



THE COMPANIES ACT 1985

COMPANY LIMITED BY SHARES

CLICKLOOP LIMITED
(the "Company")

The following written resolutions were passed by the Company on 11 December 2002, of which resolutions 1 to 2 would otherwise be required to be passed as ordinary resolutions and resolutions 3 to 4 would otherwise be required to be passed as special resolutions.

ORDINARY RESOLUTIONS

1. THAT the share capital of the Company be increased to £4,005,226 by the creation of an additional:
 - (b) 2,226 ordinary shares of £1 each;
 - (c) 2,000 deferred shares of £1 each; and
 - (d) 4,000,000 preferred shares of £1 each

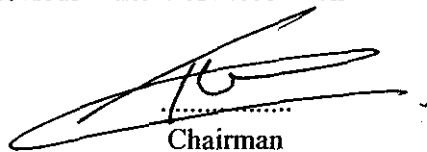
having the rights and being subject to the restrictions and obligations set out in the articles of association to be adopted by the resolution set out in paragraph 4.

2. THAT the directors be generally and unconditionally authorised for the purposes of section 80 of the Companies Act 1985 (the "Act") to exercise all the powers of the Company to allot relevant securities (within the meaning of section 80(2) of the Act) up to an aggregate nominal amount of £4,005,226. This authority shall expire on the fifth anniversary of the date of this resolution save that the Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the directors may allot relevant securities in pursuance of such offer or agreement as if the authority conferred hereby had not expired. This authority shall be in substitution for and shall replace any existing authority pursuant to the said section 80 to the extent not utilised at the date this resolution is passed.

SPECIAL RESOLUTIONS

3. THAT the directors be empowered to allot equity securities (as defined in section 94(2) of the Act) of the Company pursuant to the authority conferred by such resolution as if section 89(1) of the said Act did not apply to any such allotment. This power shall expire on the fifth anniversary of the date of this resolution save that the Company may before such expiry make an offer or agreement which would or might require equity securities to be allotted after such expiry and the directors may allot equity securities in pursuance of such offer or agreement as if the power conferred hereby had not expired.

4. THAT new articles of association in the form contained in the draft articles of association produced at the signing hereof and initialled by Stephen Lloyd for the purposes of identification be adopted as the articles of association of the Company in substitution for and to the exclusion of all previous articles of association.



Chairman

Presented by: Ashurst Morris Crisp
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5 Appold Street
London EC2A 2HA
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Ref: WAL07.00002

CLICKLOOP LIMITED

Articles of Association

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THE COMPANIES ACTS 1985-1989
PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

CLICKLOOP LIMITED
(the "Company")

(adopted by written resolution on 11 December 2002)

1 DEFINITIONS AND INTERPRETATION

1.1 In these Articles, unless the context requires otherwise:-

"A Shares" has the meaning given in Article 2.2;

"A Shareholders" means the holders for the time being of the A Shares;

"Act" means the Companies Act 1985 as amended re-enacted or replaced from time to time whether before or after the adoption of these Articles;

"B Shares" has the meaning given in Article 2.2;

"B Shareholders" means the holders for the time being of the B Shares;

"Bank" means the Governor and Company of the Bank of Scotland, incorporated by Act of Parliament dated 1695, and having its head office at the Mound, Edinburgh, EH1 1YZ;

"Board" means the board of directors of the Company from time to time;

"Borrowings" means all borrowings and third party indebtedness including:-

- (a) the amount payable under any hire purchase, credit sale, conditional sale, leasing or similar agreement (other than a lease of real or heritable property) which can, in accordance with generally accepted accounting practice, be attributed to capital;
- (b) the amount of any payment for goods and services which is deferred (except for deferred payments within the routine course of trading);
- (c) the nominal amount of any issued share capital and the principal amount of any borrowed money, together with any fixed or minimum premium payable on redemption or repayment, of any body (whether corporate or unincorporated) the beneficial interest in which is not for the time being owned by a member of the Group and the redemption or repayment of which is the subject of a guarantee or indemnity by a member of the Group;

- (d) the outstanding amount raised by acceptances by any bank or accepting house under any acceptance credit facility opened on behalf of and in favour of any member of the Group;
- (e) the principal amount of any debenture (whether secured or unsecured) of any member of the Group owned otherwise than by a member of the Group;
- (f) the principal amount of any preference share capital of any subsidiary owned otherwise than by a member of the Group;
- (g) the amount payable under any letter of credit issued in respect of the obligation of any member of the Group; and
- (h) any fixed or minimum premium payable on final redemption or repayment of any borrowing or deemed borrowing;

"business day" means a week day, (not being a Saturday) on which clearing banks are open in London and Edinburgh for the transaction of all classes of general banking business;

"Capital Surplus" shall have the meaning ascribed to it in clause 11.1 of the Shareholders Agreement;

"Cashflow Shortfall Loans" shall have the meaning ascribed to it in clause 4 of the Shareholders Agreement;

"C Shares" has the meaning given in Article 2.2

"C Shareholders" means the holders for the time being of the C Shares;

"Change of Control" means the acquisition whether by purchase, transfer, renunciation or otherwise but excluding a transfer of Shares made in accordance with Article 11 by any person of any interest in any Shares if, upon completion of that acquisition any such person together with persons acting in concert or connected with him, would hold more than 50 per cent in nominal value of the Equity Shares;

"Completion Date" means the date of adoption of these Articles;

"Connected Persons" has the meaning ascribed thereto in Section 346 of the Act;

"Deferred Shares" has the meaning given to it in Article 2.2;

"Disposal" means the making of one or more agreements (whether conditional or not) for the disposal by the Group of assets (whether together with associated liabilities or otherwise and as part of an undertaking or otherwise) which represent 50 per cent or more (by book value) of the consolidated gross tangible assets of the Group at that time and for the purposes of this definition "disposal" shall mean a sale, transfer, assignment or other disposition whereby a person ceases to be the absolute beneficial owner of the assets in question or all rights attached thereto or an agreement to enter into such disposal or the grant to compel entry into such an agreement;

"Equity Shares" means Ordinary Shares and **"Equity Share Capital"** shall be defined in accordance with Section 744 of the Act;

"Exit Event" means the first to occur of:-

- (a) the date and time at which an agreement referred to in the definition of "Sale" is completed;
- (b) the date and time at which an agreement referred to in the definition of "Disposal" is completed; and
- (c) the date and time at which a Listing takes place.

"Group" means the Company and all its subsidiaries and subsidiary undertakings from time to time and **"member of the Group"** shall be construed accordingly;

"Group Borrowings" means the aggregate amount for the time being outstanding of all Borrowings of members of the Group (excluding amounts borrowed from one member of the Group by another member of the Group);

"Income Deficit" shall have the meaning ascribed to it in Clause 11.1 of the Shareholders Agreement;

"Income Surplus" shall have the meaning ascribed to it in Clause 11.1 of the Shareholders Agreement;

"Investors" means the A Shareholders and the B Shareholders;

"Issue Price" means in relation to any Share the amount paid up or credited as paid up (including any premium on issue) on the Share concerned;

"Listing" means either:-

- (a) the admission by the UK Listing Authority of all or any of the issued equity share capital of the Company to the Official List and such admission becoming effective by commencement of dealings on the London Stock Exchange; or
- (b) the granting of permission by the London Stock Exchange for the introduction of all or any of the issued equity share capital of the Company to the Alternative Investment Market, and such permission becoming effective; or
- (c) any equivalent admission to, or permission to deal on, any other Recognised Investment Exchange becoming unconditionally effective in relation to all or any of the issued equity share capital of the Company;

"London Stock Exchange" means London Stock Exchange plc;

"Ordinary Shares" means the A Shares, the B Shares and the C Shares together;

"Permitted Transfer" has the meaning given in Article 11.1;

"Preference Dividend" means the dividend payable under Article 3.1 (and includes any arrears and accruals and deficiencies thereof and interest thereon);

"Preference Shares" has the meaning given in Article 2.2;

"Recognised Investment Exchange" has the meaning ascribed thereto in Section 285(1) Financial Services and Markets Act 2000;

"Sale" means the making of one or more agreements (whether conditional or not) for the disposal, transfer, purchase, subscription or renunciation of any part of the share capital of

the Company giving rise to a Change of Control and for the purposes of this definition "disposal" shall mean a sale, transfer, assignment or other disposition whereby a person ceases to be the absolute beneficial owner of the share in question or voting rights attached thereto or an agreement to enter into such disposal or the grant to compel entry into such an agreement;

"Shares" means the Ordinary Shares, the Preference Shares and the Deferred Shares and "Share" means any one share of any such class;

