with the provisions of Article 6.14.1 the Co-sale Vendor may not consummate such transaction and the directors may not register the transfer by the Co-sale Vendor.

#### 6.15 **Mandatory Transfers**

- 6.15.1 If a Management Shareholder shall cease at any time for any reason to be an employee of the Company in circumstances where he or she is a Bad Leaver, then the Company shall, if so requested by the Investor within the period of six months from the date on which the relevant Management Shareholder shall have become a Bad Leaver (the "**Leaver Period**"), give notice in writing (the "**Leaver Transfer Notice**") to the relevant Management Shareholder and/or to any Permitted Transferee of the relevant Management Shareholder requiring such Management Shareholder (and any Permitted Transferee of such Management Shareholder) to transfer their entire holding(s) of Shares to the Leaver Transferee(s) at the Leaver Transfer Price on the Leaver Transfer Date.
- 6.15.2 Upon the date falling 2 clear days after the date upon which the Leaver Transfer Price shall have been certified in accordance with Article 6.6, the directors shall by notice in writing offer the Leaver Shares for sale subject to the provisions of these Articles at the Leaver Transfer Price to such person or persons (not being a Leaver Shareholder) as the Investor may direct, having first consulted any Management Shareholder who is not a Bad Leaver. The notice shall specify the number of Leaver Shares offered to the relevant person or persons and the aggregate Leaver Transfer Price to be paid in respect of such Leaver Shares and the offer constituted thereby shall remain open for acceptance in whole or in part for a period of 14 days from the date of the despatch of the offer. In accepting the offer, the relevant person or persons may specify the number of Leaver Shares in excess of the amount offered to them that they would also be prepared to acquire. Upon the expiry of the period of 14 days referred to in this Article 6.15.2 the directors shall allocate the Leaver Shares amongst the persons who shall have

notified the directors of their willingness to purchase the Leaver Shares offered to them in accordance with this Article 6.15.2.

- 6.15.3 If the aggregate number of Leaver Shares applied for by the person(s) receiving an offer pursuant to Article 6.15.2 shall be equal to or less than the number of Leaver Shares offered to such person(s), then such Leaver Shares shall be allocated thereto in accordance with such applications. Any balance remaining to be taken up shall be offered to such person(s) (other than a person whose shares are required to be transferred pursuant to this Article 6.15) as the Directors (other than any Director whose Shares are required to be transferred pursuant to this Article 6.15) shall determine as being willing to acquire such balance and in such proportions as the Directors shall nominate.
- 6.15.4 Upon the expiry of 2 clear days following completion of the allocation procedures set out in Articles 6.15.2 and 6.15.3, the Company shall forthwith give notice of such allocation (an "**Allocation Notice**") to the relevant Leaver Transferor and to each Leaver Transferee and shall specify in such notice the number of Shares allocated to such Leaver Transferee, the Leaver Transfer Price, and the place and time being not earlier than 5 days and not later than 14 days after the date of the Allocation Notice) at which the Leaver Transfer Price is to be paid by such Leaver Transferee and the Shares allocated are to be transferred by the Leaver Transferor.
- 6.15.5 Completion of the transfers referred to in this Article 6.15 shall take place on the Leaver Transfer Date when the following business shall be transacted contemporaneously:-
- (a) the Leaver Transferee(s) shall pay or shall procure to be paid to the Leaver Transferor (or, where the Leaver Transferor refuses to deliver all relevant documents to give effect to the transfer, to the Company to be held in accordance with Article 6.15.6) an amount equal to the Leaver Transfer Price; and
  - (b) the Leaver Transferor shall deliver to the Directors or as they shall direct one or more duly executed instruments of transfer in respect of the Leaver Shares together with the relative share certificates (such instruments of transfer to be in favour of the relevant Leaver Transferee(s)) together with such other documents (if any) as may be necessary or expedient for the purpose of vesting in the relevant Leaver Transferee all of the Leaver Transferor's right, title and interest in the Leaver Shares.
- 6.15.6 If the Leaver Transferee(s) has performed, or is willing to perform, his or her obligations in full under this Article 6.15 and the Leaver Transferor concerned fails or refuses to deliver to the Directors on the Leaver Transfer Date or as the Directors shall direct a duly executed instrument of transfer transferring the Leaver Shares or any other document required under this Article 6.15, any one or more of the Directors shall be authorised to execute and deliver such an instrument of transfer as attorney for the Leaver Transferor and to do any other acts and/or execute any other documents on behalf of the Leaver Transferor as are required in connection with the transfer of all his or her right, title and interest in the Leaver Shares to the Leaver Transferee(s) or are necessary or expedient for the purpose of vesting in the Leaver Transferee(s) all his or her right, title and interest in the Leaver Shares. Following such transfer the Company shall hold all

monies paid to it pursuant to Article 6.15.5 on trust for the Leaver Transferor concerned and the validity of such proceedings shall not be questioned by any person.

