

No 04663219

THE COMPANIES ACT 2006

---

A Company Limited by Shares

---

RESOLUTION

of

Health Club Holdings Limited (the "Company")

---

Passed 28 July 2010

---

At an Annual General Meeting of the Company, duly convened and held on 8 July 2010, the following resolution was duly passed as a special resolution

RESOLUTION

To amend the Company's articles of association by adopting the articles of association produced to the meeting in substitution for, and to the exclusion of, the existing articles of association

*RASchultz*

Director

2094/B14723 124-3/CORP3 6541489 1/AAMD

MONDAY



A06

\*AM092ML2\*

16/08/2010

64

COMPANIES HOUSE

# **Articles of Association Relating to Health Club Holdings Limited**

(as adopted by special resolution dated 8 July 2010)

## TABLE OF CONTENTS

1	Preliminary	2
2	Share capital and share rights	8
3	Issue of Shares and Pre-emption	10
4	Restrictions on Transfer of 'B' Shares	11
5	Restrictions on Transfer of 'A' Shares and Capital Shares	12
6	Tag Along	13
7	Exclusions of certain transfers of 'B' Shares from the provisions of the Tag Along right	13
8	Drag Along	14
9	Compulsory Transfers - General	16
10	Compulsory Transfers - Relevant Executives and Relevant Members	16
11	Stapling	19
12	Dilution of 'B' Shares pursuant to the Warrant Instrument	19
13	Information concerning shareholdings and transfers	20
14	Proceedings at General Meetings	21
15	Alternate Directors	21
16	Directors	22
17	Notices	24
18	Indemnity	24

THE COMPANIES ACTS 1985 AND 1989

A PUBLIC COMPANY LIMITED BY SHARES

NEW  
ARTICLES OF ASSOCIATION  
of  
Health Club Holdings Limited'  
(registered number 4663219)

(as adopted by Special Resolution passed on 8 July 2010)

**1 Preliminary**

1.1 The regulations contained in Table A as prescribed by the regulations made under the Companies Act 1985 in force at the Original Adoption Date (hereinafter referred to as "Table A") shall apply to the Company in so far as these Articles do not exclude or modify Table A. A reference herein to any regulation is to that regulation as set out in Table A.

1.2 In these Articles the following words and expressions shall have the meanings set out below

the Act	the Companies Act 2006 including every statutory modification or re-enactment thereof for the time being in force
AF Trusts	Ecrivier Credite Societe Limited a company registered in Jersey whose registered office is at c/o Trident Trust Company Limited PO Box 398, 11 Bath Street, St Helier, Jersey JE4 8UT, being at the Original Adoption Date wholly owned by a Family Trust for the benefit of Allan Fisher and/or his Privileged Relations
'A' Shares	'A' shares of £0.10 each in the capital of the Company
Associated Undertaking	any Group Undertaking, any undertaking promoted by or advised by or managed by a Group Undertaking and any undertaking in which a Group Undertaking is otherwise interested
the Auditors	the auditors for the time being of the Company
the Bank	Lloyds TSB Bank plc in its capacity as lender, agent and arranger under the Financing Documents
Bridgepoint Investors	Bridgepoint Europe II 'A' LP, Bridgepoint Europe II 'B' LP, Bridgepoint Europe II 'C' LP, Bridgepoint Europe II 'D' LP, Bridgepoint Europe II 'E' LP, Bridgepoint Europe II 'F' LP and Bridgepoint Europe 'G' LP, each of which is an English limited partnership and the Bridgepoint Europe II GmbH & Co KG

<sup>1</sup> The Company was incorporated on 11 February 2003 with the name Energyjet Public Limited Company. It changed its name from Energyjet Public Limited Company to Health Club Holdings plc on 25 April 2003 and from Health Club Holdings plc to Health Club Holdings Limited pursuant to a special resolution passed on 30 July 2004.

Business Day	any day from Monday to Friday (inclusive) (during normal working hours) other than United Kingdom public bank holidays
'B' Shares	'B' shares of £0.10 each in the capital of the Company
Capital Shares	capital shares of 0.01p each in the capital of the Company
Capital Value	the value of a Capital Share as determined in accordance with Article 2.5.2(b)
Compulsory Transfer Notice	a notice given in accordance with Article 9.1 requiring a member to transfer his shares
Deferred Shares	deferred shares of £0.10 each in the capital of the Company
the Directors	the directors for the time being of the Company or a quorum of such directors present at a meeting of the directors
Exit	a Sale or a Listing
Exit Value	has the meaning given to it in Article 2.5.2(a)
Family Trusts	as regards any particular individual member or deceased or former individual member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than that individual and/or Privileged Relations of that individual, and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is or may become liable to be transferred or paid or applied or appointed to or for the benefit of such person or any voting or other rights attaching thereto are or may become liable to be exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons
Financing Documents	the fifth amended and restated facility agreement entered into by Holmes Place plc and the Bank and others originally dated 21 October 1999 entered into on 22 May 2003 and a working capital facility letter addressed by the Bank to Holmes Place plc and others entered into on 22 May 2003 and an intercreditor agreement made between the Bank and other banks in their various capacities, Holmes Place plc and certain of its subsidiaries and Health Club Group plc entered into on 22 May 2003 in each case as amended, supplemented or replaced from time to time
Group Undertaking	the Company and any subsidiary undertaking of the Company from time to time
Independent Expert	means a firm of chartered accountants agreed by the Directors, with the prior written consent of the Investors or, in default of such agreement or consent within 5 Business Days, appointed

	by the President of the Institute of Chartered Accountants in England and Wales on the application of any Director
Investment Agreement	an agreement entered into on the Original Adoption Date by, inter alia, the Company as amended, modified or varied from time to time
Investors	the Bridgepoint Investors and the Permira Investors
Investors Commitments	<p>an amount of £130,855,340 plus the sum of all amounts actually paid after the date of adoption of these Articles to or on behalf of the Company</p> <ul style="list-style-type: none"> <li>(a) in subscribing for further shares in the Ordinary Share Capital,</li> <li>(b) in making loans (which shall include but not be limited to subscribing for further Loan Notes),</li> <li>(c) in paying fees (which are not reimbursed) rendered by third parties in connection with the above on its own behalf or on behalf of any other parties, and</li> <li>(d) by way of actual payments under any guarantees or indemnities given in respect of obligations of the Company</li> </ul>
Investors Multiple	the aggregate Investors Returns divided by the Aggregate Investors Commitments
Investors Returns	<p>cash receipts of the Investors actually received after the date of adoption of these Articles in respect of the existing 'B' Shares and Loan Notes held by the Investors and any Investors Commitments and, including without limitation</p> <ul style="list-style-type: none"> <li>(a) any redemptions or repurchases of 'B' Shares,</li> <li>(b) any dividends or other distributions received on 'B' Shares and any interest received on the Loan Notes,</li> <li>(c) the proceeds of sale or redemption or repurchase or repayment of any Loan Notes disposed of or redeemed or repurchased or repaid (computed, where relevant to loans to be sold or redeemed or repurchased or repaid on an Exit, on the basis that such Exit has completed and payment of the Capital Value in respect of each Capital Share has occurred), and</li> <li>(d) the amount of any Exit Value attributable to the Investors (computed, where relevant to an Exit on the basis that the event triggering the Exit has completed and payment of the Capital Value in respect of each Capital Share has occurred)</li> </ul> <p>but excluding any arm's length fees, commissions or other like sums received by the Investors</p>