"Shareholder" means any registered holder of a Share;

"Shareholder Loans" means the aggregate of any indebtedness (excluding the Cashflow Shortfall Loans) owed by the Company to a Shareholder calculated on a daily basis including, without limitation, sums due under clause 3 of the Shareholders Agreement;

"Shareholders Agreement" means the subscription and shareholders agreement relating to the Company between TBH Investments Limited, Uberior Ventures Limited, West Coast Capital and Tim Walton and others dated • December 2002;

"Super Profit" shall have the meaning ascribed to it in Clause 11.1 of the Shareholders Agreement;

"Super Profit Dividend" has the meaning given to it in Article 5.1.1;

"Syndictee" means any person or persons who accept a transfer or transfers from an A Shareholder or a B Shareholder of A Shares or B Shares;

"Table A" means Table A in the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 and as further amended by The Companies Act 1985 (Electronic Communications) Order 2000;

"TBH Investments Limited" means TBH Investments Limited a company incorporated under the Companies Acts with registered number 02762478 and having its registered office at 1-2 Dorset Rise, London;

"Tim Walton" means Timothy Walton of Ivy House, Church Row, Meole Brace Shrewsbury, SY3 9EY;

"Uberior Ventures Limited" means Uberior Ventures Limited, a company incorporated under the Companies Acts with registered number SC235067 and having its registered office at 2nd Floor New Uberior House, 11 Earl Grey Street, Edinburgh EH3 9BN;

"Valuers" means the Auditors unless:-

- (a) a report on the Market Value is to be made pursuant to a Deemed Transfer Notice and, within 21 days after the date of the Deemed Transfer Notice, the Vendor notifies the Board in writing that it objects to the Auditors making that report; or
- (b) the Auditors give notice to the Company that they decline an instruction to report on Market Value;

when the Valuers shall be a firm of chartered accountants agreed between the Vendor and the Board or, in default of agreement within 10 business days after the event referred to in (a) or (b) above, appointed by the President of the Institute of Chartered Accountants in England and Wales on the application of the Vendor or the Board;

"West Coast Capital" means West Coast Capital, a partnership established under the laws of Scotland, whose principal place of business is at Marathon House, Olympic Business Park, Drybridge Road Dundonald, KA2 9BD;

- 1.2 The regulations of Table A shall be incorporated into and form part of these Articles and shall apply to the Company insofar as such regulations are not excluded, amended or modified by or inconsistent with this document.
- 1.3 Regulations 2, 3, 8, 24, 33, 40, 50, 64, 65-69, 73 – 80, 81, and 89-91, of Table A shall not apply to the Company and the following Regulations thereof shall be modified:-
 - (a) Regulation 6 by the deletion of the words "shall be sealed with the seal and";
 - (b) Regulation 32 by the addition at the end of paragraph (b) of the words "but so that any such consolidation and/or division shall not result in any member becoming entitled to fractions of a share";
 - (c) Regulation 40 by the addition at the end of the second sentence of the words "provided that if the Company shall have only one member, one member present in person or by proxy shall be a quorum";
 - (d) Regulation 46 by the deletion of paragraphs (a) to (d) inclusive and the substitution of the words "by the chairman or by any person present who is entitled to vote upon the business to be transacted";
 - (e) Regulation 54 by the addition of the words "or by proxy" between the words "vote", and "shall" and the words "fully paid" between the words "every" and "share";
 - (f) Regulation 84 by the addition of the words "Unless the contrary shall be provided in the terms of his appointment" at the beginning of the third sentence; and
 - (g) Regulation 85(c) by the addition of the words ", subject to the terms of any contract of employment between the Company and the Director," between the words "shall" and "not".
- 1.4 These Articles and the regulations incorporated into them shall take effect subject to the requirements of the Act and of every other statute for the time being in force affecting the Company.
- 1.5 In these Articles where the context so permits:-
 - (a) words importing the singular number only shall include the plural number, and vice versa;
 - (b) words importing the masculine gender only shall include the feminine gender;
 - (c) words importing persons shall include bodies corporate, unincorporated associations and partnerships; and
 - (d) the expression "**paid up**" shall include credited as paid up.
- 1.6 References in these Articles to Regulations are to regulations in Table A and references to an Article by number are to a particular Article of these Articles.

- 1.7 Words and expressions defined in or for the purposes of the Act or Table A shall, unless these Articles provide otherwise, have the same meaning in these Articles.
- 1.8 Words and expressions defined elsewhere in these Articles shall bear the meanings thereby ascribed to them.
- 1.9 Headings used in these Articles shall not affect their construction or interpretation.
- 1.10 References to any statute or section of any statute shall include reference to any statutory amendment, extension, modification or re-enactment thereof for the time being in force.

2 AUTHORISED SHARE CAPITAL

- 2.1 The Company is a private company as defined by Section 1 of the Act and accordingly any offer to the public (whether for cash or otherwise) of any shares in or debentures of the Company or any allotment of or agreement to allot (whether for cash or otherwise) any shares in or debentures of the Company with a view to all or any of these shares or debentures being offered for sale to the public shall be prohibited.
- 2.2 The authorised share capital of the Company at the date of the adoption of these Articles is £4,005,226 divided into 1161 A Ordinary Shares of £1.00 each (the "**A Shares**"), 1065 B Ordinary Shares of £1.00 each (the "**B Shares**"), 1000 C Ordinary Shares of £1.00 each (the "**C Shares**"), 4,000,000 Cumulative Redeemable Preference Shares of £1.00 each ("**Preference Shares**") and 2000 Deferred Shares of £1.00 each ("**Deferred Shares**").
- 2.3 The A Shares, B Shares and C Shares rank *pari passu* and constitute the one class of shares, but otherwise the Ordinary Shares, Preference Shares and Deferred Shares shall be separate classes of shares and carry the respective rights set out in these Articles.

3 PREFERENCE SHARES

The rights attached to the Preference Shares are as follows:-

3.1 Dividend

- (a) The Preference Shares shall confer upon each of their holders the right to receive as a class, in priority to the holders of any other class of Shares a fixed cumulative net cash dividend at the rate of 10% per annum on the aggregate of (i) the Issue Price of the Preference Shares held by him; and (ii) the Shareholder Loans advanced by such Shareholder to the Company (less the fees of £300,000 payable to each of TBH Investments Limited and Uberior Ventures Limited pursuant to clause 3.9 of the Shareholders' Agreement) calculated on a daily basis over the relevant period.
- (b) The Preference Dividend shall:
- (i) accrue on a daily basis from and including the date of adoption of these articles down to and including the date on which any such Preference Share is redeemed or if earlier on the occurrence of an Exit Event; and
 - (ii) subject to the Act, be paid annually in arrears on 30th September, in each year and on an Exit Event; payment upon an Exit Event shall be prorated by reference to the number of days since the relevant anniversary of the date of adoption of these articles;

- (c) Unless the Company is prohibited from paying dividends by the Act, Preference Dividend shall (notwithstanding Regulations 102 to 108 inclusive or any other provision of these Articles and in particular notwithstanding that there has not been a recommendation of the Board or resolution of the Company in general meeting) be paid immediately on the due date and if not so paid shall be a debt due by the Company and be payable in priority to any later Preference Dividend.
- (d) If the Company fails to pay the Preference Dividend on the date specified in Article 3.1(b) above (irrespective of whether such payment is prohibited by the Act), the dividend shall be increased from that date until payment by an additional amount calculated at the rate of 10% per annum, compounded on 31 March, 30 June, 30 September and 31 December in each year on the amount unpaid.
- (e) Where the Company is prohibited by the Act from paying in full any Preference Dividend on the relevant date specified in Article 3.1 (b) above, then in respect of any such dividend which would otherwise require to be paid pursuant to these Articles on that date:-
 - (i) the Company shall pay, on that date, to the holders of the Preference Shares on account of the relevant dividend the maximum sum (if any) which can then consistently with the Act, be paid by the Company; and
 - (ii) as soon as the Company is no longer prohibited from doing so, the Company shall, in respect of the Preference Shares pay on account of the balance of the relevant dividend for the time being remaining outstanding, and until all arrears, accruals and deficiencies of the preference dividend have been paid in full, the maximum amount of the preference dividend which can, consistently with the Act, properly be paid by the Company at that time.
- (f) For the avoidance of doubt the Preference Dividend shall be paid at the rate mentioned above together with (and not exclusive of) the imputed tax credit at the rate prevailing from time to time.
- (g) Save as provided in this Article 3.1, the Preference Shares shall confer no right to participate in the profits of the Company.

