

**THE COMPANIES ACT 1985**

**HAMSARD 2666 LIMITED (the "Company")**

**Company No: 4828440**

**WRITTEN RESOLUTION**

**Dated: 02 OCTOBER 2003**

I, the undersigned, being the sole member of the Company entitled to attend and vote at general meetings of the Company HEREBY PASS the following written resolutions as ordinary and spread resolutions of the Company and which will, pursuant to Section 381A of the Companies Act 1985 (as amended by the Deregulation (Resolutions of Private Companies) Order 1996), be as valid and effective for all purposes as if the same had been passed at a general meeting of the Company duly convened and held.

**1 ORDINARY RESOLUTIONS**

1.1 That the authorised share capital of the Company be increased from £100 to £137,273 by the creation of

- a) 69,900 new ordinary shares of £1.00 each;
- b) 57,273 new "A" ordinary shares of £1.00 each and
- c) 10,000 new deferred shares of £1.00 each;

such shares having the rights set out in the articles of association of the Company.

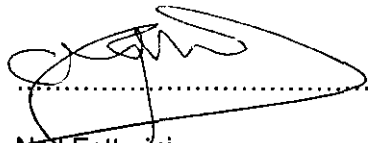
1.2 THAT the Directors shall have unconditional authority to allot, grant options over, offer on otherwise deal with or dispose of any relevant securities (as defined in section 80(2) of the Companies Act 1985) of the Company to such persons at such times and generally on such terms and conditions as the Directors may determine. The authority hereby conferred shall be for a period expiring five years from the date hereof unless previously renewed, varied or revoked by the Company in general meeting and the maximum of such relevant securities as aforesaid which may be allotted pursuant to such authority shall be the authorised but as yet unissued share capital of the Company at the date and time of passing of this Resolution and as increased by the preceding Resolution.

1.3 THAT the Directors shall be entitled under the authority hereby conferred or under any renewal thereof to make at any time prior to the expiry of such authority any offer or agreement which would or might require relevant securities as aforesaid to be allotted after the expiry of such authority.



## 2 SPECIAL RESOLUTIONS

- 2.1 THAT subject to Resolution No 1.2 above being passed the Directors shall be and are hereby empowered for a period expiring five years from the date hereof to allot any equity securities (as defined in section 94(2) of the Companies Act 1985 (the "**Act**") of the Company pursuant to the authority conferred by Resolution No 1.2 above as if section 89(1) of the Act and the pre-emption rights contained in the Articles of Association of the Company did not apply to such allotment and the Directors shall be entitled to make at any time prior to the expiry of the power hereby conferred and offer or agreement which would or might require equity securities to be allotted after the expiry of such power provided that such power shall, subject as aforesaid, cease to have effect when the said authority is revoked or would, if not renewed, expire or on the re-registration of the Company as a public company but if that authority is renewed the said power may also be renewed for a period longer than that for which the authority itself is renewed by Special Resolution of the Company in General Meeting. 11
- 2.2 THAT the regulations produced to the meeting and initialled by the Chairman for the purposes of identification be and are hereby adopted as the new Articles of Association of the Company in substitution for and to the exclusion of all other articles of association. 1



Neil Fattorini

Company No. 4828440



**THE COMPANIES ACTS 1985 AND 1989**

**ARTICLES OF ASSOCIATION  
OF  
HAMSARD 2666 LIMITED**

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**Adopted by written resolution  
passed on 2 October 2003**

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**Wragge & Co**

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Company No: 4828440

**THE COMPANIES ACTS 1985 AND 1989**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

of

**HAMSARD 2666 LIMITED**

**1 Definitions and Interpretation**

1.1 In these articles of association ("**Articles**"):

<b>"A' Ordinary Shares"</b>	means the 'A' ordinary shares of £1.00 each in the share capital of the Company, having the rights set out in Article 5;
<b>"acting in concert"</b>	has the meaning given to that expression in the City Code on Takeovers and Mergers;
<b>"Acquisition"</b>	means the Company's acquisition of the entire issued share capital of HS ATEC LIMITED pursuant to an agreement dated 2 October 2003 made between the Company and Clugston Group Limited;
<b>"Auditors"</b>	means the auditors from time to time of the Company;
<b>"Board"</b>	means the board of directors from time to time of the Company;
<b>"CA 1985"</b>	means the Companies Act 1985 as amended by the Companies Act 1989;
<b>"Control"</b>	has the meaning set out in section 840 ICTA;

<b>“Chairman”</b>	means the chairman of the Board from time to time appointed in accordance with Article 20.6;
<b>“Company”</b>	means Hamsard 2666 Limited (registered in England and Wales with company number 4828440), having its registered office at 148 Edmund Street, Birmingham B3 2JR;
<b>“Deferred Shares”</b>	means the deferred shares of £1.00 each in the share capital of the Company, having the rights set out in Article 7 and 6.2(e);
<b>“Disposal”</b>	means, other than pursuant to an intra-group reorganisation, the sale or other disposal (whether by one transaction or a series of related transactions) of the whole or substantially the whole of the assets or undertaking of the Company or the Group Companies;
<b>“Employee Trust”</b>	means a trust approved by the Investor Director whose beneficiaries are employees as defined in section 743 CA 1985;
<b>“Equity Shares”</b>	means the Ordinary Shares and A Ordinary Shares;
<b>“equity share capital”</b>	has the meaning set out in section 744 CA 1985;
<b>“Exit”</b>	means: <ul style="list-style-type: none"> <li>(a) the acquisition of shares in the equity share capital of the Company by a person or persons other than any of the Initial Investors which results in a change in Control of the Company; or</li> <li>(b) a Disposal; or</li> <li>(c) a Sale; or</li> <li>(d) a Listing; or</li> <li>(e) the making of an order or passing of a resolution for the winding up of the Company for any purpose whatsoever (other than by its members voluntarily making such an order or passing such a resolution for the purpose of amalgamation or reconstruction under which a successor company undertakes to perform the obligations of the Company under the terms of the Investment Agreement);</li> </ul>

<b>"Group"</b>	means the Company and any subsidiary or holding company of the Company and any subsidiary of any such holding company from time to time including, unless the context otherwise requires the Company;
<b>"Group Company"</b>	means each and any body corporate in the Group;
<b>"holding company"</b>	means a holding company as defined by sections 736 and 736A CA 1985;
<b>"ICTA"</b>	means the Income and Corporation Taxes Act 1988;
<b>"Initial Investors"</b>	means the person whose name and address is set out in part 5 of schedule 1 to the Investment Agreement, together with any person to whom such parties has/have transferred, sold or assigned any "A" Ordinary Shares and/or Investor Notes in accordance with the terms of the Investment Agreement and these Articles and who undertakes to perform the obligations of an Investor under a deed poll of adherence (or any nominee of such permitted transferee) and <b>"Initial Investor"</b> shall be construed accordingly;
<b>"Insolvency Event"</b>	<p>means in relation to a member which is a body corporate:</p> <ul style="list-style-type: none"> <li>(a) such member having a receiver, manager or administrative receiver appointed over all or any part of its undertaking or assets;</li> <li>(b) such member having an administrator appointed in relation to it;</li> <li>(c) such member entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or</li> <li>(d) an order being made or a resolution being passed for the winding up of such member or any subsidiary or holding company of such member,</li> </ul> <p>and in relation to a member which is an individual, such member being declared bankrupt pursuant to the Insolvency Act 1986;</p>
<b>"Investment Agreement"</b>	means the agreement made on the same date as the adoption of these Articles made between (1) the