## **7 ALTERATION OF SHARE CAPITAL**

### **7.1 The Company may by ordinary resolution:**

- 7.1.1 increase its share capital by new Shares of such amount as the resolution prescribes;
- 7.1.2 consolidate and divide all or any of its share capital into shares of larger or smaller amounts than its existing Shares;
- 7.1.3 subject to the provisions of the Act, sub-divide its Shares, or any of them, into Shares of smaller amounts and the resolution may determine that, as between the Shares resulting from the sub-division, any of them may have any preference or advantages compared with the others; and
- 7.1.4 cancel Shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the Shares so cancelled.

### **7.2 Subject to the provisions of the Act, the Company may by special resolution reduce its share capital, any capital redemption reserve and any share premium account in any way.**

## **8 GENERAL MEETINGS**

### **8.1 All General Meetings other than Annual General Meetings shall be called Extraordinary General Meetings.**

### **8.2 The Directors may call General Meetings and, on the requisition of Members pursuant to the provisions of the Act, shall forthwith proceed to convene an Extraordinary General Meeting for a date not later than 28 days after receipt of the requisition. If there are not within the United Kingdom sufficient Directors to call a general Meeting, any Director or any Member of the Company may call a General Meeting.**

## **9 NOTICE OF GENERAL MEETINGS**

### **9.1 An Annual General Meeting and an Extraordinary General Meeting called for the passing of a special resolution shall be called by at least 21 clear days' notice. All other Extraordinary General Meetings shall be called by at least 14 clear days' notice but a General Meeting may be called by shorter notice if it is so agreed:**

- 9.1.1 in the case of an Annual General Meeting, by all the Members entitled to attend and vote thereat;
- 9.1.2 in the case of any other meeting by a majority in number of the Members having a right to attend and vote being a majority together holding not less than 95 per cent in nominal value of the Shares giving that right.

### **9.2 The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an Annual General Meeting, shall specify the meeting as such.**

- 9.3 Subject to the provisions of these Articles and to any restrictions imposed on any Shares, the notice shall be given to all Members, to all persons entitled to a Share in consequence of the death or bankruptcy of a Member and to the Directors and auditors.

## **10 PROCEEDINGS AT GENERAL MEETINGS**

- 10.1 No business shall be transacted at any meeting unless a quorum is present. The quorum shall be two persons entitled to vote upon the business to be transacted, each being a Member or a proxy for a Member or a duly authorised representative of a corporation of which one shall be a representative of the Investor.
- 10.2 If within half a hour after the time appointed for the meeting a quorum is not present, or if during a meeting a quorum ceases to be present, the meeting if convened upon the requisition of Members shall be dissolved. In any other case, it shall stand adjourned to such other day and such other time and place as the Directors may determine.
- 10.3 Unless agreed otherwise by the Members, the chairman of the Company (the "**Chairman**") shall be an Investor Director.
- 10.4 The Chairman or, in his absence, another Director nominated by the Chairman or, failing such nomination, by a majority of the Directors present at any meeting, shall preside as chairman of the meeting, but if neither the Chairman nor such other Director (if any) be present within 15 minutes after the time appointed for holding the meeting and willing to act, the Directors present shall elect one of their number to be chairman and, if there is only one Director present and willing to act, he shall be chairman. If no Director is willing to act as chairman, or if no Director is present within 15 minutes after the time appointed for holding the meeting, the Members present and entitled to vote shall choose one of their number to be chairman.
- 10.5 A Director shall, notwithstanding that he is not a Member, be entitled to attend and speak at any General Meeting and at any separate meeting of the holders of any class of shares in the Company.
- 10.6 The chairman of the meeting may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for 14 days or more, at least 7 clear days' notice shall be given specifying the time and the place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
- 10.7 A Resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on declaration of the result of the show of hands a poll is duly demanded.
- 10.8 Subject the provisions of the Act, a poll may be demanded:
- 10.8.1 by the chairman of the meeting; or
- 10.8.2 by at least one Member having the right to vote at the meeting;
- and a demand by a person as proxy for a Member shall be the same as a demand by the Member.