3.2 Capital

- 3.2.1 On a return of capital whether on liquidation or capital reduction or otherwise (other than a redemption or purchase of shares in accordance with these Articles) the provisions of Article 6.1 shall apply.
- 3.2.2 Save as provided in Article 6.1, the Preference Shares shall confer no right to participate in the assets of the Company.

3.3 Redemption

- (a) Subject to the provisions of the Act and to the remaining provisions of this Article 3.3:-
 - (i) the Company shall only have the right to redeem after the seventh anniversary of the date of Adoption of these Articles and from time to time thereafter the whole or any part of the Preference Shares from time to time issued and outstanding;

- (ii) Not less than 28 days prior to any redemption of Preference Shares under Article 3.3(a)(i) the Company shall give notice to the Preference Shareholders specifying the total amount of Preference Shares to be redeemed on that occasion, the number of such holder's Preference Shares to be redeemed in accordance with that Article, the applicable redemption date and the place at which the certificates for such Preference Shares are to be presented for redemption.
- (iii) Unless previously redeemed the Company shall redeem the Preference Shares on the tenth anniversary of the date of adoption of these Articles.
- (iv) the Company shall redeem all the Preference Shares then in issue immediately prior to, and conditionally upon, the occurrence of any of the following:-
 - 1) Listing; or
 - 2) (unless the Investors otherwise agree) the appointment of a receiver, manager or administrative receiver over all or any part of the assets of any member of the Group or the appointment of a liquidator or administrator over any member of the Group.
- (b) On redemption of the Preference Shares, the provisions of Article 6.1 shall apply. Upon receipt of any amount pursuant to Article 6.1, the holder shall deliver to the Company for cancellation the certificate(s) for those shares or an indemnity in form reasonably satisfactory to the Company in respect of any missing share certificate. If any share certificate delivered to the Company includes any shares not redeemable at that time, the Company shall forthwith issue to the holder at the same time a fresh certificate for the balance of the shares not redeemed without charge. Any redemption of Preference Shares under this Article 3.3 shall take place at the registered office of the Company.
- (c) In the case of a redemption of less than all the Preference Shares for the time being in issue, the Company shall redeem the same proportion (as nearly as practicable) of each Shareholder's registered holdings of Preference Shares, any fractions otherwise arising to be determined (in the absence of agreement between such Shareholders) by lot supervised by the Board.
- (d) If the Company is permitted by the Act to redeem only some of the Preference Shares which would otherwise fall to be redeemed at any time, the Company shall only redeem that number of such shares that it can so redeem at that time. The Company shall redeem, as soon thereafter as it may do so, all the remaining Preference Shares so to be redeemed, and pending such redemption, shall not pay any dividend on any other class of Shares but without prejudice to the accrual of such dividend(s) or any consequence under these Articles of the late payment of the same.
- (e) If any Shareholder whose Preference Shares are liable to be redeemed under this Article 3.3 fails to deliver to the Company the documents referred to in Article 3.3 (b), the Company shall retain the redemption monies payable to that Shareholder on trust for that Shareholder (but without obligation to invest or earn or pay interest in respect of the same) until it receives such documents. The Company shall then pay such redemption monies to the relevant Shareholder upon receipt of such documents.

- (f) If the Company fails for any reason and whether or not such redemption is prohibited by the Act to redeem any Preference Shares which fall to be redeemed on a particular date, the redemption price shall be increased at a rate of 4 per cent per annum above the base rate of the Bank for the time being calculated on a daily basis and compounded on 31 March, 30 June, 30 September and 31 December in each year.

3.4 **Voting**

The holders of the Preference Shares shall be entitled to receive notice of and to attend and speak at any general meetings of the Company. They shall not by virtue of such holding be entitled to vote on any resolution at any general meeting of the Company.

4 **DEFERRED SHARES**

The rights attached to the Deferred Shares are as follows:-

4.1 **Dividend**

The Deferred Shares shall confer upon their holders no right to receive any dividend.

4.2 **Capital**

The Deferred Shares shall confer upon their holders no right to receive any return of capital whether on a liquidation, a return of capital or otherwise.

4.3 **Voting**

The holders of Deferred Shares shall not be entitled to vote on any resolution at any general meeting of the Company.

5 **ORDINARY SHARES**

The rights attached to the Ordinary Shares are as follows:-

5.1 **Dividend**

- 5.1.1 Subject to 1) the payment of all sums due in respect of the Preference Shares and the Cashflow Shortfall Loans and 2) Article 5.3 below, there shall be paid, within 4 months of the end of the relevant financial year, to the holders of the A Shares, B Shares and C Shares, in respect of a financial year, firstly, an amount equal to the Super Profit available to be distributed (the "**Super Profit Dividend**") in the following proportions (calculated as between the holders of shares of the same designation by reference to the nominal value of the relevant Ordinary Shares of that designation held):-

Holders of Ordinary Shares	%
A Shares	25
B Shares	25
C Shares	50

provided that no Super Profit Dividend will be paid to the extent that there is a cumulative Income Deficit.

- 5.2 Subject to payment of all sums due in respect of the Preference Shares, and payment of the Super Profit Dividend, there shall be paid, within 4 months of the end of the relevant financial year, to the holders of the A Shares, B Shares and the C Shares, in respect of a financial year, an amount equal to the Capital Surplus available to be distributed, (the "**Capital Surplus Dividend**") in proportion to the nominal value of the relevant Ordinary Shares held).

5.3 **Shortfall**

If the Company does not have sufficient distributable profits and reserves to enable it to distribute the entire Capital Surplus to Shareholders, the Super Profit Dividend and the Capital Surplus Dividend shall be paid to the holders of A Shares, B Shares and C Shares on a pro rata basis such that each of the Super Profit Dividend and the Capital Surplus Dividend will be paid in the proportion by which the actual distributable profits and reserves bears to the aggregate of the Super Profit Dividend and the Capital Surplus Dividend.

5.4 **Capital**

On a return of capital whether on liquidation or capital reduction or otherwise (other than a purchase of shares in accordance with these Articles) the provisions of Article 6.1 shall apply.

5.5 **Voting**

Each holder of the Ordinary Shares shall be entitled to receive notice of and to attend and speak at any general meetings of the Company and a holder of Ordinary Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by duly authorised representative or by proxy shall, on a show of hands, have one vote each, and, on a poll, have one vote for each Ordinary Share of which he is the holder.

6 **PROVISION ON SALE OR RETURN OF CAPITAL**

- 6.1 On a Sale or return of capital whether on liquidation, redemption or capital reduction or otherwise the provisions of this Article 6.1 shall apply to determine the allocation of the proceeds of such Sale, or such return of capital.

- 6.1.1 On a Sale, the Shareholders selling Shares shall (unless otherwise agreed by the Investors) pay the proceeds thereof into a joint account at the Bank.

- 6.1.2 On such Sale or on a return of capital such proceeds shall as between the Shareholders be allocated and paid to them as follows:-

- (a) first, in repaying the Cashflow Shortfall Loans to the holders of Preference Shares;
- (b) secondly, in paying to Preference Shareholders an amount equal to accruals or arrears of the Preference Dividend and interest thereon in respect of the Preference Shares sold (whether or not the Company was legally able to pay the same);
- (c) thirdly, in repaying the Shareholder Loans (less the sum of £300,000, advanced under the Shareholder Loans and applied in paying fees to each of TBH Investments Limited and Uberior Ventures Limited, pursuant to clause 3.9 of the Shareholders' Agreement) to the holders of Preference Shares;
- (d) fourthly, in paying to the holders of Preference Shares an amount equal to the Issue Price;

- (e) fifthly, in paying to the holders of Ordinary Shares an amount equal to any Super Profit Dividend declared but unpaid thereon (whether or not the Company was legally able to pay the same);
- (f) sixthly, in paying to the holders of Ordinary Shares an amount equal to any Capital Surplus Dividend declared but unpaid thereon;
- (g) seventhly, in paying to the holders of Ordinary Shares any remaining assets of the Company available for distribution; and
- (h) lastly, in paying to the holders of Ordinary Shares an amount equal to the nominal value thereof.