Company (2) Neil Fattorini, John Crabtree and Ian Bullivant and (3) Bridges Community Ventures Limited;

- “Investors”** means the Initial Investors together with any New Investors and **“Investor”** shall be construed accordingly;
- “Investor Director”** means any person appointed by the Investors as a non-executive director of the Company pursuant to clause 7.1(a) of the Investment Agreement and Article 20.1 or his or her alternate;
- “Investor Note Instrument”** means the instrument entered into by the Company on the date of adoption of these Articles constituting the Investor Notes;
- “Investor Notes”** means the 8% fixed rate unsecured loan notes 2008 issued by the Company to the Investors pursuant to the Investor Note Instrument or as the case may be, the amount of those Investor Notes issued and outstanding from time to time;
- “Listing”** means the admission of any of the Company’s shares to the Official List of the UK Listing Authority and to trading on the London Stock Exchange’s market for listed securities or the admission to trading of any of the Company’s shares on a Recognised Investment Exchange approved by the Investors;
- “New Investors”** means any investor other than the Initial Investors who acquire ‘A’ Ordinary Shares in accordance with the terms of the Investment Agreement and the Articles;
- “New Managers”** means such person or persons, approved by the Board, with the consent of the Investors, who has or have been or will be promoted or recruited as a director or senior employee of the Company or any other Group Company;
- “Ordinary Shares”** means the ordinary shares of £1.00 each in the capital of the Company having the rights set out in Article 6;
- “Permitted Transfer”** has the meaning given to it in Article 11.1;
- “Recognised Investment** has the meaning given to it in section 285 of the



**Exchange”**

Financial Services and Markets Act 2000;

**“Sale”**

means:

(a) other than as a result of an intra-group reorganisation, the completion of an agreement for the sale of at least 90% of the equity share capital of the Company (or any Group Company to which all or substantially all of the business or assets of the Company have been transferred); or

(b) the completion of the acquisition or, where more than one, the last such acquisition, of equity share capital of the Company (or any Group Company to which all or substantially all of the business or assets of the Company have been transferred) made pursuant to an offer as a result of which the offeror becomes entitled or bound to acquire the remainder of such equity share capital,

and for the purposes of paragraph (b) above, the date of acquisition shall be the date upon which the last acquisition is completed and reference to the offeror shall include any person with whom he is acting in concert;

**“Sale Notice”**

has the meaning given to that expression in Article 12.1;

**“Shareholders”**

means the holders of Shares;

**“share”**

has the meaning given to it in section 744 CA 1985;

**“Shares”**

means the Ordinary Shares and the ‘A’ Ordinary Shares;

**“subsidiary”**

means a subsidiary as defined by sections 736 and 736A CA 1985 or a subsidiary undertaking to be construed in accordance with sections 258 and 259 CA 1985; and

**“Third Party”**

means an individual, partnership or company which does not at the proposed date of transfer own any Shares.

1.2 In these Articles, unless the context otherwise requires:

- (a) references to any document or to any specified provision in a document are to that document or that provision as in force for the time being and as amended

from time to time in accordance with its terms or as the case may be, with the agreement of the relevant parties;

- (b) words importing the singular include the plural and vice versa, words importing a gender include every gender and references to persons include corporations, partnerships (including limited partnerships), unit trusts or investment trusts and other unincorporated associations or bodies of persons;
  - (c) the words “other”, “include” “including” and “in particular” shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible;
  - (d) a person is connected with another person if he is so connected within the meaning of section 839 ICTA;
  - (e) a reference to any enactment shall include:
    - (i) any provision which it has re-enacted (with or without modification) or modified; and
    - (ii) that enactment as re-enacted, replaced or modified from time to time, whether before on or after the date of these Articles;
  - (f) references to books, records or other information include paper, electronically or magnetically stored data, film, microfilm, and information in any other form and references to “writing” or “written” include faxes and any other method of reproducing words in a legible and non-transitory form (excluding e-mail);
  - (g) references to days are to calendar days and not business days unless expressly stated otherwise;
  - (h) references to a person includes a reference to that person’s legal personal representatives, successors in title and assigns from time to time (as such assignment is permitted under the terms of the Investment Agreement); and
  - (i) references to regulations are, unless the context otherwise requires, references to the regulations in Table A (as defined in Article 2.1) and references to an Article by number is to the article in the corresponding numbered paragraph of these Articles.
- 1.3 Unless specifically defined, words and expressions defined in the Investment Agreement have the same meanings in these Articles.
- 1.4 The renunciation of a right to be allotted shares shall be treated as if it were a transfer of those shares and therefore shall be governed by Articles 10 to 15 inclusive.
- 1.5 References to shares are, unless the context otherwise requires, to shares of all and whatever denomination or classification in the Company.
- 1.6 The headings in these Articles shall not affect their construction or interpretation.

## **2 Table A**

- 2.1 The regulations contained in Table A in the Schedule to the Companies (Tables A-F) Regulations 1985, as amended by the Companies (Tables A-F) (Amendment) Regulations 1985 as further amended by the Companies Act 1985 (Electronic Communications) Order 2000 ("**Table A**"), shall apply to the Company except to the extent that they are excluded by or inconsistent with these Articles.
- 2.2 The first sentence of regulation 24 and regulations 64, 73 to 78, 80, 81, 90, 94, 95, 115 and 118 of Table A do not apply.

## **3 Private Company**

The Company is a private company and accordingly any invitation to the public to subscribe for any shares or debentures of the Company is prohibited.

## **4 Share Capital**

- 4.1 The authorised share capital of the Company at the date of adoption of these Articles is £137,273 divided into:
- (a) 57,273 'A' Ordinary Shares;
  - (b) 70,000 Ordinary Shares; and
  - (c) 10,000 Deferred Shares.

## **5 'A' Ordinary Shares**

- 5.1 The rights attached to the 'A' Ordinary Shares in relation to: (i) dividends; and (ii) return on capital are set out in Articles 6.1 and 6.2 respectively.
- 5.2 Voting

The holders of the 'A' Ordinary Shares shall be entitled to receive notice of and to attend and speak at any general meetings of the Company and each holder of 'A' Ordinary 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, on a show of hands, have one vote and on a poll, have one vote for each 'A' Ordinary Share of which he is the holder.