- 10.9 Unless a poll is duly demanded a declaration by the chairman of the meeting that a resolution has been carried unanimously, or by a particular majority, or lost, or not carried by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 10.10 The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman of the meeting and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- 10.11 A poll shall be taken as the chairman of the meeting directs and he may appoint scrutineers (who need not be Members) and fix a time and place for declaring the result of the poll. The result of the poll (unless it was held at an adjourned meeting) shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 10.12 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to any other vote he may have.
- 10.13 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman of the meeting directs not being more than 30 days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than a question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn with the consent of the chairman of the meeting, the meeting shall continue as if the demand had not been made. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least 7 clear days' notice shall be given specifying the time and place at which the poll is to be taken.
- 10.14 A resolution in writing signed by all the Members of the Company entitled to receive a notice of and to attend and vote at a General Meeting, or by their duly appointed proxies or attorneys, shall be as valid and effectual as if it had been passed at a General Meeting of the Company duly convened and held. Any such resolution may be contained in one document or in several documents in the same terms each signed by one or more of the Members or their proxies or attorneys and signature in the case of a body corporate which is a Member shall be sufficient if made by a director thereof or by its duly authorised representative.

## **11 VOTES**

- 11.1 Subject to any rights or restrictions attached to any shares, on a show of hands every Member present in person or (if a corporation) present by a representative duly authorised in accordance with the Act who is not also himself a Member entitled to vote, shall have one vote. On a poll each Member shall have one vote for each Ordinary Share of which he is the holder.
- 11.2 No Member shall be entitled to vote at any General Meeting or at any separate meeting of the holders of any class unless all calls or other sums presently payable by him in respect of shares have been paid.
- 11.3 On a poll votes may be given either personally or by proxy.

- 11.4 An instrument appointing a proxy shall be in writing executed by or on behalf of the appointor (if a corporation, under the hand of a duly authorised officer of the corporation) and shall be in such form as the Directors may determine or, failing such determination, in any usual form.
- 11.5 The instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the Directors may:
- 11.5.1 be deposited at the Office, or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting, not later than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposed to vote; or
  - 11.5.2 in the case of a poll taken more than 48 hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or
  - 11.5.3 where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the Chairman or to the Secretary or to any Director;
- and an instrument of proxy which is not deposited or delivered in the manner so permitted shall be invalid.
- 11.6 In the case of joint holders the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders; and seniority shall be determined by the order in which the names of the holders stand in the register of Members.

## **12 NUMBER OF DIRECTORS**

- 12.1 Unless otherwise determined by an amendment to these Articles the number of Directors shall not be less than two and not more than seven.

## **13 ALTERNATE DIRECTORS**

- 13.1 Each Director shall have power by writing under his hand to nominate either another Director or any other person willing to act and approved for the purpose by a resolution of the Directors, to act as his alternate Director, and at his discretion to remove such alternate Director in writing to the Company.
- 13.2 An alternative Director shall have the same entitlement as his appointor to receive notices of meetings of the Directors and to attend, vote and be counted for the purpose of a quorum at any meeting at which his appointor is not personally present, and generally in the absence of his appointor at such meeting to exercise and discharge all the functions powers and duties of his appointor.
- 13.3 Save as otherwise provided in these Articles the alternate Director shall during his appointment be deemed to be a Director for the purposes of these Articles, shall not be deemed to be an agent of the appointor, shall alone be responsible to the Company for his own acts or defaults and shall be entitled to be indemnified by the Company to the same extent as if he were a Director.

- 13.4 An alternate Director shall not in respect of his office of alternate Director be entitled to receive any remuneration from the Company nor to appoint another person as his alternate. The appointment of an alternate Director shall ipso facto determine if his appointor ceases for any reason to be a Director or on the happening of an event which, if he were a Director, would cause him to vacate the office of Director, or if by written notice to the Company he shall resign such appointment.