Leaver	any person who ceases to be an employee or director of the Company or any subsidiary of the Company, for any reason, or any person who ceases to be a consultant to the Company or any subsidiary, for any reason
Leaving Date	in respect of a Relevant Executive, the date when (i) notice has been served on that Relevant Executive by the Company or any subsidiary of the Company requiring him to become a Leaver for any reason whatsoever, (ii) a notice of resignation has been tendered by that Relevant Executive for any reason whatsoever or (iii) a Relevant Executive becomes a Leaver and in each case irrespective of when such Relevant Executive actually ceases to be a Relevant Executive
Listing	a successful application being made in relation to all or any of the Ordinary Share Capital of the Company for admission to listing to the United Kingdom Listing Authority and admission to trading to the London Stock Exchange or, subject to the written approval of the Investors, a successful application being made to any other recognised investment exchange or overseas investment exchange (as such expressions are defined in the Financial Services and Markets Act 2000) which has been approved by a Majority of the 'B' Shares for this purpose, for all or any of the Ordinary Share Capital of the Company to be admitted to trading on such exchange
Loan Notes	unsecured loan notes 2013 of Health Club Group plc (registered number 4663223) issued at a discount by Health Club Group plc pursuant to the Loan Note Instrument or any other debt instrument as may replace or supplement them from time to time
Loan Note Instrument	the instrument entered into by Health Club Group plc (registered number 4663223) on the Original Adoption Date creating the Loan Notes as amended, modified or varied from time to time
Majority	as regards members of a class or classes of shares, a majority by reference to the number of shares of such class or classes held and not by reference to the number of members holding shares of such class or classes
a Member of the same Group	as regards any company, a company which is for the time being a holding company or a subsidiary of that company or of any such holding company
the Ordinary Share Capital	collectively, the 'A' Shares and the 'B' Shares and except as otherwise expressly provided for the purposes of these Articles and otherwise the 'A' Shares and the 'B' Shares shall be treated as one class of shares
the Original Adoption Date	21 May 2003
Permira Investors	Permira Europe II L P 1, Permira Europe II L P 2, (each Guernsey limited partnerships), Permira Europe III C V 3, Permira Europe II C V 4 (each Dutch limited partnerships) and

Permira Europe II Co-investment Scheme and Schroder Ventures Investments Limited

Permitted Share Issue

the issue of any shares in the capital of the Company or grant of a right to subscribe for, or to convert securities into, shares in the capital of the Company

- (a) to any employee of or consultant to the Company or any of its subsidiaries, in each case, in accordance with any equity incentive scheme, or
- (b) pursuant to and in accordance with the Warrant Instrument, or
- (c) where such issue of shares or grant of rights is issued or granted as consideration or part consideration for an acquisition to be made by the Company or any Member of the same Group as the Company, or
- (d) where such issue of shares or grant of rights is issued or granted at the time when there is either an event of default or potential event of default under any of the Financing Documents or any other banking facilities, bank loans or other financial facilities made available to the Company and any Member of the same Group from time to time, or
- (e) up to 3,625,000 Capital Shares

Permitted Transfer

in the case of the transfer of 'B' Shares held by shareholders other than the Investors a transfer of shares authorised by Article 4.2 and in the case of the transfer of 'A' Shares, a transfer authorised by Article 5

Permitted Transferee

a person, body corporate, partnership or unincorporated association to whom or which shares have been transferred pursuant to a Permitted Transfer

Privileged Relation

in relation to an individual member or deceased or former individual member, the husband or wife or the widower or widow of such member and all the lineal descendants in direct line of such member and a husband or wife or widower or widow of any of the above persons and for the purposes aforesaid a step-child or adopted child or illegitimate child of any person shall be deemed to be his or her lineal descendant

Relevant Executive

a director (whether executive or non-executive) or employee of, or a consultant to, the Company or any subsidiary of the Company

Relevant Member

- (a) a member who is a Relevant Executive,
- (b) a Privileged Relation of a Relevant Executive,
- (c) Family Trusts of a Relevant Executive,



	<p>(d) any person designated as a Relevant Member in relation to the Relevant Executive as a condition of any issue of shares to them by the Company and for the avoidance of doubt, the AF Trusts being a company which is wholly owned by a Family Trust for the benefit of Allan Fisher and/or his Privileged Relations as at the Original Adoption Date and which holds shares in the capital of the Company shall be deemed to be a Relevant Member in relation to Allan Fisher and Allan Fisher shall be deemed to be a Relevant Executive in relation to the AF Trusts, and</p> <p>(e) any person designated as a Relevant Member in relation to the Relevant Executive as a condition of any transfer consent given pursuant to Article 4 2(a)</p>
the Relevant Shares	shares originally acquired by a Relevant Member and any additional shares issued to such Relevant Member by way of capitalisation or acquired by such Relevant Member in exercise of any right or option granted or arising by virtue of the holding of such shares or any of them or the membership thereby conferred
Relevant Situation	a situation in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (other than a situation that cannot reasonably be regarded as likely to give rise to a conflict of interest or a conflict of interest arising in relation to a transaction or arrangement with the Company)
Sale	the sale of any part of the Ordinary Share Capital to any person (other than the Investors) resulting in that person together with any person acting in concert (within the meaning given in the City Code on Takeovers and Mergers as in force at the Original Adoption Date) with such person holding more than 50% of the issued Ordinary Share Capital (and in circumstances where the (i) 50% threshold has been exceeded, and (ii) the transfer giving rise to the transfer of more than 50% of the issued Ordinary Share Capital was a transfer pursuant to Article 6 of less than the holders entire holding of shares in the capital of the Company and (iii) the drag along rights in clause 8 have not been exercised, any subsequent sale(s) of any part of the Ordinary Share Capital to any such person) and for the purposes of these Articles, the Investors shall not be deemed to be acting in concert with each other
Sale Amount	the aggregate value of all consideration to which all shareholders are entitled on a Sale, and where all or any of such consideration is otherwise than in cash the value shall be taken as the market value of such consideration on the date such consideration is payable

Shareholders Agreement	the Shareholders Agreement relating to the Company entered into by, inter alia, the Company and the Investors on the Original Adoption Date
Subscription Price	in relation to any share, the amount paid up or credited as paid up thereon (including the full amount of any premium at which such share was issued whether or not such premium is applied for any purpose thereafter)
Transferee Company	a company for the time being holding shares in consequence, directly or indirectly, of a transfer or series of transfers of shares between Members of the same Group (the relevant Transferor Company in the case of a series of such transfers being the first transferor in such series)
Transferor Company	the company (other than a Transferee Company) which has transferred or proposes to transfer shares to a Member of the same Group
Warrants	warrants to subscribe for 250,000 'B' Shares in accordance with the terms of the Warrant Instrument
Warrant Instrument	an instrument executed by the Company on or around the Original Adoption Date creating the Warrants as amended, varied or modified from time to time

## **2 Share capital and share rights**

2 1 The share capital of the Company at the date of adoption of these Articles is £6,100,362 50 divided into 5,000,000 'A' Shares, 55,500,000 'B' Shares, 3,625,000 Capital Shares and 500,000 Deferred Shares

### **2 2 Class rights**

Save as otherwise specifically provided in these Articles, the 'A' Shares and the 'B' Shares shall rank *pari passu* and, constitute one class of shares. The Capital Shares shall be a separate class of shares. To the extent that there are special rights attaching to either the 'A' Shares or the 'B' Shares, then