## **5.3 Enhanced Voting Rights**

In the event that any of the following occurs:

- (a) a material breach by the Company or any holder of Ordinary Shares of the Articles which:
  - (i) is not capable of being remedied; or
  - (ii) if capable of being remedied, is not remedied within 28 days of the defaulting party being required by the Investor to remedy such breach

(for so long as any such breach remains outstanding or has not been remedied and the Investor has given notice of such breach to the Company); or

- (b) a material breach by the Company or any holder of Ordinary Shares of the Investment Agreement which for the purposes of this Article 5.3 shall mean
  - (i) a breach of clause 5.1 and of and schedule 4 to the Investment Agreement which, in the reasonable opinion of the Lead Investor, would entitle the Investors to claim damages in excess of £25,000 for such breach PROVIDED THAT in the event of a breach of warranty 6.1 in Schedule 4, the rights accorded to the Investor pursuant to this article are suspended for the duration of the period during which an Acquisition Claim is being pursued by the Company and/or the Investors; and/or
  - (ii) a persistent and wilful breach of any of the provisions contained in paragraphs 1.1(b), (d), (e), (g), (h), (i), (j), (l), (p), (n), (o), (w), (y), (aa), (ff) and (gg) of schedule 2 and paragraphs 2, 9 and 10 of schedule 3 to the Investment Agreement;

then the Investors may serve notice of the same upon the Company whereupon the voting rights attached to the 'A' Ordinary Shares shall be enhanced as follows:

- (A) if the holders of the 'A' Ordinary Shares vote at any meeting of the Company against any resolution put to that meeting, that resolution shall be deemed not to have been carried notwithstanding that the number of votes cast in its favour exceeds those cast against it and notwithstanding any of the provisions of the Articles or any regulation of Table A to the contrary; and
- (B) any ordinary or special resolution in favour of which the holders of the 'A' Ordinary Shares have voted shall be deemed to have been carried as such a resolution notwithstanding the number of votes cast against such resolution and notwithstanding any of the provisions of the Articles or any regulation of Table A to the contrary

and such enhanced rights shall continue until such failure or breach is remedied to the reasonable satisfaction of the Investors.

## **6 Ordinary Shares**

The rights attached to the Ordinary Shares are as follows:

### **6.1 Dividends**

The holders of the Ordinary Shares shall rank *pari passu* in all respects with the 'A' Ordinary Shares as to dividends.

## 6.2 Capital

On a return of capital on liquidation or capital reduction or otherwise, the surplus assets of the Company remaining after the payment of its liabilities shall be applied in the following order:

- (a) first, in paying to each holder of 'A' Ordinary Shares an amount equal to the nominal amount which is fully paid up or credited as fully paid up in respect of all the 'A' Ordinary Shares held by the member;
- (b) secondly, in paying to each holder of 'A' Ordinary Shares any dividends thereon which have been declared but are unpaid;
- (c) thirdly, in paying to each holder of the Ordinary Shares any dividends thereon which have been declared but unpaid;
- (d) fourthly, in paying to each holder of Ordinary Shares an amount equal to the nominal amount which is fully paid up or credited as fully paid up in respect of all the Ordinary Shares held by the member;
- (e) fifthly, in paying to the holder of the Deferred Shares and amount equal to the nominal amount which is fully paid up or credited as fully paid in respect of all of the Deferred Shares held by that person; and
- (f) lastly, in distributing the balance of cash and assets among the holders of the Equity Shares in proportion to the numbers of such Shares held by them.

## 6.3 Voting

- (a) The holders of the Ordinary Shares shall be entitled to receive notice of and to attend and speak at general meetings of the Company and subject to Article 6.3(b), each holder of Ordinary 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, on a show of hands, have one vote and on a poll, have one vote for each Ordinary Share of which he is the holder.
- (b) The holders of the Ordinary Shares shall not be entitled to vote, whether present in person, by proxy or by a duly authorised representative, on a show of hands or on a poll on any resolution relating to the appointment of an Investor Director.

## **7 Deferred Shares**

7.1 The Deferred Shares shall confer no rights to receive dividends or to vote.

## **8 Ratchet**

8.1 Upon redemption in full of all amounts of principal and interest due and payable under the Investor Notes in accordance with the redemption profile set out at Condition 3.1 of the Investor Notes (or earlier), such number of A Ordinary Shares as represents 5% of the entire issued equity share capital of the Company (excluding Deferred Shares)

as at the date of adoption of these Articles (without resolution and without the requirement for consent of the Investors pursuant to these Articles or the Investment Agreement) convert into the same number of Deferred Shares and the same number of Deferred Shares held by the trustees of the Employee Trust shall (without resolution and without the requirement for consent of the Investors pursuant to these Articles or the Investment Agreement) convert into an equal number of Ordinary Shares.

- 8.2 Where the A Ordinary Shares and/or Deferred Shares are held by one or more members the conversions specified at Article 8.1 shall occur pro rata to members holdings of shares of the relevant class.

## **9 Variation of Class Rights**

- 9.1 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 that class) be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding up, either with the consent in writing of the holders of 75% of the issued shares of that class or with the sanction of a resolution passed at a separate meeting of the holders of the shares of that class by the holders of 75% in nominal value of shares of that class who attended and voted at such meeting but not otherwise. To every such separate meeting, all the provisions of these Articles relating to general meetings of the Company or to the proceedings at them shall apply (with appropriate changes) except that:

- (a) the necessary quorum shall, for a meeting of the 'A' Ordinary Shareholders, be one person and for a meeting of the Ordinary Shareholders, be two persons, each being a member, a proxy for a member or (in the case of a member being a corporation) a duly authorised representative of a member, together holding or representing at least one third in nominal amount of the issued shares of that class;
- (b) if at any adjourned meeting, a quorum as defined above is not present the member or members who is/are present shall be a quorum; and
- (c) the holders of shares of the class in question shall, on a poll, have one vote in respect of every share of that class held by them.

- 9.2 Without prejudice to the generality of Article 9.1, the special rights attached to the 'A' Ordinary Shares shall be deemed to be varied at any time by any of the following:

- (a) the capitalisation of any sum in or towards paying up any share or loan capital of the Company other than on a pro rata basis between the holders of the 'A' Ordinary Shares and the Ordinary Shares as if all such Shares constituted one class of shares;
- (b) the redemption of any of the Company's shares or the entering into by the Company of a contract to purchase any of its shares other than pursuant to these Articles or otherwise than on a pro rata basis between the holders of the 'A' Ordinary Shares and the Ordinary Shares as if all such shares constituted one class of shares;

- (c) the alteration, increase, reduction, sub-division or consolidation of the issued share capital of any Group Company or the grant of any option or right to subscribe for shares in any Group Company or the issue of securities which are convertible into shares of any Group Company, other than a conversion redesignation, consolidation or redemption of shares pursuant to these Articles;
- (d) the creation by any Group Company of any mortgage, charge, pledge, lien, encumbrance or other security interest other than such existing interests pursuant to the Investor Note Instrument (excluding any interest arising by operation of law in the ordinary course of business);
- (e) the making of any material change (including cessation) in the nature of the business of the Group taken as a whole;
- (f) the passing of any special or extraordinary resolution of the members or any class of them);
- (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 of its subsidiaries;
- (h) the institution of any proceedings for or the convening of any meeting for the passing of any resolution for the winding up of the Company or any Group Company;
- (i) the removal of any Investor Director otherwise than in accordance with Article 21; or
- (j) the Company or any Group Company incurring an obligation to do any of the matters referred to in this Article 9.2.