7 VARIATION OF CLASS RIGHTS

- 7.1 Whenever the capital of the Company is divided into different classes of shares, the special rights attached to any class may (unless otherwise provided by the terms of issue of the shares of that class) be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding up, with the consent in writing of the holders of three quarters of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the issued shares of that class, but not otherwise.
- 7.2 To every separate general meeting referred to in Article 7.1 all the provisions of these Articles relating to general meetings of the Company and to the proceedings at those meetings shall, with the necessary changes, apply, except that:-
- (a) the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy not less than 10% in nominal amount of the issued shares of the class (unless only one person holds issued shares of the class in which event such quorum shall be one person holding such shares);
 - (b) at an adjourned meeting the necessary quorum shall be one person holding shares of the class or his proxy;
 - (c) the holders of shares of the relevant class shall on a poll have one vote in respect of every share of that class held by them respectively; and
 - (d) a poll may be demanded by any holder of shares of the class whether present in person or by proxy.
- 7.3 Without prejudice to the generality of Article 7.1, the special rights attached to the Preference Shares shall each be deemed to be varied at any time by any of the following:-
- (a) an increase, reduction or other alteration in the authorised or issued share capital of the Company or any other member of the Group or a variation in the rights attaching to any class thereof;
 - (b) other than a grant of options to subscribe for Shares in the Company on the date of adoption of these Articles, the grant of an option to subscribe for shares in the Company or any other member of the Group or the issue of any securities or instruments convertible into shares in any such company;

- (c) other than pursuant to the Facilities and other than in the ordinary course of the Company's or any member of the Group's business, the creation by the Company or any other member of the Group of any mortgage, charge, pledge, lien, encumbrance or other security interest (excluding an interest arising by operation of law in the ordinary course of business);
- (d) the Group Borrowings exceeding the limit imposed by Article 23;
- (e) the making of any material change (including cessation) in the nature of the business of the Group taken as a whole;
- (f) the alteration of the memorandum of association of the Company or these Articles or the passing of any special or extraordinary resolution of the Shareholders;
- (g) the declaration or payment of any dividend or the making of any other distribution in respect of the profits, assets or reserves of the Company or any other member of the Group other than the Preference Dividend or the dividend payable in respect of Ordinary Shares, and the redemption of Preference Shares in accordance with these Articles;
- (h) the institution of any proceedings for, or the passing of any resolution for the winding up or administration of the Company or any other member of the Group;
- (i) the removal of any director other than pursuant to Article 19 hereof;
- (j) a Sale, Disposal or Listing;
- (k) the registration or purported registration of any transfer of any share or interest therein other than as expressly permitted by these Articles;
- (l) by any alteration to the restriction on the powers of the directors contained in Article 21;
- (m) by the application by way of capitalisation of any sum in or towards paying up any debenture or debenture stock of the Company;
- (n) by the passing of any resolution to approve a contract by the Company to purchase any of its shares;
- (o) by any change in the accounting reference date of the Company;
- (p) the appointment or removal of any director or officer of the Company or any subsidiary of the Company other than pursuant to any contractual arrangement between the Shareholders of which the Directors are aware.

8 ISSUE OF SHARES

- 8.1 Subject to the Act and to Articles 7.1 and 7.3, all unissued Shares in the Company shall be under the control of the directors and they may offer, allot, grant rights or warrants to, subscribe for, grant options over, or otherwise deal with or dispose of unissued Shares in the Company to such persons and generally on such terms in such manner and at such time as they may determine.
- 8.2 Section 89(1) and Sections 90(1) to (6) of the Act shall not apply to the Company.

8.3 Subject as provided in Article 8.1, the Directors of the Company are hereby authorised pursuant to section 80 of the Act generally to exercise each and every power of the Company to allot and issue relevant securities (as defined in that section) up to a maximum amount in nominal value of ££4,005,226 divided into a maximum of 1161 A Shares, 1065 B Shares, 1000 C Shares, 4,000,000 Preference Shares and 2000 Deferred Shares, such authority to expire on the day immediately preceding the fifth anniversary of the adoption of these Articles.

8.4 The Company is hereby allowed to make before the authority conferred by Article 8.3 has expired one or more offers or agreements which would or might require relevant securities (as so defined) to be allotted after such authority has expired and the Directors may allot relevant securities (as so defined) after such authority conferred by Article 8.3 has expired in pursuance of each and every such offer or agreement made by the Company.

8.5 The authority conferred by this Article 8 is in substitution for each (if any) other authority already given pursuant to the said section 80 whether contained in earlier articles of association of the Company or otherwise and each (if any) such earlier authority is hereby revoked but without prejudice to the validity of any allotment offer or agreement made pursuant to any such earlier authority before the date of adoption of these Articles.

9 LIEN

9.1 The lien conferred by Regulation 8 shall attach to all Shares of any class if such Shares are not fully paid for all moneys (whether presently payable or not) payable at a fixed time or called in respect of those Shares.

9.2 All Shares to be sold in the enforcement of the Company's lien or rights of forfeiture shall be offered in accordance with Article 13 as if a Deemed Transfer Notice were deemed given in respect of such Shares.

10 TRANSFER OF SHARES - GENERAL PROVISIONS

10.1 The Board shall not register the transfer of any Share or any interest in any Share unless the transfer is permitted by and is made in accordance with these Articles and is not prohibited under Article 14.

10.2 For the purpose of ensuring that a transfer of Shares is in accordance with these Articles or that no circumstances have arisen whereby a Shareholder may be bound to give or be deemed to have given a Transfer Notice the Board may from time to time require any Shareholder or any person named as transferee in any transfer lodged for registration to furnish to the Board such information and evidence as they deem relevant for such purpose.

10.3 Failing such information or evidence being furnished to their reasonable satisfaction within a reasonable time after request under Article 10.2 the Board may (with the approval of the Investors) in their absolute discretion refuse to register the transfer in question or (with the approval of each of the Investors where no transfer is in question) require by notice in writing to the Shareholder(s) concerned that a Transfer Notice be given in respect of the Shares concerned.

10.4 If such information or evidence requested under Article 10.2 discloses to the satisfaction of the Board in their absolute discretion (with the approval of each of the Investors) that circumstances have arisen whereby a Shareholder may be bound to give or be deemed to have given a Transfer Notice the Board may in their absolute discretion (with the approval of each of the Investors) by notice in writing to the Shareholders concerned require that a Transfer Notice be given in respect of the Shares concerned.

10.5 An obligation to transfer a Share under these Articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free from any lien, charge or encumbrance.

10.6 Regulations 30 and 31 shall be modified to reflect the provisions of this Article 10 and Articles 11 to 15 (inclusive).

11 PERMITTED TRANSFERS

11.1 For the purposes of Article 11:-

- (a) **"Family Member"** means, in relation to a Shareholder, any of his spouse (or widow or widower), children and grandchildren (including step and adopted children and grandchildren);
- (b) **"Family Trust"** means, in relation to a Shareholder, a trust which does not permit any of the settled property or the income from it to be applied otherwise than for the benefit of that Shareholder or any of his Family Members and under which no power of control over the voting powers conferred by any Shares, the subject of the trust is capable of being exercised by, or being subject to the consent of, any person other than the trustees or such Shareholder or any of his Family Members;
- (c) **"a member of the same group"** means, in relation to a body corporate, any other body corporate which is for the time being a holding company of that body corporate or a subsidiary of that body corporate or a subsidiary of any holding company of which that body corporate is also a subsidiary;
- (d) **"permitted transfer"** means any transfer of Shares expressly permitted under this Article 11;
- (e) **"Family Shares"** means, in relation to a Shareholder, any Shares for the time being held by that Shareholder or any of his Family Members or trustees of his Family Trust;
- (f) **"TBH Partnership"** means any partnership in which Thomas Blane Hunter owns not less than a 75% economic and voting interest;
- (g) **"Thomas Blane Hunter"** means Thomas Blane Hunter of the Paddock, Southwood Road, Troon.