- (a) such special rights attaching to the 'B' Shares shall only be varied with the consent in writing of the holders of not less than 75 per cent of the 'B' Shares or by an extraordinary resolution passed at a separate class meeting of the holders of the 'B' Shares (save that any variation which does not affect such special rights shall not require such consent), and
- (b) such special rights attaching to the 'A' Shares shall only be varied with the consent in writing of the holders of not less than 75 per cent of the 'A' Shares or by an extraordinary resolution passed at a separate class meeting of the holders of the 'A' Shares (save that any variation which does not affect such special rights shall not require such consent)

### **2 3 Voting**

- (a) The holders of 'A' Shares and 'B' Shares shall, subject to Article 9 2, be entitled to receive notice of, attend and vote at general meetings of the Company. Subject to Article 9 2, every holder of 'A' Shares and every holder of 'B' Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy shall have one vote on a show of hands and on a poll every

holder of 'A' Shares and every holder of 'B' Shares shall have one vote for each 'A' Share or 'B' Share held by him (as the case may be)

- (b) The holders of Capital Shares shall not be entitled to receive notice of, attend or vote at general meetings of the Company other than in circumstances where they are the only class of share in existence in the capital of the Company in which case they shall be entitled to receive notice of, attend and vote at general meetings

## 2.4 Dividend

- (a) Subject to Article 9.2, the 'A' Shares shall rank *pari passu* in all respects as to dividend with the 'B' Shares and no dividend shall be declared or paid on the 'B' Shares without a like dividend being declared or paid, as the case may be, on the 'A' Shares. No dividends shall be payable on the Capital Shares
- (b) No payment of a dividend in respect of the 'A' Shares and/or the 'B' Shares may be made if and to the extent its payment would contravene the terms of the Financing Documents, which terms shall prevail to the extent that they conflict with these Articles

## 2.5 Capital

- (a) On an Exit or return of assets on a liquidation, reduction of capital or otherwise, the proceeds of such Exit Value attributable to the Exit concerned or surplus assets of the Company remaining after payment of its liabilities shall be allocated amongst the shareholders in the following order of priority
  - (i) first, in paying an amount equal to the Capital Value in respect of each Capital Share, and
  - (ii) thereafter, and subject to the rights of the Deferred Shares set out in Article 12.6(b), in paying or allocating the balance to the holders of the Ordinary Share Capital (pro-rata and *pari passu* to the number of such shares in the Ordinary Share Capital held by each of them)
- (b) For the purposes of this Article 2.5
  - (i) the Exit Value shall (i) on a Sale mean the Sale Amount and (ii) on a Listing mean the aggregate market value of all of the Ordinary Shares allotted or in issue at the time of the Listing but excluding any new shares which are to be or have been newly subscribed in order to raise additional capital as part of the Listing, determined by reference to the price at which the Ordinary Shares are subject to the Listing are to be issued or (as appropriate) placed or, in the case of any offer for sale by tender, by reference to the applicable striking price, as part of the Listing arrangements,
  - (ii) the Capital Value shall at all times on or prior to 30 June 2010 be an amount equal to
    - (A) £0 (zero) where the Investors Multiple is less than one-third,
    - (B) £4,137,931 where the Investors Multiple is greater than 1.75, and
    - (C) £Z otherwise, where
 
$$Z = 4,137,931 \times \frac{\text{Investors Multiple} - 1/3}{1.75 - 1/3}, \text{ and}$$
  - (iii) the Capital Value shall at all times on or following 1 July 2010 be an amount equal to £0 (zero)

- (c) If there is any dispute between the Company and/or the Investors in relation to the application of this Article 2 5 and/or any related provisions of these Articles, the dispute concerned shall, if not resolved within 14 days of the same arising, be referred for determination by the Auditors or by an Independent Expert. The determination of the Auditors or such Independent Expert, which the Company and the Investors shall use all reasonable endeavours to procure as soon as reasonably practicable, shall be given in writing to each of the Company and the Investors and in the absence of manifest error on the face thereof, shall be conclusive and binding. The Company and the Investors and to the extent that they have any relevant information in their possession, each of the other members of the Company shall supply to the Auditors or Independent Expert such information as they may reasonably require for the purposes of making their determination. The cost of obtaining any such determination shall be borne by the Company or as the Independent Expert may decide.
- (d) Following payment of the Capital Value to the holder of each Capital Share, such Capital Shares shall be automatically converted into, subdivided and re-designated as Deferred Shares at the rate of one Deferred Share for every one thousand Capital Shares (fractional entitlements rounded down). Upon the conversion, each holder of Capital Shares so converted shall deliver to the Company at its registered office the certificates for Capital Shares so converting.

## 2 6 *Capital Share class rights*

The rights conferred upon the holders of the Capital Shares shall be deemed not to be modified, varied or abrogated by the creation or issue of any further shares (whether ranking *pari passu* with or in priority to the Capital Shares or otherwise) or by any other alteration whatsoever to the share capital of the Company.

## 2 7 *Conversion*

The Capital Shares shall be convertible into Deferred Shares in accordance with Article 2 5(d).

## 3 **Issue of Shares and Pre-emption**

- 3 1 Subject to Article 3 3 below, the Directors shall have unconditional authority to allot, grant options over, offer or otherwise deal with or dispose of any unissued shares of the Company (whether forming part of the original or any increased share capital) to such persons, at such times and generally on such terms and conditions as the Directors may determine. Further, save as set out in Article 3 3 below, the Directors shall have general and unconditional authority pursuant to section 551 of the Act to exercise all or any of the powers of the Company to allot shares in the Company and to grant rights to subscribe for or to convert any security into shares in the Company for a period expiring on the fifth anniversary of the date of adoption of these Articles unless previously renewed, varied or revoked by the Company in general meeting, and the maximum amount of relevant securities which may be allotted pursuant to such authority shall be the authorised but as yet unissued share capital of the Company at the date of adoption of these Articles or, where the authority is renewed, at the date of that renewal.
- 3 2 The Directors shall be entitled, pursuant to the authority conferred by Article 3 1 or under any renewal of such authority, to make at any time prior to its expiry any offer or agreement which would or might require relevant securities of the Company to be allotted after the expiry of such authority and to allot relevant securities pursuant to such offer or agreement.
- 3 3 Except in the case of a Permitted Share Issue, no shares in the capital of the Company shall be allotted or issued to any person unless

- (a) such allotment is of 'A' Shares and 'B' Shares as nearly as practicable in the same proportions in which they were in issue immediately prior to such allotment, and
- (b) such 'A' Shares are first offered to the holders of 'A' Shares and such 'B' Shares are first offered to the holders of the 'B' Shares in each case as near as practicable in the proportions in which they held 'A' Shares or, as the case may be, 'B' Shares immediately prior to such allotment and on the same terms in respect of the 'A' Shares and the 'B' Shares

**3 4 Such offer**

- (a) shall stipulate a time not exceeding 14 days within which it must be accepted or in default will lapse, and
- (b) will stipulate that any members who desire to subscribe for a number of new shares in excess of the proportion to which each is entitled shall in their acceptance state how many excess new shares which are not taken up by the members they wish to subscribe for and any shares not accepted by members shall be used for satisfying the requests for excess new shares pro rata to the existing holdings of shares in the Ordinary Share Capital of such members making such requests and thereafter, such new shares which are not taken up by the members shall be offered to any other person that the Directors shall decide at the same price and on the same terms as the offer to members provided that such allotment takes place within 30 days from the end of the 14 day period referred to in Article 3 4(a), and
- (c) may stipulate that if any shares in the capital of the Company to be allotted or issued ("Proposed Allotment") are proposed to be issued to persons simultaneously with an issue of any shares of any class or any debenture ("Other Instruments") to such persons ("the Allottee"), then members shall only be entitled to subscribe for such shares if they also subscribe for Other Instruments in the same ratio as the Allottee is subscribing for shares and Other Instruments