## **10 Provisions applying on every Transfer of Shares**

10.1 The Board shall not register a transfer of Shares (or any interest in such Shares) nor are any Shareholders entitled to transfer Shares unless:

- (a) such transfer is permitted by Article 11 (Permitted Transfers) or has been made in accordance with Article 12 (Pre-emption Rights) or, if appropriate Articles 13 (Drag Along), 14 (Tag Along) or 1 (Compulsory Transfers); and
- (b) in the case of a Promoter or Investor being the proposed transferor, other than on an Exit, any proposed transferee has entered into an agreement to be bound by the Investment Agreement in the form required by clauses 6.7 and 6.8, respectively, of the Investment Agreement.

10.2 For the purpose of ensuring that a particular transfer of Shares lodged for registration is permitted under or made in accordance with these Articles, the Board may require the transferor or the transferee named in that transfer to provide such information or evidence as the Board may reasonably think necessary or relevant. If such information or evidence is not provided to the satisfaction of the Board within 28 days after a request for it (or the first in a series of requests), the Board may refuse to register the

transfer in question.

10.3 The Board may, in its absolute discretion and without giving any reason, refuse to register any transfer of any Share which would otherwise be permitted under or made in accordance with these Articles, if it is a transfer:

- (a) of a Share on which the Company has a lien; or
- (b) of a Share which is not fully paid to a person of whom they do not approve.

10.4 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 other encumbrance (save for any interest of beneficiaries under the relevant Family Trust, where applicable).

## **11 Permitted Transfers of Shares**

11.1 For the purposes of these Articles:

**“Family Member”** means, in relation to a member, the spouse, widow or widower of that member and that member’s children or grandchildren (including step and adopted children and grandchildren);

**“Family Trust”** means, in relation to a member, a trust under which there is no immediate beneficial interest vested in any party other than that member or any Family Member of that member and under which no power of control over the voting powers conferred by any shares which are the subject of the trust is capable of being exercised by, or being subject to the consent of, any person other than the trustees of such member or his Family Members;

**“Permitted Transfer”** means any transfer of shares permitted under this Article 11;

**“Relevant Shares”** means, in relation to a member any shares for the time being held by that member or his Family Members or trustees of his Family Trust; and

**“Settlor”** includes a testator or an intestate in relation to a Family Trust arising under a testamentary disposition or the intestacy of a deceased member respectively.

11.2 Shares may be transferred to a Family Member of that member or to the trustees of a Family Trust at any time provided that for the purposes of this Article 11.2, “member” does not include:

- (a) a bankrupt or a trustee in bankruptcy;
- (b) a trustee of a Family Trust; or
- (c) any person in respect of whom shares were previously transferred by way of Permitted Transfer under this Article 11.

11.3 Where shares are held by trustees under a Family Trust:



- (a) such shares may, on any change of trustees, be transferred to the new trustees of that Family Trust;
  - (b) such shares may at any time be transferred to the Settlor or to the trustees of such Family Trust or to any person to whom the Settlor could have transferred them under Article 11.2 if he had remained the holder of them or to any beneficiary of a Family Trust provided that such beneficiary is a Family Member; and
  - (c) if and whenever any such shares cease to be held under a Family Trust (other than by virtue of a transfer made under this Article 11.3), the trustees shall as soon as they become aware of this and in any event within 28 days of becoming so aware transfer such shares ceasing to be so held to ensure they are held under a Family Trust or to another person to whom they are entitled to transfer the shares pursuant to Article 11.2, failing which the trustees shall forthwith give a Sale Notice (as defined in Article 12.1).
- 11.4 If any Family Member who has acquired shares from a member pursuant to this Article 11 ceases to bear the relationship to that member (or, where the member was the trustee of a Family Trust or the Settlor of that trust) by which the transfer qualified as a Permitted Transfer, that Family Member shall forthwith transfer the Relevant Shares back to that member for such consideration as they may agree or, in default of agreement within 28 days of the cessation, for the consideration (if any) for which that Family Member acquired them. In the event that such transfer is not effected within the prescribed time the Board may appoint any director to execute instruments of transfer in favour of the original member and shall procure that the name of the original member be entered into the register of members in respect of such Shares.
- 11.5 A shareholder which is a body corporate may transfer shares to a member of the same group (meaning a subsidiary or holding company for the time being of the body corporate or a subsidiary of any holding company of which that body corporate is also a subsidiary) if the transferee gives a binding written undertaking to the Company and, where appropriate, to each of the Investors that if the transferee is about to cease to be a member of the same group, all its shares in the Company will, before the cessation, be transferred to another member of the same group.
- 11.6 Any shares may be transferred to any person on any terms with the approval of the Board and the prior written consent of the Investors.
- 11.7 Any of the Investors, or any nominee of the Investors, may at any time transfer any share:
- (a) to another Investor;
  - (b) to a member of the same group as that Investor's Group (as defined below);
  - (c) to any person who becomes a manager or adviser of a company, fund or partnership in place of, or in addition to, an Investor;
  - (d) to any person who becomes a general partner, nominee or trustee for a limited

partnership, unit trust or investment trust in place of, or in addition to, such Investor;

- (e) to the partners of a limited partnership (or their nominees) or to the holders of units in a unit trust (or their nominees) on a distribution in kind or otherwise by the Investor;
- (f) to any investment trust (as defined in the Listing Rules of the UK Listing Authority) whose shares are listed on a Recognised Investment Exchange and which is also manager of such Investor; or
- (g) to any co-investment scheme, being a scheme under which certain officers, employees or partners of an Investor or its adviser or manager are entitled (as individuals or through a body corporate or any other vehicle) to acquire shares which the Investor would otherwise acquire ("**Co-Investment Scheme**")

and for these purposes "**Investor's Group**" shall mean the Investors and any subsidiary or holding company of the Investors and any subsidiary of any such holding company.

- 11.8 If any person who has acquired shares from an Investor (or any nominee of an Investor) pursuant to Article 11.7 ceases to bear the relationship to that Investor (or its nominee) (or any of its Group Companies) by which the transfer qualified as a Permitted Transfer, the transferee shall forthwith transfer the shares back to the said Investor (or its nominee, if applicable) for such consideration as they may agree or in default of agreement, within 28 days of such cessation, for the consideration (if any) for which the transferee originally acquired the shares. In the event that such transfer is not effected within the prescribed time, the Board may appoint any director to execute instruments of transfer in favour of the original member and shall procure that the name of the original member be entered into the register of members in respect of such Shares.