#### **14 POWERS OF DIRECTORS**

- 14.1 Subject to the provisions of the Act, the Memorandum of Association of the Company and the Articles, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given.
- 14.2 The Directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.
- 14.3 The Directors may establish and maintain, or procure the establishment and maintenance of, any pension or superannuation funds (whether contributory or otherwise) for the benefit of, and give or procure the giving, of donations, gratuities, pensions, allowances and emoluments to any persons (including Directors and other officers) who are or were at any time in the employment or service of the Company, or of any company which is or was a subsidiary of the Company or allied to or associated with the Company or any such subsidiary, or of any of the predecessors in business of the Company or of any such other company as aforesaid, and the spouses, widows, widowers, families and dependants of any such persons, and make payments to, for or towards the insurance of or provide benefits otherwise for any such persons as aforesaid.

#### **15 DELEGATION OF DIRECTORS POWERS**

The Directors may delegate any of their powers to any committee consisting of one or more Directors. They may also delegate to any Managing Director or any Director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the Directors may impose and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the Articles regulating the proceedings of Directors so far as they are capable of applying.

#### **16 APPOINTMENT AND REMOVAL OF DIRECTORS**

- 16.1 Without prejudice to Article 17 and subject to any maximum number of Directors as set out in the Articles:
- 16.1.1 The Investor shall be entitled from time to time to appoint and to remove and (subject to removal) to appoint another person in his place:
- (a) one Director to be a non-executive Director;
  - (b) one Director to be Managing Director; and
  - (c) three other Directors;

16.1.2 For so long as:

- (a) both Management Shareholders remain in continuous employment with the Company or any holding company of the Company or any other company over which the Company (either alone or in conjunction with any person connected with the Company) or any such holding company has control for the time being, within the meaning of section 840 of the Income and Corporation Taxes Act 1988; and
- (b) they shall hold Shares which in aggregate amount to more than 7 per cent of the issued share capital of the Company;

the Management Shareholders shall be entitled to appoint a Director of the Company and to remove such Director and (subject to removal) to appoint another person in his or her place.

16.1.3 If either of the Management Shareholders shall cease to hold any Shares, his or her right to appoint (and remove) a Director shall be capable of being exercised by the Management Shareholder (if any) who continues to hold Shares amounting to more than seven per cent of the issued share capital of the Company.

16.2 Any Director appointed pursuant to Article 16.1.1(a) or (b) is herein referred to as an **"Independent Director"**. Any Director appointed pursuant to Article 16.1.1(c) is herein referred to as an **"Investor Director"**. Any Director appointed pursuant to Article 16.1.2 or 16.1.3 is herein referred to as a **"Management Director"**.

16.3 Any appointment or removal of an Independent Director, an Investor Director or a Management Director pursuant to this Article shall be by notice in writing served on the Company at its registered office and signed by or on behalf of the relevant shareholder(s) and shall take effect on delivery of such notice at the registered office. In the case of a corporation such notice may be signed on its behalf by an authorised representative.

16.4 If the appointment of any Independent Director, Investor Director or Management Director would cause the maximum number of Directors prescribed by these Articles to be exceeded the Member proposing to appoint such Director shall have power (exercisable by notice in writing to the Company, specifying the Director to be so removed) to remove from office one Director (other than an Independent Director, Investor Director or Management Director) (howsoever appointed) in order to permit the appointment of such Director. The removal of such Director shall be automatic upon receipt by the Company of such notice. Any Directors so removed shall be entitled to receive a copy of such notice from the Company forthwith.

16.5 Subject to this Article 16, the Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with the Articles as the maximum number of Directors.

16.6 No person shall be disqualified from being or becoming a Director of the Company by reason of his attaining or having attained the age of seventy years or any other age. Directors who do not have contracts of service with the Company shall be entitled to such fees as shall be determined by the Board from time to time Provided that no such Director shall vote or be counted in the quorum when his fees are being determined.

- 16.7 Any Director who, by request, goes or resides abroad for any purposes of the Company or who performs services which in the opinion of the Board go beyond the ordinary duties of a Director may be paid such extra remuneration (whether, by way of salary, commission, participating in profits or otherwise) as the Board may determine. The Directors shall not be required to hold qualification Shares.
- 16.8 The holders of a majority of the Shares giving the right to vote at general meetings, provided such holders include the Investor, may at any time and from time to time by serving notice on the Company remove any Director other than a Management Director from office and appoint any person to be a Director. A removal or appointment takes effect when the notice is received by the Company or on a later date specified in the notice.