11.2

- (a) Subject to Articles 11.2(b) to 11.2(d) (inclusive) and to Article 14, any Shareholder who is an individual may at any time transfer Shares originally allotted to and still held by him to a person or persons shown to the reasonable satisfaction of the Board to be:
 - (i) a Family Member of his; or
 - (ii) trustees to be held under a Family Trust for that Shareholder.
- (b) No transfer of Shares shall be made under Article 11.2(a):
 - (i) unless the Investors have confirmed in writing their satisfaction:-

- 1) with the terms of the instrument constituting the relevant family trust and in particular with the powers of the trustees including but not limited to the express power to give warranties and indemnities on any disposal of trust property;
 - 2) with the identity of the trustees and the procedures for the appointment and removal of trustees;
 - 3) with the restrictions on changes in the terms of the trust instrument and on distributions by the trustees; and
 - 4) that none of the costs incurred in establishing or maintaining the relevant Family Trust will be payable by any member of the Group; and
- (ii) unless the aggregate number of Shares held by that Shareholder following that transfer exceeds the aggregate number of Shares held by that Shareholder's Family Trusts and Family Members.
- (c) Where Shares are held by trustees under a Family Trust:-
- (i) those Shares may, on any change of trustees, be transferred by those trustees to any new trustee of that Family Trust whose identity has been approved in writing by the Investors;
 - (ii) those Shares may at any time be transferred by those trustees to the settlor of that trust or any other person to whom the settlor could have transferred them under Article 11.2(a) if he had remained the holder of them; and
 - (iii) if and whenever any of those Shares cease to be held under a Family Trust (other than by virtue of a transfer made under Article 11.2(c)(ii)), the trustees shall forthwith give a Transfer Notice (as defined in Article 12.2) in respect of all the Shares then held by those trustees and in any event within 28 days of the Shares ceasing to be so held.
- (d) If any person has acquired Shares as a Family Member of a Shareholder by way of one or more permitted transfers and that person ceases to be a Family Member of that Member, that person shall forthwith transfer all the Shares then held by that person back to that Shareholder, for such consideration as they agree, within 28 days of the cessation or, in default of such agreement, at the Market Value (calculated in accordance with Article 12.15).
- (e) If the personal representatives of a deceased Shareholder are permitted under these Articles to become registered as the holders of any of the deceased Shareholder's Shares and elect to do so, such Shares may at any time be transferred by those personal representatives under this Article 11.2 to any person to whom the deceased Shareholder could have transferred such Shares under this Article 11 if he had remained the holder of them. No other transfer of such Shares by personal representatives shall be permitted under this Article 11.

11.3

- (a) Any Member which is a body corporate may at any time transfer any Shares held by it to a member of the same group.

- (b) Where Shares have been transferred under Article 11.3(a) (whether directly or indirectly or by a series of such transfers) from a Shareholder (the "**Transferor**") to a member of the same group as the Transferor (the "**Transferee**") and subsequent to such transfer the Transferee ceases to be a member of that group the Transferee shall forthwith transfer all the Shares held by it to the Transferor, for such consideration as they agree and if they do not do so within 28 days of the date upon which the Transferee ceases to be a member of the same group the directors may with the consent of the Investors require the Transferee to serve a Transfer Notice in respect of such Shares.
- 11.4 TBH Investments Limited may transfer Shares at any time to:
- 11.4.1 a TBH Partnership;
- 11.4.2 any company, control over which is at the relevant time exercised by Thomas Blane Hunter or a TBH Partnership;
- 11.4.3 any trust of which Thomas Blane Hunter is a trustee, or the settlor or the beneficiary.
- 11.5 Notwithstanding any other provision of these articles, TBH Investments Limited and Uberior Ventures Limited may transfer up to 20% of the Shares originally allotted and now held by them to any Syndicatee without restrictions as to price.
- 11.6 Notwithstanding any other provisions of these articles, any C Shareholder may transfer C Shares to any other C Shareholder or any other person being an employee or Director of the Company or a Subsidiary thereof, with the prior written approval of the holders of not less than 75% in nominal value of the C Shares comprising (1) Employees and Directors of the Company or a Subsidiary, whose Permitted Transferees shareholdings will be counted towards their shareholdings for this purpose; and (2) Nicholas Hewson, whose Permitted Transferees shareholdings shall be counted towards his shareholding for this purpose.
- 11.7 Notwithstanding any other provisions of these Articles, the Directors shall register any transfer of Shares validly made:
- 11.7.1 Pursuant to Clause 10 of the Shareholders Agreement;
- 11.7.2 Pursuant to Article 12, Article 13 or Article 15 hereof.
- 11.8 Any transfer of any Share pursuant to this Article 11 shall only be treated as a permitted transfer for the purposes of these Articles if it is a transfer of the entire legal and beneficial interest in such share, free from any lien, charge or other encumbrance (save for any interest of beneficiaries under the relevant Family Trust, where applicable).

12 VOLUNTARY TRANSFERS

- 12.1 Other than Permitted Transfers, no transfer of any Shares shall be registered during the period from the date of adoption of these Articles until the seventh anniversary of the date of such adoption unless with the consent of each Investor and holders of not less than 51 % the C Shares comprising (1) Employees and Directors of the Company or a Subsidiary, whose Permitted Transferees shareholdings will be counted towards their shareholdings for this purpose; and (2) Nicholas Hewson, whose Permitted Transferees shareholdings shall be counted towards his shareholding for this purpose.
- 12.2 Subject to Article 12.1 any Shareholder who wishes to transfer any Share other than Deferred Shares (which are not transferable) (a "**Vendor**") shall before transferring or

agreeing to transfer such Share or any interest in it, serve notice in writing (a "**Transfer Notice**") on the Company of his wish to make that transfer.

12.3 In the Transfer Notice the Vendor shall specify:-

- (a) the number of Shares which he wishes to transfer ("**Sale Shares**");
- (b) the identity of the person (if any) to whom the Vendor wishes to transfer the Sale Shares;
- (c) the price per share at which the Vendor wishes to transfer the Sale Shares (the "**Proposed Price**");
- (d) any other terms relating to the transfer of the Sale Shares; and
- (e) whether the Transfer Notice is conditional upon all (and not part only) of the Sale Shares being sold pursuant to the following provisions of this Article 12 (a "**Total Transfer Condition**").

12.4 Each Transfer Notice shall:

- (a) relate to one class of Share only;
- (b) constitute the Company as the agent of the Vendor for the sale of the Sale Shares on the terms of this Article 12;
- (c) save as provided in Article 12.6, be irrevocable; and
- (d) not contain or be deemed to contain a Total Transfer Condition unless the same is both expressly stated therein and permitted by these Articles.

12.5 The Sale Shares shall be offered for purchase in accordance with this Article 12 at a price per Sale Share (the "**Sale Price**") agreed between the Vendor and the Board (with the approval of the A Directors and the B Directors) or, in default of such agreement by the end of the 20th business day after the date of service of the Transfer Notice, the lower of:

- (a) the Proposed Price, in which case for the purpose of these Articles the Sale Price shall be deemed to have been agreed at the end of that 20th business day; and
- (b) if the Board so elects within that 20 business day period after the date of service of the Transfer Notice, the price per share reported on by the Valuers as their written opinion of the open market value of each Sale Share in accordance with Article 12.15 (the "**Market Value**") as at the date of service of the Transfer Notice (in which case for the purposes of these Articles the Sale Price shall be deemed to have been determined on the date of the receipt by the Company of the Valuer's report.

12.6 If the Market Value is reported on by the Valuers under Article 12.5(b) to be less than the Proposed Price, the Vendor may revoke the Transfer Notice by written notice given to the Board within the period of 7 business days after the date the Board serves on the Vendor the Valuers' written opinion of the Market Value (the "**Withdrawal Period**").

12.7 The Board shall at least 10 business days after and no more than 20 business days after the Sale Price has been agreed or determined give an Offer Notice to all Shareholders to whom the Sale Shares are to be offered in accordance with these Articles (whether first or second stage offerees).

12.8 An Offer Notice shall expire 15 business days after its service and shall:-

- (a) specify the Sale Price;
- (b) contain the other information set out in the Transfer Notice; and
- (c) invite the relevant offerees to apply in writing, before expiry of the Offer Notice, to purchase the numbers of Shares specified by them in their application.

12.9 Sale Shares of a particular class or designation specified in column (1) in the table below shall be offered:-

- (a) in the first instance to all persons in the category set out in the corresponding line in column (2) in the table below; and
- (b) to the extent not accepted by persons in column (2), to all persons in the category set out in the corresponding line in column (3) in the table below, (but no Shares shall be treated as offered to the Vendor or any other Shareholder who is then bound to give, has given or is deemed to have given a Transfer Notice):-

(1) Designation or Class of Shares	(2) First Stage Offer to	(3) Second Stage Offer to
A Shares	A Shareholders	Shareholders holding Ordinary Shares pro rata to their holdings
B Shares	B Shareholders	Shareholders holding Ordinary Shares pro rata to their holdings
C Shares	C Shareholders	No further Offer round
Preference Shares	Preference Shareholders	Shareholders holding Ordinary Shares pro rata to their holdings

12.10 After the expiry date of the Offer Notice, (or, if earlier, after valid applications being received for all the Sale Shares in accordance with Article 12.8), the Board shall, in the priorities and in respect of each class of persons set out in the columns in the table in Article 12.9, allocate the Sale Shares in accordance with the applications received, subject to the other provisions of these Articles and Table A, save that:-