## **12 Pre-emption Rights**

- 12.1 Without prejudice to any restrictions on transferring Shares contained in the Investment Agreement, a shareholder who wishes to transfer shares to a person to whom Article 11 does not apply ("**Selling Shareholder**") shall serve notice on the Company ("**Sale Notice**") stating the number of shares he wishes to transfer ("**Sale Shares**") and his asking price for each share ("**Asking Price**").
- 12.2 The Selling Shareholder may state in the Sale Notice that he is only willing to transfer all the Sale Shares, in which case no Sale Shares can be sold unless offers are received for all of them but in the absence of such a statement, the Sale Notice shall be deemed not to contain such a statement.
- 12.3 The Sale Notice shall be irrevocable and shall make the Company the agent of the Selling Shareholder for the sale of the Sale Shares on the following terms (which the Company shall notify to the other Shareholders and the Investors within seven days of receiving the Sale Notice):

- (a) the aggregate price for each Sale Share is the Asking Price;
- (b) the Sale Shares are to be sold free from all liens, charges and encumbrances and together with all rights attaching to them; and
- (c) the Sale Shares shall be offered as follows:
  - (i) if the Sale Shares are Ordinary Shares in the first instance to the holders of Ordinary Shares and if the Sale Shares are 'A' Ordinary Shares, in the first instance to the holders of 'A' Ordinary Shares; and then
  - (ii) secondly to all Shareholders; and then
  - (iii) to the extent not taken up by the Shareholders (and subject to the approval of the Board), to a bona fide arm's length third party purchaser ("**Third Party**") within three months of the Closing Date (as referred to in Article 12.7) in accordance with Article 12.9

but no Sale Shares shall be offered to any member who is then bound to give or is then deemed to have given a Sale Notice pursuant to Article 15.

- 12.4 Subject to Article 12.5, Shareholders to whom Sale Shares are offered pursuant to Article 12.3 shall be entitled to apply by notice in writing to the Company for any number of Sale Shares up to a maximum proportion of Sale Shares which equals the proportion which all the shares then held by each such Shareholder bears to all the shares held by all offerees ("**Due Proportions**") within 14 days of receiving notification from the Company in accordance with Article 12.3.
- 12.5 Where the number of Sale Shares is more than the number of Sale Shares for which applications are made, the excess shares ("**Excess Shares**") shall be allocated to the applicants (as nearly as possible) in their Due Proportions. Those persons may but shall not be obliged to amend their application to buy any such Excess Shares.
- 12.6 For the purpose of Article 12.3 only, references to Shareholders shall not include any person who has already given or who is deemed to have already given a Sale Notice.
- 12.7 Twenty one days after the Company's despatch of the Sale Notice ("**Closing Date**"):
  - (a) any Shareholder who has not responded to the offer in writing shall be deemed to have declined it; and
  - (b) each application made (and not withdrawn) by any Shareholder to acquire Sale Shares shall become an irrevocable offer to purchase the same on the terms contained in Articles 12.3(a) and 12.3(b).
- 12.8 Within seven days after the Closing Date, the Company shall notify the Selling Shareholder and the persons who applied to buy Sale Shares as the result of the offer (and if any Sale Shares are to be sold pursuant to the offer):
  - (a) notify the Selling Shareholder of the names and addresses of the persons who are to buy Sale Shares and the numbers to be bought by each;

- (b) notify each person buying shares of the number of Sale Shares he is to buy; and
  - (c) notify both the Selling Shareholder and each person buying shares of the place and time, between 7 and 14 days later, on which the sale and purchase of the Sale Shares is to be completed, subject to Article 12.2.
- 12.9 In relation to any offer of unsold Sale Shares to a Third Party in accordance with Article 12.3, such transfer may only be made in relation to the Sale Shares for which offers were not received (or, if the Sale Notice stated that the Selling Shareholder was only willing to transfer all the Sale Shares, all the Sale Shares) and to any person at no less than the Asking Price per share and at no more favourable terms than those in the Sale Notice and the Company and the Investors shall be entitled to require such evidence as they deem necessary or desirable to satisfy themselves as to such terms and no transfer to any Third Party will be registered until such information is provided to the satisfaction of the Company and each of the Investors.
- 12.10 Without prejudice to the generality of Article 10.2, the Board or any Investor may require to be satisfied that any Sale Shares being transferred by a Selling Shareholder pursuant to Article 12.9 are being transferred under a bona fide sale for the consideration stated in the transfer without any deduction, rebate or allowance to the Third Party and if the Board is not so satisfied (acting reasonably), the Board may refuse to register the transfer.
- 12.11 The Directors may not register a transfer of Shares unless the proposed transferee has executed a deed poll to be bound by the Investment Agreement in the form required by that agreement.
- 12.12 If having issued a Sale Notice the Selling Shareholder does not transfer Sales Shares, the Company may authorise any director to transfer the Sale Shares on the Selling Shareholder's behalf to the buying party concerned against receipt by the Company of the Asking Price per share. The Company shall hold the Asking Price in trust for the Selling Shareholder without any obligation to pay interest. The Company's receipt of the Asking Price shall be a good discharge to the buying shareholder. The directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Selling Shareholder shall surrender his share certificate for the Sale Shares to the Company. On surrender, he shall be entitled to the Asking Price for the Sale Shares.
- 12.13 Nothing contained in these Articles shall prevent or restrict the Shareholders transferring any Shares in the Company held by them on or after an Exit to any person free of any pre-emption rights.

### **13 Drag Along Right**

- 13.1 Without prejudice to the provisions of Article 14, if any one or more of the holders of the majority of the 'A' Ordinary Shares (together "**Exiting Shareholders**") wish to transfer their Shares to a bona fide arm's length purchaser ("**Third Party Purchaser**"), the Exiting Shareholders shall have the option at any time on or after the date on which the Company has made repayment in full of the Investor Notes ("**Drag**

**Along Option**”) to require all Shareholders to transfer all their shares in the Company to the Third Party Purchaser (or as it shall direct) in accordance with this Article 13.

- 13.2 Subject to Article 13.1, the Exiting Shareholders may exercise the Drag Along Option by giving notice to that effect (“**Drag Along Notice**”) to all Shareholders (“**Called Shareholders**”) at any time before the transfer of the Existing Shareholders Shares. A Drag Along Notice shall specify that the Called Shareholders are required to transfer all their Shares (“**Called Shares**”) pursuant to Article 13.1, the price at which the Called Shares are to be transferred calculated in accordance with Article 13.3 and the proposed date of transfer.
- 13.3 Subject to Article 13.1, the Called Shareholders shall be obliged to transfer the Called Shares at the same price per Share as is to be paid by the Third Party Purchaser to the Exiting Shareholders.
- 13.4 Completion of the sale of the Called Shares shall take place on the same date as the date proposed by the Exiting Shareholders for completion of the sale of the Exiting Shareholders’ Shares unless:
- (a) all of the Called Shareholders and the Exiting Shareholders agree otherwise; or
  - (b) that date is less than seven days after the Drag Along Notice, in which case the date for completion of the sale of the Called Shares shall be the seventh day after the Drag Along Notice.
- 13.5 Article 12 does not apply to transfers of shares made under this Article 13.