## **17 DISQUALIFICATION AND RETIREMENT OF DIRECTORS**

- 17.1 The office of a Director shall be vacated in any of the following events namely:
- 17.1.1 if he resigns his office by notice in writing to the Company;
  - 17.1.2 if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - 17.1.3 if he is, or may be, suffering from mental disorder and either:
    - (a) 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
    - (b) 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 bonus or other person to exercise powers with respect to his property or affairs;
  - 17.1.4 if he ceases to be a Director by virtue of any provision of the Act or the Articles or he becomes prohibited by law from being a Director;
  - 17.1.5 if he is absent from meetings of the Board for six successive months without leave, unless prevented by illness, unavoidable accident or other cause which may seem to the other members of the Board to be sufficient, and his alternate Director (if any) shall not during such period have attended in his stead, and the Directors resolve that his office be vacated;
  - 17.1.6 if he should retire from office by notice in writing served upon all his co-Directors.

## **18 DIRECTORS' APPOINTMENTS AND INTERESTS**

- 18.1 The Directors may from time to time appoint one or more of their number to be Managing Director or to hold such other office in the management, administration or conduct of the business of the Company for such period (subject to Section 319 of the Act) and on such terms as they think fit, and, notwithstanding but without prejudice to the terms of any agreement entered into in any particular case, may revoke such appointment. Subject to

the terms of any such agreement, a Managing Director or a Director appointed to any other office as aforesaid shall be subject to the same provisions as to resignation and removal as the other Directors of the Company and shall ipso facto and immediately cease to be Managing Director or to hold such other office in the management, administration or conduct of the business of the Company if he ceases to hold the office of Director from any cause but without prejudice to any claim for damages for breach of the contract of service between the Director and the Company.

- 18.2 The remuneration of a Managing Director or any Director who may be appointed to any other executive office in the management, administration or conduct of the business of the Company shall from time to time (subject to the provisions of any agreement between him and the Company) be fixed by the Directors, and may be by way of fixed salary, or commission on the dividends, profits, sales or turnover of the Company, or of any other company in which the Company is interested, or other participation in any such profits, or by way of or provision for a pension or pensions for himself or his dependants, or by all or any of these modes, and (subject as aforesaid) the remuneration so fixed shall be additional to any ordinary remuneration to which he may be entitled as a Director of the Company.
- 18.3 Subject to the provisions of the Act, and provided that he has disclosed to the Directors the nature and extent of any material interest of his, a Director notwithstanding his office may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested and may be a Director or other officer of or employed by or a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is otherwise interested.
- 18.4 Notwithstanding the provisions of Article 18.3, a Director shall be accountable to the Company for any benefit including, without limitation, introduction fees and commissions, which he derives from any such transaction or arrangement as referred to in Article 18.3 by reason of his office as a Director.
- 18.5 For the purposes of Article 18.3:-
- 18.5.1 a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified; and
- 18.5.2 an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

## **19 PROCEEDINGS OF DIRECTORS**

- 19.1 Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit including the holding of meetings where the Directors are communicating by telephone. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. Questions arising at a meeting shall be decided by a majority of votes. A Director who is also an alternate Director shall be entitled in the absence of his appointor to a separate vote on behalf of his appointor in addition to his own vote.