- (a) if there are applications from any class of offerees for more than the number of Sale Shares available for that class of offerees, they shall be allocated to those applicants in proportion (as nearly as possible but without allocating to any Shareholder more Sale Shares than the maximum number applied for by him) to the number of Shares of the class which entitles them to receive such offer then held by them respectively.
- (b) if it is not possible to allocate any of the Sale Shares without involving fractions, they shall be allocated amongst the applicants of each class in such manner as the Board shall think fit;

- (c) if the Transfer Notice contained a Total Transfer Condition, no allocation of Sale Shares shall be made unless all the Sale Shares are allocated.
- 12.11 If after the expiry date of the last Offer Notice any of the Sale Shares remain unallocated, these shall remain with the Vendor.
- 12.12 Within 5 business days of the expiry date of the last Offer Notice, the Board shall give notice in writing (a "Sale Notice") to the Vendor and to each person to whom Sale Shares have been allocated (each a "Purchaser") specifying the name and address of each Purchaser, the number of Sale Shares agreed to be purchased by him and the total price payable for them.
- 12.13 Completion of a sale and purchase of Sale Shares pursuant to a Sale Notice shall take place at the registered office of the Company at the time specified in the Sale Notice when the Vendor shall, upon payment to him by a Purchaser of the Sale Price in respect of the Sale Shares allocated to that Purchaser, transfer those Sale Shares and deliver the relative share certificates to that Purchaser.
- 12.14 If a Vendor fails for any reason (including death) to transfer any Sale Shares when required pursuant to this Article 12:-
 - (a) the Board may authorise any person (who shall be deemed to be irrevocably appointed as the attorney of that Vendor for the purpose) to execute the necessary transfer of such Sale Shares and deliver it on the Vendor's behalf;
 - (b) the Company may receive the purchase money for such Sale Shares from the Purchaser and shall upon receipt (subject, if necessary, to the transfer being duly stamped) register the Purchaser as the holder of such Sale Shares;
 - (c) the Company shall hold such purchase money in a separate bank account on trust for the Vendor but shall not be bound to earn or pay interest on any money so held;
 - (d) the Company's receipt for such purchase money shall be a good discharge to the Purchaser who shall not be bound to see to the application of it; and
 - (e) after the name of the Purchaser has been entered in the register of Shareholders in purported exercise of the power conferred by this Article 12.14, the validity of the proceedings shall not be questioned by any person.
- 12.15 If instructed to report on their opinion of Market Value under Article 12.5(b) the Valuers shall:-
 - (a) act as expert and not as arbitrator and their written determination shall be final and binding on the Shareholders (except in the case of manifest error); and
 - (b) proceed on the basis that the open market value of each Sale Share shall be the sum which a willing purchaser would agree with a willing vendor to be the purchase price for all the class of Shares of which the Sale Shares forms part, divided by the number of issued Shares then comprised in that class but so that for this purpose the Ordinary Shares shall be valued as if they were sold ex dividend but taking no account of any premium or any discount by reference to the size of the holding the subject of the Transfer Notice or in relation to any restrictions on the transferability of the Sale Shares.

12.16 The Company will use its reasonable endeavours to procure that the Valuers deliver their written opinion of the Market Value to the Board and to the Vendor within 28 days of being requested to do so.

12.17 The Valuers' fees for reporting on their opinion of the Market Value shall be paid as to one half by the Vendor and as to the other half by the Purchasers *pro rata* to the number of Sale Shares purchased by them unless:-

(a) the Vendor revokes the Transfer Notice pursuant to Article 12.6; or

(b) none of the Sale Shares are purchased pursuant to this Article 12

when the Vendor shall pay all the Valuers' fees.

13 **COMPULSORY TRANSFER**

13.1 In this Article 13, a "**Transfer Event**" occurs, in relation to any Shareholder:-

(a) if that Shareholder being an individual who does not hold any office or employment with a member of the Group:-

(i) has a bankruptcy order made against him or is declared bankrupt by any court of competent jurisdiction; or

(ii) dies; or

(iii) suffers from mental disorder and is admitted to hospital or becomes subject to any court order referred to in Regulation 81(c) of Table A;

and within the following twelve months the Board resolves that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 13; or

(b) if that Shareholder being an individual who holds office or employment with a member of the Group:

(i) makes or offers or purports to make any arrangement or composition with his creditors generally; or

(ii) has a bankruptcy order made against him or is declared bankrupt by any court of competent jurisdiction ;

and within the following twelve months the Board resolves that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 13; or

(c) if that Shareholder being a body corporate:-

(i) has a receiver, manager or administrative receiver appointed over all or any part of its undertaking or assets;

(ii) has an administrator appointed in relation to it; or

(iii) enters into liquidation (other than a voluntary liquidation for the purpose of a *bona fide* scheme of solvent amalgamation or reconstruction); or

(iv) has any equivalent action in respect of it taken in any jurisdiction;

and within the following twelve months the Board resolves that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 13; or

- (d) subject to Article 13.7, if a Shareholder who is at any time a director or employee of a member of the Group:-
 - (i) ceases to hold such office or employment; and
 - 1) does not remain or thereupon immediately become a director or employee of another member of the Group; and
 - 2) the Board shall resolve within the twelve month period following an event referred to in Article 13.1(d)(i)(1) that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 13; or
 - (ii) is deemed by the Investors, acting reasonably, to have failed to perform any material obligation or committed a material breach of the Shareholders Agreement, and such failure or breach is not remedied within 30 days from the date when the failure or breach came to the notice of the Investors; and the Board shall have resolved within the twelve month period following such event that such event is a Transfer Event in relation to the Shareholding for the purposes of this Article 13;
- (e) if a Shareholder shall attempt to deal with or dispose of any Share or any interest in it otherwise than in accordance with Article 11, Article 12 and this Article 13 or Article 14 and within the following twelve months the Board resolves that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 13; or
- (f) if a Shareholder shall for any reason not give a Transfer Notice in respect of any Shares or transfer any Shares (as the case may be) as required by Article 12.3, and 12.4 and within the following twelve months the Board resolves that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 13; or
- (g) if a Shareholder or any Family Member or the trustees of any Family Trust of a Shareholder shall attempt to deal with or dispose of any Share or any interest in it otherwise than in accordance with Article 11, Article 12 and this Article 13 or in breach of Article 14 or Article 15 and within the following twelve months the Board resolves that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 13.

13.2 Upon the giving of a notification or passing of resolution under Article 13.1 that the same is a Transfer Event the Shareholder in respect of whom it is a Transfer Event (the "**Relevant Shareholder**") shall be deemed to have immediately given a Transfer Notice in respect of all the Shares then held by such Shareholder(s) (a "**Deemed Transfer Notice**"), (which expression includes a Transfer Notice given under Article 11.2.(c) (iii).

13.3 A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice.

- 13.4 Notwithstanding any other provision of these Articles, any Shareholder holding Shares in respect of which a Deemed Transfer Notice is deemed given shall not be entitled to exercise any voting rights at general meetings of the Company in respect of those Shares on and from the date of the relevant Deemed Transfer Notice until the entry in the register of members of the Company of another person as the holder of those Shares.
- 13.5 The Shares the subject of a Deemed Transfer Notice shall be offered for sale in accordance with Article 12 as if they were Sale Shares in respect of which a Transfer Notice had been given and treating as the Vendor the person who is deemed to have given the Deemed Transfer Notice save that:-
- (a) the Sale Price shall be calculated in accordance with Article 13.7;
 - (b) a Deemed Transfer Notice shall be deemed not to contain a Total Transfer Condition and shall be irrevocable whether under Article 13.5 or otherwise;
 - (c) the Vendor may retain any Sale Shares for which Purchasers are not found;
 - (d) the Sale Shares shall be sold together with all rights, attaching thereto as at the date of the Transfer Event, including the right to any dividend declared or payable on those Shares after that date; and
 - (e) Article 15 shall apply.
- 13.6 The Sale Price for any Sale Shares which are the subject of a Deemed Transfer Notice given as a consequence of a Transfer Event:
- (a) falling within Articles 13.1(a) – (c) and (e) – (g) shall be the greater of Market Value or price ascertained pursuant to Clause 13.6(b)(i);
 - (b) falling within Article 13.1(d) shall:-
 - (i) if the Relevant Shareholder is a Good Leaver (as defined in Article 13.8) be, in respect of Ordinary Shares, an amount equal to (A) his accrued dividend entitlement for the financial period in which the Transfer Event took place, as certified by the Valuers plus (B) in the event that such Relevant Shareholder has been employed by any member of the Group without payment of salary, an amount equal to the salary which he would have earned during the period from the date of adoption of these Articles up to the date of ceasing to hold office as a director or employee, calculated on the basis of the salary payable to such Relevant Shareholder at the end of the salary free period pursuant to his service agreement with a member of the Group, which sum shall be payable one month after the signing of the accounts for the period in which the Transfer Event took place; and
 - (ii) if the Relevant Shareholder is a Bad Leaver (as defined in Article 13.8) be (unless the directors resolve otherwise) an amount equal to the lesser of any dividend entitlement relating to any Shares held by such Shareholder and the nominal value of such Shares;
- 13.7 A dispute as to whether Article 13.6(a) or Article 13.6(b) applies to any Sale Shares shall not affect the validity of a Deemed Transfer Notice but any person who acquires Sale Shares (the "Purchaser") pursuant to a Deemed Transfer Notice while such a dispute is continuing shall pay to the Vendor the price calculated in accordance with Article 13.6(b) (assuming,

that the Relevant Shareholder is a Bad Leaver) and shall pay the amount of the difference in prices to the Company. The Company shall hold that price difference in a separate bank deposit account as trustee to pay it, and interest earned thereon, upon final determination of the dispute as follows:-