#### **14 Tag Along Right**

- 14.1 Notwithstanding any other provision in these Articles, no sale or transfer or other disposition of any interest in any shares (“**Specified Shares**”) shall have any effect, if it would result in a change in Control unless:
- (a) the Investors consent in writing; or
  - (b) before the transfer is lodged for registration the proposed transferee (“**Third Party Purchaser**”) makes a bona fide offer in accordance with this Article 12.1 to purchase at the Specified Price (defined in Article 14.3) all the shares held by the Investors and to purchase or redeem or procure that the Company redeems the Investor Notes as if such Investor Notes fell to be redeemed in accordance with the terms of the Investor Note Instrument.
- 14.2 An offer made under Article 14.1 shall be in writing open for acceptance for at least 28 days (“**Offer Period**”) and shall be deemed to be rejected by any member who has not accepted it in accordance with its terms on the date of expiry of the Offer Period and the consideration payable under the offer shall be settled in full on completion of the purchase and within 14 days following the date of expiry of the Offer Period.
- 14.3 For the purposes of Article 14.1 the expression “**Specified Price**” means:

- (a) in the case of shares held by the Investors a price per share equal to the highest price paid or payable by the Third Party Purchaser or persons acting in concert with him or connected with him for any shares within the last six months plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified Shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Specified Shares.
  - (b) in the case of the purchase or redemption of the Investor Notes, the purchase or redemption of the nominal amount of such Investor Notes together with any arrears or accruals of interest on and any other sums outstanding in relation to such Investor Notes calculated down to the date on which the transfer is completed.
- 14.4 If the Specified Price or its equivalent (in cash or otherwise) cannot be agreed within 21 days of the proposed sale or transfer referred to in Article 14.1 between the Third-Party Purchaser and the Investors (excluding persons who have waived their right to receive an offer), the question may be referred by either of them to the Auditors in accordance with Article 14.5 and, pending its determination, the sale, transfer or other disposition referred to in Article 14.1 shall have no effect.
- 14.5 Any such dispute relating to the Specified Price or its equivalent (in cash or otherwise) shall be decided by the Auditors in accordance with such principles and procedures as they deem fit. The Auditors shall act as experts and not as arbitrators and save in the case of manifest error, their decision shall be final and binding. The costs of the Auditors shall be borne equally between the Investors and the Company unless (in the case of the Company) such payment would be unlawful, in which case all such fees shall be paid by the relevant Investors.
- 14.6 If the Third Party Purchaser shall fail to make an offer in accordance with Article 14.1 (or, if and to the extent that the offer is accepted, the Third Party Purchaser shall fail to complete the purchase of any Shares pursuant to the offer) he (and any member with whom he is acting in concert) shall cease to have any rights to vote or to receive dividends in respect of all the shares held by them and the directors may where relevant refuse to register the transfer of the shares acquired by the Third Party Purchaser which give rise to the obligations under Article 14.1 and may require the Third Party Purchaser to serve a Sale Notice in accordance with Article 12 in respect of all or any of the Shares held by him.
- 14.7 Save in respect of Article 14.7, Article 12 shall not apply to transfers of Shares made under this Article 14.

## **15 Compulsory Transfer**

### **15.1 Article 15.3 applies in the event of:**

- (a) a member of the Company ceasing to be an employee of any Group Company;
- (b) the death of a member;

- (c) the insolvency or bankruptcy of a member; or
- (d) in the case of Shares which have been transferred as a Permitted Transfer pursuant to Articles 11.2 or 11.5 being required pursuant to Articles 11.4 or 11.5 to be transferred back (Article 11.4) or transferred to another member of the Group (Article 11.5) and such transfer not being effected in the timescales respectively envisaged by such Articles

in which event the member in question and any other member who has acquired Shares from the member as a Permitted Transfer, (directly or by means of a series of two or more Permitted Transfers) shall be deemed to have immediately given a Sale Notice in respect of all the Shares as shall then be registered in the name of such member(s).

15.2 Where a Sale Notice is given by a member under Article 12 or deemed given by a member pursuant to Article 15.1, a Sale Notice shall also be deemed to have been given in the same terms and manner:

- (a) by personal representatives, trustees in bankruptcy, liquidator, receiver or administrator in respect of all the shares in the Company held by them at the date of the relevant event;
- (b) by each Family Member of that member and each trustee of a Family Trust for that member in respect of all the shares in the Company held by them at the date of the relevant event and by any other person in respect of the shares held by him at the date of the relevant event which he acquired by one or more transfers which were Permitted Transfers; and
- (c) any other person in respect of the shares held by that person as at the date of the relevant event which he acquired by one or more transfers which were Permitted Transfers.

15.3 Within three months after the occurrence of an event specified in Article 15.1, the Board may, with the consent of the Investors, serve notice ("**Notice**") requiring the relevant member (or his personal representatives in the case of his death) and any transferee of the such member under Article 11 ("**Compulsory Seller**") to offer some or all of their Shares including any Shares which have been transferred pursuant to Articles 11.2 or 11.5 ("**Compulsory Sale Shares**") (as the Investors may require):

- (a) to a New Manager;
- (b) to an Employee Trust (in which case such a trust shall then be constituted by the Company in such form as is required or approved by the Investors, unless it already exists in such form as has already been approved by the Investors);
- (c) subject to compliance with the CA 1985, to the Company; or
- (d) in accordance with the order of preference specified in Article 12.3(c).

15.4 The Compulsory Seller shall offer his Compulsory Sale Shares to the offerees in accordance with Article 10 and this Article 15 free from all liens, charges and

encumbrances and together with all rights attaching to them on the terms set out in this Article 15.

15.5 The price for Compulsory Sale Shares shall be the price agreed between the Compulsory Seller and Board, with the Investors' consent or if they do not agree a price within 14 days of the Investors' notification under Article 15.3, as determined under Articles 15.6 to 15.9 (inclusive).

15.6 For the purposes of Article 15.5, the price for the Compulsory Sale Shares shall be:

- (a) if the Compulsory Seller shall be a Good Leaver, Market Value;
- (b) if the Compulsory Seller shall be a Bad Leaver, the lower of the subscription price of the Compulsory Sale Shares and Market Value.

15.7 For the purposes of Article 15.6:

- (a) **"Good Leaver"** shall mean a person who becomes a Compulsory Seller:
  - (i) as a result of death;
  - (ii) as a result of disability or ill health; or
  - (iii) as a result of retirement at 63;
  - (iv) in circumstances where the Board (with the consent of the Investor) so designate;

**"Bad Leaver"** shall mean any person other than a Good Leaver, who ceases to be a director or employee of the Company and is no longer a director and employee of any Group Company; and

**"Market Value"** shall be:

$$\frac{SS}{ES} \times MV$$

where

SS = the relevant Compulsory Sale Shares

ES = the aggregate number of Shares

MV = the market value as determined in accordance with Article 15.8.

15.8 At the Board's discretion at any time or if there is a Compulsory Seller, the Auditors shall be instructed to give their opinion of the fair market value of the Shares as if:

- (a) the entire issued share capital of the Company is being sold as one class of shares on the open market (and therefore taking no account of the different rights attaching to the Shares); and



- (b) on the basis of a willing vendor and a willing purchaser; and
- (c) on the assumption (if the Company is then carrying on business as a going concern) that it will continue to do so

taking into account all such factors as the Auditors may deem relevant. The fees of the Auditors in acting pursuant to this Article 15.8 shall be borne and paid in such manner as the Auditors shall think fit. When considering the factors which are relevant the Auditors shall take into account any arrears in dividends or repayments under the Investor Notes, any proposals or plans for the Company (including the timing of any actual or prospective Exit) and the make up of the on going management of the Company. If any difficulty shall arise in applying any of the foregoing considerations, such difficulty shall be resolved by the Auditors in such manner as they shall in their absolute discretion think fit and they shall be deemed to give their opinion and to resolve any such difficulty acting as experts and not arbitrators and their decision as to any matter referred to them for determination shall be final and binding in all respects on the parties and shall not in the absence of manifest error be subject to question on any ground whatsoever.