If, pursuant to the provisions of Article 3 4, any shares in the Ordinary Share Capital subscribed by a member are shares of a different class to the class of shares in the Ordinary Share Capital held by such member immediately prior to such allotment, then such shares so subscribed shall be redesignated into the same class of shares in the Ordinary Share Capital held by such member immediately prior to the allotment

- 3 5** The pre-emption provisions of section 561 of the Act and the provisions of sub-sections (1) to (5) inclusive of section 562 of the Act shall not apply to any allotment of the Company's equity securities (as defined in section 560 of the Act)

**4 Restrictions on Transfer of 'B' Shares**

- 4 1** The 'B' Shares and any interest therein held by the Investors shall be freely transferable

- 4 2** The 'B' Shares held by any shareholder other than the Investors and any interest therein (whether arising by way of mortgage, charge, lien or other security interest) shall not be transferable except

- (a) to any person with the prior consent in writing of the Directors (which consent may be granted unconditionally or subject to terms or conditions and in the latter case any share so transferred shall be held subject to such terms and conditions notified in writing to the transferee prior to registration of the transfer),
- (b) on or after a Listing,
- (c) pursuant to an offer required to be made by Article 6 (Tag Along), or

- (d) pursuant to an offer required to be made by Article 8 (Drag Along)

**5 Restrictions on Transfer of 'A' Shares and Capital Shares**

5 1 The 'A' Shares, the Capital Shares and any interest therein (whether arising by way of mortgage, charge, lien or other security interest) shall not be transferable except

- (a) to any person with the prior consent in writing of the Directors (which consent may be granted unconditionally or subject to terms or conditions and in the latter case any share so transferred shall be held subject to such terms and conditions notified in writing to the transferee prior to registration of the transfer),
- (b) on or after a Listing,
- (c) when a transfer is required by Article 8 (Drag Along) or Article 10 (Compulsory Transfers - Relevant Executives and Relevant Members),
- (d) in the case of the 'A' Shares only, pursuant to an offer required to be made by Article 6 (Tag Along),
- (e) by any individual member to trustees to be held upon Family Trusts relating to such individual member, or
- (f) by any individual member (not being in relation to the shares concerned a holder thereof as a trustee of any Family Trusts) to a Privileged Relation of such member

5 2 Where shares have been issued to trustees of Family Trusts or transferred under Article 5 1 or under paragraphs (a) or (b) of this Article to trustees of Family Trusts, the trustees and their successors in office may (subject to the provisions of Article 5 1) transfer all or any of the Relevant Shares

- (a) to the trustees for the time being of the Family Trust concerned on any change of trustees,
- (b) to the trustees for the time being of any other trusts being Family Trusts in relation to the same individual member or deceased or former member pursuant to the terms of such Family Trusts or to any discretion vested in the trustees thereof or any other person, or
- (c) to the Relevant Member or former member or any Privileged Relation of the Relevant Member or deceased or former member who has thereby become entitled to the shares proposed to be transferred on the total or partial termination of or pursuant to the terms of the Family Trusts concerned or in consequence of the exercise of any such power or discretion as aforesaid

5 3 If and whenever any of the Relevant Shares come to be held otherwise than upon Family Trusts, except in circumstances where a transfer thereof is authorised pursuant to Article 5 2 to be and is to be made to the person or persons entitled thereto, it shall be the duty of the trustees holding such shares to notify the Directors in writing forthwith that such event has occurred and the trustees shall procure the transfer of the Relevant Shares so that they are held by a Permitted Transferee and any such transfer shall be deemed to be authorised under the foregoing provisions of Article 5 2 and if the trustees fail to procure a transfer of any Relevant Shares in accordance with this Article within 21 days of the date of notification to the Directors, the trustees shall be bound, if and when required in writing by the Directors so to do, to give a Compulsory Transfer Notice in respect of the shares concerned and the provisions of Article 9 1 shall apply

5 4 If a person to whom shares have been transferred pursuant to Article 5 1(f) shall cease to be a Privileged Relation, such person who has acquired the Relevant Shares shall notify the Directors in writing forthwith that he has ceased to be a Privileged Relation and shall procure the transfer of

the Relevant Shares so that they are held by a Permitted Transferee and any such transfer shall be deemed to be authorised under the foregoing provisions of Article 5 2 and if such person fails to procure a transfer of any Relevant Shares in accordance with this Article within 21 days of the date of notification to the Directors, such person who has acquired the Relevant Shares shall be bound, if and when required in writing by the Directors so to do, to give a Compulsory Transfer Notice in respect of the shares concerned and the provisions of Article 9 1 shall apply

5 5 The provisions of Article 11 (Stapling) shall apply to any transfer of 'B' Shares under this Article 5

5 6 The 'A' Shares held by the AF Trusts are also subject to the provisions of clauses 7 5 4 and 7 5 5 of the Shareholders Agreement

## **6 Tag Along**

6 1 If a transfer of or other disposal of an interest in any 'B' Shares would result if made and registered in a Sale then (subject to Articles 6 3 and 7 below) no such transfer shall be made unless

- (a) the proposed transferee in relation to each other holder of shares in the Ordinary Share Capital, has made an offer in writing to acquire from each such other holder (at exactly the same price and on exactly the same terms relating to price as it is proposing to acquire such 'B' Shares, except that such offer must be open for acceptance for at least 21 days) such proportion of shares held by each such other holder as is equal to the proportion which the shares being sold by the proposing transferor under this Article bears to the total holding of shares (including the shares to be sold) held by the proposing transferor, and
- (b) in respect of any holder of shares which wishes to take up the offer referred to in paragraph (a) above, the proposed transferee acquires from such holder the shares in question at the relevant price simultaneously with the acquisition from the proposing transferor, and
- (c) the proposed transferee has made an offer in writing to acquire such proportion of Loan Notes held by each such holder that have not been repaid in full at the date of the Sale (such offer to be at exactly the same price and on exactly the same terms relating to price as it is proposing to acquire any other Loan Notes) as is equal to the proportion which the Loan Notes being sold by the proposing transferor bears to the total holding of Loan Notes (including the Loan Notes to be sold) held by the proposing transferor

6 2 Article 6 1 shall not apply to any transfer which is a Permitted Transfer

6 3 No offer shall be required pursuant to Article 6 1 in the circumstances set out in Article 9 2, if a Selling Notice has been served under Article 8 1 or a Mandatory Sale Notice has been served under Article 8 4

## **7 Exclusions of certain transfers of 'B' Shares from the provisions of the Tag Along right**

7 1 Article 6 shall not apply to any transfer made

- (a) on or after a Listing,
- (b) by any of the Investors being a company to a Member of the same Group as the Transferor Company,
- (c) by any of the Investors or by its trustee, custodian or nominee
  - (i) to any trustee, nominee or custodian for such fund and vice versa, or
  - (ii) to any unitholder, shareholder, partner, participant, manager or adviser (or an employee of such manager or adviser) in any such fund,

- (d) to a trustee, nominee, custodian or to a Member of the same Group of any of the persons referred to in sub-paragraph (i) or (ii) of paragraph (c) above of this Article 7 1