- 19.2 Subject to Article 19.3 notice of every meeting of the Directors shall be given to every Director and to his alternate (if any) but the non-receipt of notice by any Director or alternate Director shall not invalidate the proceedings of the Directors. Unless all the Directors indicate their willingness to accept shorter notice of a meeting of Directors at least 14 days' notice save in the case of emergency shall be given of the time, place and purpose of the meeting. Every notice of a meeting of the Directors required to be given under these Articles may be given orally (personally or by telephone) served personally or sent by prepaid letter post, or fax to the address for the time being supplied for the purpose to the Secretary.
- 19.3 Any Director resident outside or for the time being absent from the United Kingdom shall if he so requests be entitled to be given reasonable notice of meetings of the Directors to such address if any (whether inside or outside the United Kingdom) as the Director may from time to time notify to the Company.
- 19.4 The quorum necessary for the transaction of the business of the Directors shall be two persons in person or represented by an alternate Director of which at least one shall be an Investor Director. An alternate Director may, if his appointer is not present, be counted towards the quorum.
- 19.5 The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number, but, if the number of Directors is less than the number fixed as the quorum, they or he may act only for the purpose of filling vacancies or of calling a general meeting.
- 19.6 The chairman of a meeting of Directors shall be the Chairman or, in his absence his alternate.
- 19.7 All acts done by a meeting of Directors, or of a committee of Directors, or by a person acting as a Director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.
- 19.8 A resolution in writing signed or approved by letter or facsimile by all the Directors entitled to receive notice of a meeting of Directors or of a committee of Directors shall be as valid and effectual as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held and may consist of several documents in the same terms each signed by one or more Directors; but a resolution signed by an alternate Director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.
- 19.9 A Director who is in any way either directly or indirectly interested in a contract or arrangement or proposed contract or arrangement with the Company shall declare the nature of his interest at a meeting of the Directors in accordance with Section 317 of the Act. Subject to such disclosure, a Director shall be entitled at the discretion of the other members of the Board to vote in respect of any contract or arrangement in which he is interested and if he shall be so entitled his vote shall be counted and he may be taken into account in ascertaining whether a quorum is present.

- 19.10 A Director shall not be counted in the quorum present at a meeting in relation to a Resolution on which he is not entitled to vote.
- 19.11 The Company may by special resolution suspend or relax to any extent either generally or in respect of any particular matter, any provision of the Articles prohibiting a Director from voting at a meeting of Directors or of a committee of Directors.
- 19.12 When proposals are under consideration concerning the appointment of two or more Directors to offices or employments with the Company or with any body corporate in the Company is interested, the proposals may be decided and considered in relation to each Director separately and (provided he is not for another reason excluded from voting) each of the Directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.
- 19.13 If a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to vote the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any Director other than himself shall be final and conclusive. In the case of the chairman of the meeting, the other members of the meeting may so rule unanimously.
- 19.14 If it appears that any Management Director or any person connected with a Management Director (in whatever capacity) is in breach of any obligation which he owes to the Company or has misapplied or retained or become liable or accountable for any money or property of the Company, or has been guilty of any misfeasance or breach of trust in relation to the Company or has become liable to indemnify the Company against any liability, then the prosecution of any right of action of the Company in respect thereof shall be passed to the Chairman (or to a committee of the Directors selected by him) who shall have full authority to negotiate, litigate and settle any claim arising.

## **20 DIVIDENDS**

- 20.1 The following sentence shall be added to the end of Regulation 104 of Table A:-

"The person entitled to any dividend shall be the holder (as defined in Table A) of the Share upon such date as may be determined by the resolution declaring the dividend (or in the case of any interim dividend, determined by the Directors) in respect of that Share."

## **21 NOTICES**

- 21.1 Any notice or other communication to be given under these Articles shall either be delivered by hand or sent by first class post pre-paid recorded delivery (or by air mail if overseas) or by a generally recognised international courier service (with relevant fees prepaid) or by facsimile transmission (provided that, in the case of facsimile transmission, the notice is confirmed by being delivered by hand or sent by first class post or by a recognised international courier service within two Business Days after transmission) to the intended recipient at his or its registered address within the United Kingdom or to any other address supplied by him or it to the Company for such purpose.
- 21.2 In the absence of evidence of earlier receipt, all notices shall be deemed to have been served:-
- 21.2.1 if delivered by hand, at the time of delivery;

21.2.2 if posted by first-class inland post two Business Days after the envelope containing it was posted;

21.2.3 if sent (with relevant fees prepaid) by a generally recognised international courier service, two Business Days after the envelope containing it was delivered to the relevant international courier; and

21.2.4 if sent by facsimile, on completion of transmission;

PROVIDED that where such delivery or transmission occurs after 5 p.m. on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9 a.m. on the next following Business Day.

21.3 In the case of joint holders of a Share, all notices shall be given to the joint holder whose name stands first in the Register of Members in respect of the joint holding, and notice so given shall be sufficient notice to all the joint holders.

21.4 Except as otherwise provided herein, all notices to be given pursuant to these Articles shall be in writing other than a notice calling a meeting of the Directors.

## **22 INDEMNITY**

22.1 In addition to the indemnity contained in Regulation 118 of Table A and subject to the provisions of Sections 310 of the Act every Director, agent, auditor, Secretary and other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities properly incurred by him in or about the execution and discharge of the duties of his office.