15.9 If the Compulsory Seller does not agree with the statement of fair value determined pursuant to Article 15.8 above and to the extent that any such matter in dispute has not been resolved within 21 days after notification of such fact by the Compulsory Seller to the Board, then such matter or matters (but no other matters) shall thereupon be referred to such firm of independent chartered accountants as the Board (with the Investors' consent) and the Compulsory Seller shall agree or, failing such agreement as the president for the time being of the Institute of Chartered Accountants in England and Wales may nominate on the application of the Investors or the Compulsory Seller ("**Independent Accountants**") for determination on the basis as set out in Article 15.8 and as follows:

- (a) the Independent Accountants shall be instructed to notify the Board of their determination of any such matter within 21 days of such referral;
- (b) in making their determination the Independent Accountants shall act as experts and not as arbitrators, their decision as to any matter referred to them for determination shall be final and binding in all respects on the parties and shall not be subject to question on any ground whatsoever; and
- (c) the fees and expenses of the Independent Accountants shall be borne and paid in such manner as the Independent Accountants shall think fit.

15.10 Within seven days after the price has been agreed or certified:

- (a) the Company shall notify the Compulsory Seller of the names and addresses of the offeree and the number of Compulsory Sale Shares to be offered to him;
- (b) the Company shall notify each offeree of the number of Compulsory Sale Shares on offer to him; and
- (c) the Company's notices shall specify the price per share and state a date, between seven and fourteen days later, on which the sale and purchase of the

Sales Shares is to be completed ("**Completion Date**").

- 15.11 By the Completion Date, the Compulsory Sellers shall deliver stock transfer forms for the Compulsory Sale Shares, with the relevant share certificates to the Company. On the Completion Date and provided that the offeree has put the Company in the requisite funds, the Company shall pay to the Compulsory Seller, on behalf of the offeree, the agreed or determined price for the Compulsory Sale Shares. The Company's receipt for the price shall be a good discharge to the offeree.
- 15.12 If a Compulsory Seller fails to deliver stock transfer forms for Compulsory Sale Shares to the Company by the Completion Date and provided that the offeree has, by the Completion Date, put the Company in funds to pay the agreed or determined price for the Compulsory Sale Shares offered to him the directors may (and shall, if requested by an Investor Director) authorise any director to transfer the Compulsory Sale Shares on the Compulsory Seller's behalf to each offeree. The directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Compulsory Seller shall surrender his share certificate for the Compulsory Sale Shares to the Company. On surrender, he shall be entitled to the agreed or determined price, without interest, for the Compulsory Sale Shares.
- 15.13 To the extent that the offeree has not, by the Completion Date, put the Company in funds to pay the agreed or determined price, the Compulsory Sellers shall be entitled to the return of the stock transfer forms and share certificates for the relevant Compulsory Sale Shares and the Compulsory Sellers shall have no further rights or obligations under this Article 15 in respect of the Compulsory Sale Shares.
- 15.14 While Shares are Compulsory Sale Shares by virtue of Article 15.3 they may not be transferred under Articles 11 or 12.
- 15.15 Any obligation to transfer Shares in accordance with Article 15.3(c) may be satisfied by the Company purchasing such Shares at the value determined pursuant to Article 15.7 out of the proceeds of a fresh subscription for shares by the proposed transferee (pursuant to Article 15.3(c)) at Market Value or, if greater, their nominal value, such that the purchase will be effected by the Company out of the proceeds of a fresh issue of shares by the Company.
- 15.16 If the Board, require the Compulsory Seller to offer his Shares for purchase by the Company pursuant to Article 15.3(c), the Compulsory Seller shall offer his Shares in the same manner and subject to the same conditions as set out in Article 15.4 to 15.10, save that the timetable for completion of the sale and purchase of such Shares shall be such timetable as the Company requires and the Investor Director approves to enable the Company to comply with all requisite provisions of CA 1985 in relation to such sale and purchase.
- 15.17 Each Compulsory Seller hereby irrevocably appoints the Company as his attorney (with the power to appoint any member of the Board as a substitute and to delegate to that substitute all or any power hereby conferred, other than this power of substitution, as if he had been originally appointed by this power of attorney) to give effect to any and all of the provisions of this Article 15.

## **16 General Meetings**

- 16.1 Regulation 37 of Table A shall be modified by the deletion of the words "eight weeks" and the substitution for them of the words "28 days" and by the insertion of the words "or an Investor Director acting alone" after the second word of that regulation.
- 16.2 A corporation which is a member of the Company may, by resolution of its directors or other governing body, authorise such a person as it thinks fit to act as its representative at any meeting of the Company or at any meeting of any class of members of the Company. The person so authorised is entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member.
- 16.3 A poll may be demanded by the chairman or by any member present in person or by proxy and entitled to vote and Regulation 46 of Table A shall be modified accordingly.
- 16.4 Where an ordinary resolution of the Company is expressed to be required for any purpose, a special or extraordinary resolution is also effective for that purpose, and where an extraordinary resolution is expressed to be required for any purpose, a special resolution is also effective for that purpose.
- 16.5 Regulation 53 of Table A shall be modified by the addition at the end of the said regulation of the following sentence: "If a resolution in writing is described as a special resolution or as an extraordinary resolution it shall have effect accordingly".
- 16.6 Regulation 57 of Table A shall be modified by the inclusion after the word "shall" of the phrase "unless the directors otherwise determine".
- 16.7 Regulation 59 of Table A shall be modified by the addition at the end of the following sentence: "Deposit of an instrument of proxy shall not preclude a member from attending and voting at the meeting or at any adjournment of it".
- 16.8 Regulation 62 of Table A 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 facsimile transmission to", by the substitution in paragraph (a) of the words "one hour" in place of "48 hours" and by the substitution in paragraph (b) of the words "one hour" in place of "24 hours".
- 16.9 The chairman shall not be entitled to exercise any second or casting vote. Regulation 50 shall not apply.

## **17 Number of Directors**

- 17.1 Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) is not subject to any maximum and the minimum number shall be at least one Director.

## **18 Alternate Directors**

- 18.1 A Director shall be entitled to appoint any person willing to act, whether or not he is a

director of the Company, to be an alternate director. Those persons need not be approved by resolution of the directors and Regulation 65 of Table A is modified accordingly.

- 18.2 A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.
- 18.3 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.
- 18.4 Regulation 68 of Table A shall be modified by the addition at the end of the said regulation of the following sentence "Any such notice may be left at or sent by post or facsimile transmission to the office or such other place as may be designated for the purpose by the directors".

## **19 Appointment, retirement and removal of Directors**

- 19.1 The directors are not subject to retirement by rotation and all references in any Regulation of Table A to retirement by rotation are to be disregarded.
- 19.2 The Company may by ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director and may remove a director by ordinary resolution.
- 19.3 A person appointed by the directors to fill a vacancy or an additional director need not retire from office at the annual general meeting next following his appointment and the last two sentences of Regulation 79 of Table A shall be deleted.