- (a) to the Purchaser(s) in the case of a Bad Leaver; and
- (b) to the Vendor in the case of a Good Leaver

provided always that if the Vendor and the Purchaser(s) otherwise agree in writing and notify such agreement to the Company it shall hold and deal with the monies paid into such account and interest as such agreement and notice may specify even though the issue of whether the Relevant Shareholder was a Good Leaver or a Bad Leaver has not been resolved.

13.8 In Articles 13.7 and 13.8:

- (a) **"Good Leaver"** means a Relevant Shareholder who ceases to be a director or employee (other than a person who has been declared bankrupt):-

- (i) prior to the date set out against his name in column (4) of Annexure 1 to these Articles (the **"Relevant Date"**) as a result of:-

- 1) death, illness (including mental illness), permanent disability, permanent incapacity through ill-health; or
 - 2) wrongful dismissal;
 - 3) in circumstances where he has been dismissed from employment and such dismissal is found to have been unfair by any industrial tribunal or any appellate body thereof;
 - 4) where he is given notice in accordance with the terms of his service agreement other than for gross misconduct or dishonesty; or
 - 5) where he is made redundant;

or

- (ii) on or after the Relevant Date, for any reason, but for the avoidance of doubt other than circumstances referred to in Article 13.1 (d) (ii).

- (b) **"Bad Leaver"** refers to any Relevant Shareholder (other than a Good Leaver) who for any reason and in any circumstances ceases to hold such office before the Relevant Date or otherwise falls within the circumstances set out in Article 13.1 (d) (ii) and following which is a Relevant Shareholder in respect of whom a Transfer Event occurs.

13.9 For the purpose of Article 13.1(d), the date upon which a Shareholder ceases to hold office as a director or as an employee shall:-

- (a) where the employer terminates or purports to terminate a contract of employment by giving notice to the employee of the termination of the employment, (whether or not the same constitutes a wrongful or unfair dismissal), be the date of that notice or, if later, the date (if any) for the termination expressly stated in such

notice (whether or not a payment is made by the employer in lieu of all or part of the notice period required to be given by the employer in respect of such termination);

- (b) where the employee terminates or purports to terminate a contract of employment by giving notice to the employer of the termination of the employment (whether or not he is lawfully able so to do), be the date of that notice or, if later, the date (if any) for the termination expressly stated in such notice;
- (c) subject to Article 13.9(a) and 13.9(b) where an employer or employee wrongfully repudiates the contract of employment and the other respectively accepts that the contract of employment has been terminated, be the date of such acceptance by the employee or employer respectively;
- (d) where a contract of employment is terminated under the doctrine of frustration, be the date of the frustrating event; and
- (e) where a contract of employment is terminated for any reason other than in the circumstances set out in Article 13.9(a) to (d) (inclusive) be the date on which the action or event giving rise to the termination occurs.

- 13.10 A Bad Leaver who ceases to hold office before the Relevant Date applicable to him shall within 5 days of cessation of employment or office as a director (unless the directors resolve otherwise) subscribe for a number of Deferred Shares at nominal value calculated in accordance with the formula set out below and using the matrix of figures set out in Annexure 1 as follows:-

$$N = A \times ((B-C)/B)$$

where

N= equals the number of Deferred Shares to be subscribed for at par;

A is the figure set out in column 2 of Annexure 1 set out against the relevant Shareholder's name;

B is the number set out in column 3 of Annexure 1 set out against the relevant Shareholder's name;

C is the number of days actually worked by the relevant Shareholder since the date of adoption of these Articles.

14 **PROHIBITED TRANSFERS**

Notwithstanding any other provision of these Articles, no transfer of any Share shall be registered if it is to any minor, undischarged bankrupt, trustee in bankruptcy or person of unsound mind.

15 **DRAG ALONG**

- 15.1 If the A Shareholder, the B Shareholder and Shareholders holding not less than 51 % of the C Shares then in issue comprising (1) Employees and Directors of the Company or a Subsidiary, whose Permitted Transferees shareholdings will be counted towards their shareholdings for this purpose; and (2) Nicholas Hewson, whose Permitted Transferees shareholdings shall be counted towards his shareholding for this purpose, (together the

"Selling Shareholders") wish to transfer all their Ordinary Shares (the "Relevant Shares"), the Selling Shareholders shall have the option (the "Drag Option") to require all the other holders of Shares to transfer all their shares with full title guarantee to a third party purchaser (the "Third Party Purchaser") or as the Third Party Purchaser shall direct in accordance with this Article 15.

- 15.2 The Selling Shareholders may exercise the Drag Option by giving notice to that effect (a "Drag Notice") to all other Shareholders (the "Dragged Shareholders") at any time before the registration of the relevant transfer of Shares. A Drag Notice shall specify that the Dragged Shareholders are required to transfer all their Shares (the "Dragged Shares") pursuant to this Article 15 to the Third Party Purchaser, the price at which the Dragged Shares are to be transferred (determined in accordance with Article 15) the proposed date of transfer and the identity of the Third Party Purchaser.
- 15.3 A Drag Notice shall be irrevocable but the Drag Notice and all obligations thereunder will lapse if for any reason the transfer of Shares by the Selling Shareholders to the Third Party Purchaser has not been registered within 20 days after the date of the Drag Notice.
- 15.4 The Dragged Shareholders shall be obliged to sell the Dragged Shares at the price specified in the Drag Notice which shall attribute an equal value to all Ordinary Shares (including the Relevant Shares) and shall attribute a value to the Preference Shares, and the Deferred Shares (if any) to be sold not exceeding £1 per share together with any accrued but unpaid dividend due thereon.
- 15.5 Completion of the sale of the Dragged Shares shall take place on the same date as the date proposed for completion of the sale of the Selling Shareholders' Shares unless:-
- (a) all of the Dragged Shareholders and the Selling Shareholders agree otherwise; or
 - (b) that date is less than 7 business days after the date of the Drag Notice, when it shall be deferred until the 7th business day after the date of the Drag Notice.
- 15.6 Each of the dragged Shareholders shall on service of the Drag Notice be deemed to have irrevocably appointed each of the Directors severally to be his attorney to execute any stock transfer and to do such other things as may be necessary or desirable to accept, transfer and complete the sale of the Dragged Shares pursuant to this Article 15 including without limitation holding the price payable for the Dragged Shares in a separate bank account or trust for the Selling Shareholders but, will not be bound to earn or pay interest on any money so held.
- 15.7 The provision of this Article 15 shall prevail over any contrary provisions of these Articles including rights of pre-emption and other restrictions contained in these Articles which shall not apply on any sale and transfer of Shares to the Third Party Purchaser named in a Drag Notice. Any Transfer Notice or Deemed Transfer Notice served in respect of any Share shall automatically be revoked by the service of a Drag Notice.

16 GENERAL MEETINGS

- 16.1 The Board shall procure that the annual general meeting in respect of each financial year shall be convened to take place not later than 42 days after the date of the auditors' report contained in the audited accounts of the Company for the relevant financial year and that the audited accounts and report shall be laid thereat.
- 16.2 Notice of a general meeting need not be given to any director in that capacity. Regulation 38 shall be modified accordingly.

- 16.3 Regulation 37 shall be amended by the insertion of the words "or A Director or a B Director acting alone" after the second word of that Regulation.