7 2 Without prejudice to the foregoing provisions of Article 7 1, shares may be transferred by Bridgepoint Capital (Nominees) Limited (or any person to whom it may have transferred shares pursuant to this Article)

- (a) to the beneficial owner or owners in respect of which the transferor is a nominee or custodian or any other trustee, nominee or custodian for such beneficial owner or owners,
- (b) to any unitholder, shareholder, participant, partner (including any person to whom such partner may have assigned its partnership interest or any interest therein), (each, a "Relevant Participant"), or any Relevant Participant of any Relevant Participant in or any manager or adviser (or an employee of such manager or adviser) of any investment fund in respect of which Bridgepoint Capital (Nominees) Limited or the transferor is a nominee or custodian or any manager or advisor thereof,
- (c) to any other investment fund, or its trustee, nominee or custodian managed or advised by the same manager or adviser as the investment fund in respect of which Bridgepoint Capital (Nominees) Limited or the transferor is a nominee or custodian, or
- (d) to a trustee, nominee or custodian or to a Member of the same Group as Bridgepoint Capital (Nominees) Limited or Member of the same Group as any of the persons referred to in sub-paragraphs (a), (b) or (c) of this Article 7 2

7 3 Without prejudice to the foregoing provisions of Article 7 1, shares may be transferred by the Permira Investors or any nominee of the Permira Investors to

- (a) Permira Advisers, Permira Partners L L P, Permira Europe BV, Schroder Ventures Limited or any of its subsidiaries or to any partnership (or to the partners of any such partnership) of which any of them is general partner, manager, adviser or consultant or to any unit trust or other fund of which any of them is trustee, manager, adviser or consultant or any unit trust, partnership or other fund, the managers of which are advised by any of them (the "Defined Group") or to any nominee or trustee for any member of the Defined Group (whether on a change of nominee or trustee or otherwise),
- (b) to the holders of units in, or partners in or members of or investors in any such unit trust or fund referred to in 7 3(a) above

## **8 Drag Along**

8 1 If a transfer of any 'B' Shares would result if made and registered in a Sale then the proposing transferor transferring 'B' Shares which would give rise to a Sale ("the Seller") shall have the right to give the Company not less than 3 Business Days advance notice ("the Selling Notice") requiring the other holders of shares in the Ordinary Share Capital to sell with full title guarantee to the proposed purchaser the same proportion ("the Required Proportion") of shares held by each such other holder as is equal to the proportion which the shares being sold by the Seller under this Article ("the Selling Shares") bears to the total holding of shares (including the shares to be sold) held by the Seller provided that

- (a) the proposed purchaser in relation to each other holder of shares in the Ordinary Share Capital, has made an offer in writing to acquire from each such other holder (at exactly the same price and on exactly the same terms relating to price as it is proposing to acquire such 'B' Shares from the Seller (except that such offer must be open for acceptance for at least 7 days),



- (b) in respect of any holder of shares which wishes to take up the offer referred to in paragraph (a) above, the proposed purchaser acquires from such holder the shares in question at the relevant price and on exactly the same terms relating to price as it is proposing to acquire such 'B' Shares from the Seller, and
  - (c) the proposed purchaser has made an offer in writing to acquire such proportion of Loan Notes held by each such holder that have not been repaid in full at such date (such offer to be at exactly the same price and on exactly the same terms relating to price as it is proposing to acquire any other Loan Notes) as is equal to the proportion which the Loan Notes being sold by the Seller bears to the total holding of Loan Notes (including the Loan Notes to be sold) held by the Seller
- 8 2 Where the Required Proportion determined pursuant to Article 8 1 above is one (1), then the Seller shall have the right to extend the Selling Notice to require the holders of the Capital Shares to sell with full title guarantee all of their Capital Shares to the proposed purchaser Any such Capital Shares shall be deemed to be Selling Shares save that the price payable for Capital Share shall be the Capital Value
- 8 3 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, date and time of completion of the proposed purchase (being a date not less than 3 Business Days from the date of the Selling Notice) ("Completion") and the terms and conditions of the offer which will be extended to the other shareholders for their Selling Shares provided always that the same price is offered for all the 'A' Shares and all of the 'B' Shares
- 8 4 Immediately upon receipt of the Selling Notice, the Company shall give notice in writing (a "Mandatory Sale Notice") to each of the members (other than the Seller) (the "Other Members") giving the details contained in the Selling Notice, requiring each of them to sell to the proposed purchaser at Completion the Required Proportion of their Selling Shares with full title guarantee on the terms contained in the Selling Notice
- 8 5 Each member who is given a Mandatory Sale Notice shall sell the Required Proportion of his Selling Shares referred to in the Mandatory Sale Notice on the terms set out in the Selling Notice For these purposes all shares in the Ordinary Share Capital shall be regarded as forming a single class of share
- 8 6 If any of the member(s) ("the Defaulting Member(s)") fails to comply with the terms of a Mandatory Sale Notice given to him, the Company shall be constituted the agent of each Defaulting Member for the sale of the Required Proportion of his Selling Shares (and in the case of 'B' Shares, the equivalent proportion of Loan Notes and for the avoidance of doubt, any subsequent reference to shares in this Article 8 6 shall be deemed to include a reference to such Loan Notes) in accordance with the Mandatory Sale Notice (together with all rights then attached thereto) and the Directors may authorise some person to execute and deliver on behalf of each Defaulting Member the necessary transfer(s) and the Company may receive the purchase money in trust for each of the Defaulting Members and cause the proposed purchaser to be registered as the holder of such shares The receipt of the Company for the purchase money, pursuant to such transfers, shall constitute a good and valid discharge to the proposed purchaser (who shall not be bound to see to the application thereof) and after the proposed purchaser has been registered in purported exercise of the aforesaid 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 he shall, in respect of the shares being the subject of the Mandatory Sale Notice, have delivered his share certificates or a suitable indemnity and the necessary transfers to the Company No member shall be required to comply with a Mandatory Sale Notice unless the Seller shall have sold by the time of or shall sell the Selling Shares to the proposed purchaser on Completion, subject at

all times to the Seller being able to withdraw the Selling Notice at any time prior to Completion by giving notice to the Company to that effect, whereupon each Mandatory Sale Notice shall cease to have effect

8 7 Once a Mandatory Sale Notice has been served in accordance with the provisions of this Article 8, the Other Members' shares may not be transferred pursuant to Article 5

## 9 **Compulsory Transfers - General**

9 1

- (a) A Compulsory Transfer Notice shall constitute the Company as agent for the sale of the shares to be so transferred to any person selected or approved by the Directors and shall be irrevocable except with the consent of the Directors
- (b) If a Compulsory Transfer Notice is deemed to have been given because of a requirement to do so by virtue of any provision of these Articles and the price at which the shares, the subject of the Compulsory Transfer Notice, are to be transferred is, in accordance with the provisions of these Articles, to be certified by the auditors of the Company then the auditors shall determine and certify the sum per share considered in their opinion to be the market value thereof as at the date of the Compulsory Notice being an amount a willing buyer would pay to a willing seller with no discount being applied or premium added due to the shares, where relevant, conferring a minority or majority of voting rights in the shares and taking into account any current bona fide offers for shares in the capital of the Company (whether A Shares or B Shares) and valuing the Shares on the basis that the A Shares and B Shares are one class of share and the sum per share so determined and certified shall be the market value thereof. The auditors shall act hereunder at the cost and expense of the Company as experts and not as arbitrators and their determination shall be final and binding on all persons concerned and, in the absence of fraud, they shall be under no liability to any such person by reason of their determination or certificate or by anything done or omitted to be done by them for the purpose thereof or in connection therewith