17 PROCEEDINGS AT GENERAL MEETINGS

- 17.1 The Chairman shall not be entitled to exercise any second or casting vote at any general meeting or class meeting.
- 17.2 A director shall not be required to hold any share qualification, but nevertheless shall be entitled to attend and speak at any general meeting of the Company and at any separate general meeting of the holders of any class of shares in the capital of the Company.
- 17.3 If a meeting is adjourned under Regulation 41 because a quorum is not present, and at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the shareholders present shall form a quorum, and Regulation 41 shall be modified accordingly.
- 17.4 Regulation 62 shall be modified by the deletion in paragraph (a) of the words "deposited at" and by the substitution for them of the words "left at or sent by post or by facsimile transmission to" and by the insertion at the end of the regulation after the word "invalid" of the words "unless a majority of the Board (an Investor Director being part of that majority) resolve otherwise".

18 NUMBER OF DIRECTORS

The number of directors shall not be less than two and not more than 7. Regulation 65 shall not apply.

19 DIRECTORS

- 19.1.1 The A Shareholders may at any time and on more than one occasion appoint up to two persons to be directors ("**A Directors**") and at any time and on more than one occasion remove any A Director from office. There shall be not more than two A Directors in office at any time.
- 19.1.2 The B Shareholders may at any time and on more than one occasion appoint up to two persons to be directors ("**B Directors**") and at any time and on more than one occasion remove any B Director from office. There shall be not more than two B Directors in office at any time.
- 19.1.3 A majority of two out of three of Timothy Walton, Nicholas Hewson and Nicholas Alford may at any time and on more than one occasion appoint up to three persons to be directors ("**C Directors**") and at any time and on more than one occasion remove any C Director from office. There shall be not more than three C Directors in office at any time.
- 19.2 Any appointment or removal of a Director shall be in writing served on the Company signed by the relevant appointing Shareholders and shall take effect at the time it is served on the Company or (if later) the date expressly stated therein, whichever is earlier. Any such appointment or removal by a corporation may be signed on its behalf by its duly authorised representative.
- 19.3 Notice of meetings of the Board shall be served on a Director who is absent from the United Kingdom at the addresses for service of notice given by the Director to the Company from time to time. The third sentence of Regulation 88 shall not apply.

19.4 Regulation 81(e) shall not apply to an A Director.

20 ALTERNATE DIRECTORS

20.1 The words "approved by resolution of the directors and" in Regulation 65 shall not apply to an appointment of an alternate director by an Investor Director.

20.2 A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.

20.3 If an alternate director is himself a director or attends any meeting as an alternate director for more than one director, his voting rights shall be cumulative but he shall only be counted once in deciding whether a quorum is present.

21 PROCEEDINGS OF DIRECTORS

21.1 The quorum for the transaction of business of the Board shall be three directors, one A Director, one B Director and one C Director.

21.2 Any director or his alternate may validly participate in a meeting of the Board or a committee of the Board by conference telephone or other form of communication equipment if all persons participating in the meeting are able to hear and speak to each other throughout the meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no group which is larger than any other group, where the chairman of the meeting is.

21.3 Except with the prior written consent of the Investors:-

(a) the Board shall not delegate any of its powers to a committee other than as specified in the Shareholders Agreement; and

(b) meetings of the Board shall not be held outside the United Kingdom.

21.4 The Chairman of the Board shall not have a second or casting vote at a meeting of the Board.

21.5 A director who to his knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract (within the meaning of section 317 of the Act) with the Company shall declare the nature of his interest at a meeting of the Board or of any committee of the Board in accordance with that section. Subject where applicable to such disclosure a director may vote at any such meeting on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the Company. Provided always that a director on the Remuneration Committee may not at a meeting of such Committee vote on any item concerning his own office, remuneration or benefits or in which he has a direct interest nor be counted in determining the quorum on such matter. Regulations 94 and 95 shall not apply.

22 RETIREMENT OF DIRECTORS

22.1 Directors shall not be required to retire by rotation. Regulations 73 to 77, the second and third sentences of regulation 79, regulation 80 and the last sentence of Regulation 84 shall not apply.

- 22.2 The office of a director (other than an Investor Director) shall be vacated if (being an executive director of the Company or any subsidiary) he ceases to hold office as an employee within the meaning of Article 13.10, of the Company or any subsidiary without being appointed or continuing to be an employee of another member of the Group and a majority of the Board (including not less than 2 C Directors) so requires.

Regulation 81 shall be extended accordingly.

23 **BORROWING POWERS**

- 23.1 The Board shall restrict the Borrowings of the Company and procure the exercise of all voting and other rights exercisable by the Company so as to secure that the aggregate amount for the time being outstanding of all Group Borrowings shall not at any time without the previous sanction of each Investor exceed £300,000,000 subject always to Article 23.5.
- 23.2 No debt incurred or security given in respect of Borrowings or to be taken into account as Borrowings in excess of the limit in Article 23.1 shall be invalid or ineffective except in the case of express notice to the lender or the recipient of the security at the time when the debt was incurred or security given that the limit in Article 23.1 had been or was thereby exceeded, but no lender or other person dealing with the Company shall be concerned to see or enquire whether such limit is observed.
- 23.3 When the amount of Borrowings required to be taken into account for the purposes of this Article 23 on any particular day is being ascertained, any of such moneys denominated or repayable in a currency other than sterling shall be converted for the purpose of calculating the sterling equivalent either:-
- (a) at the rate of exchange prevailing at the close of business in London on that day; or
 - (b) where the repayment of such moneys is expressly covered by a forward purchase contract, currency option, back to back loan, swap or other arrangement taken out or entered into to reduce the risk associated with fluctuations in exchange rates, at the rate of exchange specified in that document.
- 23.4 A report or certificate of the Auditors as to the aggregate amount of Group Borrowings falling to be taken into account for the purposes of or in compliance with this Article shall be conclusive and binding on all concerned.

24 **NOTICES**

- 24.1 Any notice to be given to the Company pursuant to these Articles shall be sent by post to the registered office of the Company or presented at a meeting of the Board.
- 24.2 Any notice to be given pursuant to these Articles may be given by facsimile transmission to the facsimile number maintained at the relevant address of the addressee. Such a notice shall be conclusively deemed to have been properly given at the time shown on the transmission report received by the sender.
- 24.3 The figure "24" shall be inserted in substitution for the figure "48" in the third sentence of Regulation 115. Any notice or other document delivered or left at a registered address otherwise than by post or electronic communication shall be deemed to have been served or delivered on the day it was so delivered or left.

25 **INDEMNITY**

- 25.1 Subject to the provisions of the Act, but without prejudice to any other indemnity to which the person concerned may otherwise be entitled, every director, alternate director, auditor, secretary or other officer of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or the exercise of his powers or otherwise in relation thereto. Regulation 118 shall be extended accordingly.
- 25.2 The Directors may exercise all the powers of the Company to purchase and maintain for every director or other officer insurance against any liability for negligence, default, breach of duty or breach of trust or any other liability which may be lawfully insured against.

26 SHARE CERTIFICATES ETC.

The Company may execute any share certificate, warrant or other document creating or evidencing any security allotted by the Company or any right or option to subscribe granted by the Company under the hand of two Directors or any one Director and the Company Secretary. Regulation 6 of Table A shall be extended accordingly.

27 SUBSIDIARY UNDERTAKINGS

- 27.1 The Board shall exercise all voting and other rights or powers of control exercisable by the Company in relation to itself and its subsidiary undertaking so as to secure (but as regards its subsidiary undertakings only in so far as by the exercise of such rights or powers of control the Board can secure) that:-
- (a) no shares or other securities are issued or allotted by any such subsidiary and no rights are granted which might require the issue of any such shares or securities otherwise than to the Company or one of its wholly-owned subsidiaries; and
 - (b) neither the Company nor any of its subsidiaries transfers or disposes of any shares or securities of any subsidiary of the Company or any interest therein or any rights attached thereto otherwise than to the Company or one of its wholly-owned subsidiaries, without in either case the previous consent in writing of an Investor Majority.
- 27.2 Subject to the provisions of the Act, the Board shall procure that each subsidiary undertaking of the Company (being a body corporate) shall make such distributions to the Company as shall enable it to pay all dividends falling to be paid on the Ordinary Shares and the Preference Shares and to redeem the Preference Shares on the due date (or so much of them as the distributable profits from time to time of the subsidiary undertaking shall permit).

ANNEXURE 1

(1) Name of Relevant Shareholder	(2) A	(3) B	(4) Relevant Date
Nicholas Brian Treseder Alford	192,594	439	13/02/04
Ian Hollocks	66,613	270	28/08/03
James Boyd Phillips	133,226	540	24/06/04
Jason Timothy Platten	133,226	540	24/05/04
Stephen Thomasson	133,226	540	24/06/04
Stephen Robert Weston	66,613	270	28/08/03
Timothy Paul Walton	283,735	398	03/01/04