9 2 None of the shares in the Ordinary Share Capital held by a shareholder or a Relevant Member shall, with effect from the date of a Compulsory Transfer Notice given in respect of those shares held by them (unless the Compulsory Transfer Notice is withdrawn in the event that the Company has not found a purchaser for such shares within 6 months of agreement or certification of the price in which case the Relevant Member shall be entitled to any dividends declared during the period in which the Compulsory Transfer Notice was in effect), entitle that shareholder or Relevant Member to any rights in respect thereof and without limitation, shares in the Ordinary Share Capital held by such a shareholder or such a Relevant Member shall cease to entitle the holder to

- (a) receive notice of, attend or vote at any general meeting of the Company or any meeting of the holders of shares of the same class and such shares shall not be counted in determining the total number of votes which may be cast at any such meeting or for the purposes of the written resolution of any members or class of members,
- (b) any dividend,
- (c) any right to participate in any rights issue, or
- (d) any right to participate in a Tag Along right pursuant to Article 6

## 10 **Compulsory Transfers - Relevant Executives and Relevant Members**

10 1

- (a) In the case of a Relevant Member or the Relevant Executive in relation to a Relevant Member, who is to become a Leaver at any time (other than by reason of retirement of a Relevant Executive in the ordinary course at age 65, or such lesser age as the Directors in their absolute discretion determine in which case the provisions of this Article 10 shall not apply to such Relevant Executive or Relevant Member in relation to such Relevant Executive) then (unless the Directors resolve otherwise) such Relevant Member (or his personal representatives in the case of death) shall be deemed on the Leaving Date to have offered to transfer ("Compulsory Transfer Notice") his (or their) entire holding of 'A' Shares and Capital Shares (free from all liens, charges, encumbrances and third party rights whatsoever and together with all rights then attaching thereto) on, in the absence of the Directors specifying a later date, the date on which the Relevant Executive concerned becomes a Leaver to any other Relevant Executives (the identity of whom is to be determined at the discretion of the Directors) or to such person or persons as the Directors shall nominate to warehouse such shares for any other current or future Relevant Executive. A Leaver shall
- (i) be a bad leaver if such Relevant Member or Relevant Executive in relation to a Relevant Member shall have become a Leaver in circumstances involving
    - (A) him having resigned (except in circumstances where he successfully claims that he has been constructively dismissed by the Company or the subsidiary of the Company which is his employer under his service agreement or contract for services) as a Relevant Executive for any reason whatsoever (other than as a result of his permanent ill health, death or permanent disability) regardless of when such resignation takes effect, or
    - (B) him being lawfully summarily dismissed (other than by reason of ill health, accident or other incapacity which results in him being unable to properly perform his duties to the Company or the subsidiary of the Company which is his employer under his service agreement or contract for services for a sustained period of time or becoming of unsound mind or a patient as defined in the Mental Health Act 1983 or having been admitted to hospital pursuant to an application made under that Act),
  - (ii) be a good leaver if he is not a bad leaver by reason of Article (i), and
  - (iii) be a good leaver if such Relevant Member or Relevant Executive in relation to a Relevant Member shall have become a Leaver in circumstances other than those set out at (i) above and his Leaving Date falls within 12 months of the date of him acquiring such 'A' Shares or Capital Shares (as the case may be)
- (b) The price at which such 'A' Shares will be transferred shall be either
- (i) in the case of a good leaver (other than by reason of Article 10 1(a)(iii) above), either the price agreed between the Directors and the Relevant Member or, if no agreement is reached, the market value of such shares as at the Leaving Date as certified by the auditors, or
  - (ii) in the case of a bad leaver, the Subscription Price or, if less, the amount provided for in (b) above, or
  - (iii) in the case of a Leaver who is a good leaver by reason of the provisions of 10 1(a)(iii) above, the Subscription Price

If within 2 months of the Leaving Date no agreement is reached as to the price of such shares, either party shall be entitled to serve written notice upon the other informing them that if no agreement is reached within the next 14 days then the auditors of the Company will be appointed to certify the market value of such shares in accordance with Article 9 1(b)

- (c) The price at which such Capital Shares will be transferred shall be either
- (i) in the case of a good leaver (other than by reason of Article 10 1(a)(iii) above), either the price agreed between the Directors and the Relevant Member or, if no agreement is reached, the value of a Capital Share determined at the entire discretion of the Directors having regard to the provisions of Article 2 5(b) and their then best estimate of the Capital Value, or
  - (ii) in the case of a bad leaver, the Subscription Price or, if less, the amount provided for in 10 1(i) above, or
  - (iii) in the case of a Leaver who is a good leaver by reason of the provisions of 10 1(a)(iii) above, the Subscription Price
- (d) In the event that the Company has not found a purchaser for such Leaver's shares or the transfer has otherwise not taken place (other than by reason of the Leaver being in default of any of its obligations under these Articles) within 6 months of agreement or certification of the price, the Compulsory Transfer Notice shall be deemed to be withdrawn

10 2 The Relevant Member shall deliver a duly executed stock transfer form and the relative share certificate to the Company within 14 days of agreement or certification of the price in accordance with Article 10 1 Payment of such price shall be made immediately following completion of the transfer of the shares the subject of the Compulsory Transfer Notice Receipt by a Leaver of such price shall be deemed to be an acceptance that the price calculated is correct and is in full and final settlement of all amounts due to such Leaver under this Article 10

10 3 If a Relevant Member fails to transfer such shares in accordance with Article 10 2 the Directors may (and will if so requested by the Directors) authorise any person to execute and deliver on his behalf the necessary stock transfer form and the Company shall receive the purchase money in trust for the Relevant Member and cause the purchaser to be registered as the holder of such Sale Shares (subject to payment of any stamp duty) The receipt of the Company for the purchase money shall be a good discharge to the purchaser (who shall not be bound to see to the application thereof) The Relevant Member shall in such case be bound to deliver up his certificate for such shares to the Company whereupon he shall be entitled to receive the purchase price without interest

10 4 'A' Shares and Capital Shares which are the subject of a Compulsory Transfer Notice pursuant to this Article 10 may not be transferred under Article 5, will not be transferred under Article 8 and the holders of such shares will not be entitled to the tag along rights granted under Article 6

10 5 In the event that at the time of a Sale or Listing, there are 'A' Shares or Capital Shares that are the subject of a Compulsory Transfer Notice pursuant to this Article 10 which have not been allocated to a Relevant Executive or which have been warehoused for any current or future Relevant Executive but have not at such date been allocated to any such current or future Relevant Executive then

- (a) such 'A' Shares will forthwith upon (but with effect immediately prior to) such Sale or Listing be offered to the holders of 'A' Shares pro rata (as nearly as may be without giving

rise to fractions) to their respective holdings of 'A' Shares on the date of such Sale or Listing, and

- (b) such Capital Shares will forthwith upon (but with effect immediately prior to) such Sale or Listing be offered to the holders of Capital Shares pro rata (as nearly as may be without giving rise to fractions) to their respective holdings of Capital Shares on the date of such Sale or Listing

in each case, at the same price per share at which such shares are being acquired pursuant to the Compulsory Transfer Notice (if such shares have not yet been acquired from the Relevant Member) or at the same price per share at which such shares were acquired from the Relevant Member (if they have been warehoused, but not allocated)

## **11 Stapling**

If any holder of 'B' Shares wishes to transfer (including any Permitted Transfer) or is obliged to transfer any 'B' Shares, then if such person is also the holder of Loan Notes then such Shareholder shall also be required (save in such circumstances where the requirement has been waived by both Investors), to transfer to the same transferee the same proportion of the Loan Notes held by him that the proportion of the 'B' Shares which he intends to transfer bears to his total holding of 'B' Shares (including any 'B' Shares held by his Permitted Transferees)

## **12 Dilution of 'B' Shares pursuant to the Warrant Instrument**

12 1 Forthwith upon (but with effect immediately prior to) the issue of 'B' Shares pursuant to the exercise of Warrants, certain of the 'B' Shares, as calculated in accordance with Article 12 2, shall be automatically converted into and re-designated as the same number of Deferred Shares

12 2 The number of 'B' Shares which shall be converted into Deferred Shares under this Article 12 shall be such number as is equal to the number of 'B' Shares issued pursuant to the exercise of the Warrants

12 3 Any conversion of 'B' Shares pursuant to Article 12 1 shall be made amongst the holders of the 'B' Shares then in issue pro rata (as nearly as may be without giving rise to fractions and rounding down any fractional numbers) to their respective holdings of 'B' Shares on the date any such conversion takes place

12 4 On the date of any conversion of 'B' Shares pursuant to Article 12 1 the Company shall automatically cancel the share certificate(s) for such 'B' Shares that are converted pursuant to this Article 12, without any requirement for delivery up of such share certificates and shall issue to holders of the 'B' Shares so converted, certificates for the Deferred Shares resulting from the conversion and for his remaining holding of 'B' Shares

12 5 The provisions of Article 12 1 shall be capable of operation on one occasion only, and shall then lapse and cease to have any effect

12 6 The Deferred Shares shall entitle the holders thereof to the following rights (subject to the following restrictions)

- (a) as regards dividend

the Deferred Shares shall not entitle their holders to any dividend in respect of such shares

- (b) as regards capital

on a return of assets on a liquidation, reduction of capital or otherwise the holders of the Deferred Shares shall be entitled to the Subscription Price for the 'B' Shares or Capital Shares so converted (as the case may be) in respect of such shares after the holders of

the Ordinary Share Capital shall have received £1,000,000 in respect of each such share in the Ordinary Share Capital

(c) as regards voting

the holders of the Deferred Shares shall not be entitled to receive notice of or to attend or speak at general meetings of the Company and shall not be entitled to vote at such meetings in respect of such shares

(d) as regards transferability

the Deferred Shares and any interest therein shall not be transferable except with the prior written consent of the Company

(e) as regards further issues

the rights conferred upon the holders of Deferred Shares shall be deemed not to be modified, varied or abrogated by the creation or issue of any further shares (whether ranking *pari passu* with or in priority to the Deferred Shares or otherwise) or by any other alteration whatsoever to the share capital of the Company

(f) as regards redemption or repurchase

(i) the Company may at its option at any time after the issue or creation of any Deferred Shares and to the extent permitted under the Act redeem all of the Deferred Shares then in issue, at an aggregate price not exceeding £1.00 for all Deferred Shares redeemed, the recipient of such sum being determined by the Company upon giving the registered holders of such shares not less than fourteen days' previous notice in writing of the intention to do so, fixing a time and place for the redemption, and

(ii) conversion of any shares into Deferred Shares shall be deemed to confer irrevocable authority on the Company at any time thereafter to appoint any person to execute on behalf of the holders of such Deferred Shares a transfer thereof and/or any agreement to transfer the same to such person as the Company may determine as custodian thereof and/or to purchase the same (in accordance with the provisions of the Act) in any such case for a price not more than an aggregate sum of £1 for all of the Deferred Shares without obtaining the sanction of the holder or holders thereof and, pending such transfer and/or purchase, to retain the certificate(s) for such Deferred Shares

### **13 Information concerning shareholdings and transfers**

13.1 For the purpose of ensuring that a transfer of shares is a Permitted Transfer or that no circumstances have arisen whereby a Compulsory Transfer Notice is or may be required to be given hereunder or to be satisfied that any proposed sale is bona fide and on the terms stated in the Compulsory Transfer Notice with no rebate or allowance, the Directors may from time to time require any member or the legal personal representatives of any deceased member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the Directors may think fit regarding any matter which they may reasonably deem relevant for such purpose. Failing such information or evidence being furnished to the satisfaction of the Directors within a reasonable time after such requirement being made, the Directors shall be entitled to refuse to register the transfer in question or (if no transfer is in question) to require by notice in writing that a Compulsory Transfer Notice be given in respect of the shares concerned

13 2 In a case where the Directors have duly required a Compulsory Transfer Notice to be given in respect of any shares and/or Loan Notes and such Compulsory Transfer Notice is not duly given within a period of one month, or such longer period as the Directors may allow for the purpose, such Compulsory Transfer Notice shall (except and to the extent that a Permitted Transfer of any of such shares shall have been made) be deemed to have been given on such date after the expiration of the said period as the Directors may by resolution determine and the foregoing provisions of these Articles shall take effect accordingly

13 3 From (and including) the date on which the Directors have duly required a Compulsory Transfer Notice(s), all holders of shares the subject of such Compulsory Transfer Notice(s) shall not transfer or further encumber any of their shares or any interest in their shares (other than pursuant to such Compulsory Transfer Notice(s)) until all proceedings pursuant to such Compulsory Transfer Notice(s) have been finalised in accordance with these Articles

#### **14 Proceedings at General Meetings**

14 1 All general meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed by a majority in number of the members having a right to attend and vote being a majority together not holding less than ninety per cent in nominal value of the shares giving that right Regulation 38 will be modified accordingly

14 2 A poll may be demanded at any general meeting by the chairman or by any member present in person or by proxy and entitled to vote Regulation 46 shall be modified accordingly

14 3 Save in respect of a resolution as required pursuant to Article 2 2(b), a resolution of the members of the Company requiring a Majority of more than 50% of the members (being entitled to vote) voting in person or by proxy in favour of such resolution, shall only be deemed to be passed if those voting in favour of the resolution include 75% of the holders of the 'B' Shares from time to time

#### **15 Alternate Directors**

15 1 Any Director (other than an alternate Director) may at any time by writing under his hand and served on the Company at its registered office, or delivered at a meeting of the Directors, appoint any other Director, or any other person approved by resolution of the Directors and willing to act, to be an alternate Director and may remove from office an alternate Director so appointed by him The same person may be appointed as the alternate Director of more than one Director

15 2 An alternate Director shall be entitled

- (a) to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member, save that it shall not be necessary to give notice of such meeting to an alternate Director who is absent from the United Kingdom,
- (b) to attend, be counted in the quorum for and vote at any such meeting at which the Director appointing him is not personally present, and
- (c) generally at such meeting to perform all the functions of his appointor as a Director in his absence

If an alternate Director is himself a Director or attends any such meeting as an alternate Director for more than one Director, then his voting rights shall be cumulative

15 3 An alternate Director shall cease to be an alternate Director if his appointor ceases to be a Director, but, if a Director retires but is reappointed or deemed to have been reappointed at the meeting at which he retires, any appointment of an alternate Director made by him which was in force immediately prior to his retirement shall continue after his reappointment

- 15 4 Any appointment or removal of an alternate Director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors
- 15 5 An alternate Director shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him, except in relation to matters in which he acted (or failed to act) on the direction or at the request of his appointor
- 15 6 Save as otherwise provided in these Articles, an alternate Director shall not have power to act as a Director nor shall he be deemed to be a Director for the purposes of these Articles. However, such an alternate Director shall owe the Company the same fiduciary duties and duty of care and skill in the performance of his office as are owed by a Director
- 15 7 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent mutatis mutandis as if he were a Director but he shall not be entitled to receive from the Company in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct

15 8 Regulations 65 to 69 shall not apply

## **16 Directors**

- 16 1 The Directors shall not be subject to retirement by rotation. Regulations 73 to 75 and the last two sentences of Regulation 79 shall not apply and Regulations 76, 77, 78 and 80 shall be modified accordingly
- 16 2 Without prejudice to the first sentence of Regulation 89, a meeting of the Directors or of a committee of the Directors may consist of a conference between directors who are not all in one place, but where each is able (directly or by telephonic communication) to speak to each of the others, and to be heard by each of the others simultaneously, and the word "meeting" in these Articles shall be construed accordingly
- 16 3 A resolution in writing signed, or approved by email or facsimile, by all the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held and may consist of several documents in the like form each signed or approved by one or more Directors, but a resolution signed or approved by an alternate Director need not also be signed or approved by his appointor and, if it is signed or approved by a Director who has appointed an alternate Director, it need not be signed or approved by the alternate Director in that capacity. Regulation 93 shall not apply
- 16 4 Regulations 85, 86, 94 and 95 shall not apply

### *Transactions with the Company*

- 16 5 Provided that he has declared to the other directors the nature and extent of any interest of his, a director notwithstanding his office may be a party to, or otherwise directly or indirectly interested in, any proposed or existing transaction or arrangement with the Company
- 16 6 Provided that he has declared to the other directors the nature and extent of any interest of his, a director may participate in the decision-making process and count in the quorum and vote if a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the Company in which the director is interested

### *Directors' interests in Associated Undertakings permitted*

- 16 7 A director, notwithstanding his office or that such situation or interest may conflict with the interests of or his duties to the Company, may



- (a) be from time to time a director or other officer of, or employed by, or otherwise interested in, any Associated Undertaking,
- (b) be a party to, or otherwise interested in, any contract, transaction or arrangement in which an Associated Undertaking is interested, and
- (c) if he obtains (other than through his position as a director of the Company) information that is confidential to an Associated Undertaking, or in respect of which he owes a duty of confidentiality to an Associated Undertaking, or the disclosure of which would amount to a breach of applicable law or regulation, choose not to disclose it to the Company or to use it in relation to the Company's affairs in circumstances where to do so would amount to a breach of that confidence or a breach of applicable law or regulation

16 8 A director who has an interest under Article 16 7(a) or (b) will declare to the other directors the nature and extent of his interest as soon as practicable after such interest arises

*Directors permitted to manage own conflicts*

16 9 Notwithstanding the provisions of Articles 16 7, 16 8 and 18 10, if a Relevant Situation arises a director may elect to deal with the Relevant Situation in the following manner if the matter has not previously been duly authorised

- (a) he will declare to the other directors the nature and extent of his interest in the Relevant Situation (except to the extent that Article 16 9(d) applies) and that he intends to deal with the Relevant Situation in accordance with this Article 16 9, and
- (b) he will not vote (and will not be counted in the quorum at a meeting of the directors or of a committee of the directors) in respect of a resolution of the directors relating to the subject matter of the Relevant Situation, and/or
- (c) he may elect to be excluded from all information and discussion by the Company relating to the subject matter of the Relevant Situation, and
- (d) if he obtains (other than through his position as a director of the Company) information that is confidential to a third party, or in respect of which he owes a duty of confidentiality to a third party, or the disclosure of which would amount to a breach of applicable law or regulation, he may elect not to disclose it to the Company or to use it in relation to the Company's affairs in circumstances where to do so would amount to a breach of that confidence or a breach of applicable law or regulation

and for the purposes of Articles 16 9 (b) and 16 9(c) any other provisions of these Articles that would require him to be present for the quorum requirement for meetings of the directors to be met will not apply

*Independent directors may authorise conflicts*

16 10 Without prejudice to the provisions of Articles 16 7, 16 8 and 16 9, the directors may authorise in accordance with section 175(5)(a) of the Act a Relevant Situation in respect of any director and the continuing performance by the relevant director of his duties as a director of the Company on such terms as they may determine (including any of such terms as are set out in Article 16 9) For the avoidance of doubt, such terms may permit the interested director to continue to participate in the decision making process and vote and count in the quorum at a meeting of the directors or of a committee of the directors in respect of resolutions relating to the subject matter of the Relevant Situation Authorisation of a Relevant Situation may be withdrawn, and the terms of authorisation may be varied or subsequently imposed, at any time Any resolution of the directors for the purposes of providing, varying the terms of or withdrawing such authorisation will not be effective unless

- (a) the requirement as to the quorum at the meeting at which the resolution is proposed is met without counting the interested director or any other interested director (and for these purposes any other provisions of these Articles that would require the interested director or any other interested director to be present during such part of the meeting for the quorum requirement to be met will not apply), and
- (b) the resolution is passed without the interested director or any other interested Director voting or would have been passed if their votes had not been counted

but otherwise will be dealt with in the same way as any other matter may be proposed to and resolved upon by the directors in accordance with the provisions of these Articles. An interested director must act in accordance with any terms determined by the directors under this Article 18.4

*Director to vote and count in quorum*

- 16.11 Provided that a Relevant Situation has been duly authorised by the directors or the Company (or it is permitted under Articles 16.7 or 16.8 or dealt with in accordance with Article 16.9 and its nature and extent has been disclosed under Article 16.12, a director may participate in the decision making process and count in the quorum and vote if a proposed decision of the directors is concerned with such situation (subject to any restrictions imposed under the terms on which it was authorised)

*Nature of interests*

- 16.12 References in these Articles to a conflict of interest include a conflict of interest and duty and a conflict of duties, and an interest includes both a direct and an indirect interest

*Director not liable to account*

- 16.13 A director shall not, by reason of his holding office as a director (or of the fiduciary relationship established by holding that office), be liable to account to the Company for any remuneration, profit or other benefit resulting from any situation or interest permitted under Article 16.5 to 16.12 or duly authorised by the directors or the Company, nor shall the receipt of such remuneration, profit or other benefit constitute a breach of the director's duty under section 176 of the Act or otherwise, and no contract, transaction or arrangement shall be liable to be avoided on the grounds of any director having any type of interest which is permitted under Article 16.5 to 16.12 or duly authorised by the directors or the Company
- 16.14 In the case of an equality of votes at a meeting of the Directors, the chairman of the Company shall not have a second or casting vote. Regulation 88 shall be modified accordingly
- 16.15 The office of a Director (other than a Director appointed by the Investors) shall be vacated if he shall be removed from office by notice in writing served upon him signed by the Directors but so that if he holds an appointment to an executive office which thereby automatically determines, such removal shall be deemed an act of the Company and shall have effect without prejudice to any claim for damages for breach of contract of service or otherwise between him and the Company

**17 Notices**

Notices shall be given to a member whose registered address is outside the United Kingdom. Regulation 112 shall be modified accordingly

**18 Indemnity**

- 18.1 Without prejudice to any indemnity to which such officer may otherwise be entitled, every Director, Secretary or other officer of the Company shall 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 in relation thereto including any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court Regulation 118 shall not apply

- 18.2 The Company may purchase and maintain for any Director, Secretary or other officer of the Company insurance against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company