## **20 Investor Director, Chairman and Observers**

- 20.1 The Investors shall have the right to have a nominee of their choice appointed to act as a director of the Company or any Group Company ("**Investor Director**"). Such right may be exercised from time to time by written notice to the Company and the Investors may also remove any such director and appoint a replacement by written notice to the Company.
- 20.2 The Investor Director shall be entitled to disclose to the Investors such information concerning the Company or any other Group Company as the Investor Director from time to time thinks fit.
- 20.3 The Investor Director shall not be required to hold any share qualification nor be subject to retirement by rotation and shall not be removed from office except by the Investors pursuant to clause 20.1.
- 20.4 The Investor Director shall be entitled to attend and address all meetings of the Board and of the members of the Company and its Subsidiaries and the Board will ensure that the Investor Director is given at least 5 working days prior notice of such meetings together with all notices, agendas and papers prepared for such Board meetings or distributed to any of the directors in respect of the Company and the relevant Subsidiary.

- 20.5 Following the appointment of an Investor Director, no business shall be transacted at any board, committee or shareholder meeting of any Group Company except that specified in the agenda for such meeting unless such Investor Director is present and agrees to the transaction of such other business. An Investor Director shall be permitted to bring an adviser (at the Investors' cost) to any such meeting to advise in relation to any matter which may arise.
- 20.6 In addition to their rights under Article 20.1, the Investors shall have the right from time to time by written notice to the Company to appoint a chairman to the Board and to the board of any Group Company PROVIDED THAT the identity of such chairman has received the prior written approval of the holders of the majority of the Ordinary Shares and FURTHER PROVIDED THAT where the holders of a majority of the Ordinary Shares have failed to provide their approval to the appointment of a Chairman within 3 months of notification by the Investors of a named individual, the Investors shall be entitled to appoint such individual to the position of Chairman by notice served on the Company without the aforementioned prior approval. The Investors may also remove any such chairman and appoint a replacement by written notice to the Company.
- 20.7 The Investors shall have the right from time to time by written notice to the Company to appoint an observer to the Company in addition to an Investor Director ("Observer"). The Company will:
- (a) provide the Observer with at least 5 working days' notice prior to the holding of all meetings of the Board and of the members of the Company and any Group Company together with copies of all appropriate notices, agendas and papers prepared for such meetings or distributed to any of the members or directors of the Company or any Group Company in respect of such meetings; and
  - (b) allow the Observer to attend all meetings of the Board and of members of the Company and any Group Company and to speak at such meetings.
- 20.8 Any Observer shall not be a director of the Company or of any Group Company and shall not be entitled to vote at any meeting he attends.
- 20.9 Notice of meetings of the Board shall be served on an Investor Director who is absent from the United Kingdom at the address notified by him to the Company for this purpose. Regulation 88 of Table A shall be modified by the exclusion of the third sentence and the substitution for it of the following sentence: "Every director shall receive notice of a meeting, whether or not he is absent from the United Kingdom. A director may waive the requirement that notice be given to him of a board meeting either prospectively or retrospectively".

## **21 Disqualification and removal of Directors**

- 21.1 The office of a director shall be vacated if:
- (a) he ceases to be a director by virtue of any provision of CA 1985 or he becomes prohibited by law from being a director;

- (b) he becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) he becomes, in the opinion of all co-directors, incapable by reason of mental disorder of discharging his duties as director;
- (d) he resigns his office by notice in writing to the Company; or
- (e) (save for the Investor Director) he has for more than six consecutive months been absent from meetings of directors held during this period and his alternate director (if any) has not during such period attended any such meetings instead of him, and the directors resolve that his office be vacated.

## **22 Proceedings of Directors**

- 22.1 Subject to Article 22.2, the quorum for the transaction of business of the Board shall be two directors, one of whom shall be an Investor Director (or his alternate), in person or by proxy.
- 22.2 If within half an hour of the time appointed for a Board or committee meeting the Investor Director is not present, the meeting shall be adjourned to the same day of the next week at a time between the hours of 09:30 and 17:30 at the Company's Office ("**Adjourned Meeting**") and at the Adjourned Meeting any two directors present shall constitute a quorum for the purpose of the business to be transacted at such Adjourned Meeting.
- 22.3 Save with the consent of the Investor Director:
  - (a) the Board shall not delegate any of its powers to a committee; and
  - (b) meetings of the Board shall not be held outside the United Kingdom.
- 22.4 The chairman of the Board shall not have a second or casting vote at a meeting of the Board. The fifth sentence of regulation 88 shall not apply.
- 22.5 Any director or his alternate may validly participate in a meeting of the directors through the medium of conference telephone or similar form of communication equipment if all persons participating in the meeting are able to hear and speak to each other throughout such meeting. A person participating in this way is deemed to be present in person at the meeting and is counted in a quorum and entitled to vote. Subject to CA 1985, all business transacted in this way by the directors is for the purposes of the Articles deemed to be validly and effectively transacted at a meeting of the directors although fewer than two directors or alternate directors are physically present at the same place. The meeting is deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- 22.6 Meetings of the Board shall take place no less frequently than twice per calendar quarter and at least five working days' notice shall be given to each director provided that with the consent of a majority of the directors, including the prior written consent of an Investor Director, board meetings may be held less frequently and convened on

less notice.

- 22.7 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 CA 1985) with the Company shall declare the nature of his interest at a meeting 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. Regulations 94 and 95 shall not apply. The director shall be counted in the quorum present when any such resolution is under consideration and his vote shall be counted.

### **23 Borrowing Powers of Directors**

- 23.1 The Board may exercise all the powers of the Company to borrow money and to mortgage or charge all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company and, subject to CA 1985, to issue debentures.

### **24 Notices**

- 24.1 Regulation 112 of Table A is modified by the deletion of the last sentence and the substitution for it of the following: "A member whose registered address is not within the United Kingdom shall be entitled to have notices given to him at his overseas address provided that such address has been notified to the Company".
- 24.2 A notice sent by post to an address within the United Kingdom is deemed to be given 24 hours after posting, if pre-paid as first class, and 48 hours after posting, if pre-paid as second class. A notice sent by post to an address outside the United Kingdom is deemed to be given four days after posting, if pre-paid as airmail. Proof that an envelope containing the notice was properly addressed, pre-paid and posted is conclusive evidence that the notice was given. A notice not sent by post but left at a member's registered address is deemed to have been given on the day it was left.
- 24.3 Regulation 116 of Table A is modified by the deletion of the words "within the United Kingdom".
- 24.4 Where these Articles require notice to be given by the holders of a stated percentage of shares, notice may consist of several documents in similar form each signed by or on behalf of one or more shareholders.

### **25 Indemnity**

- 25.1 Subject to the provisions of CA 1985, but without prejudice to an indemnity to which he may otherwise be entitled, every director, alternate director or secretary of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses and liabilities incurred by him in the proper execution of his duties or the proper exercise of his powers, authorities and discretions including a liability incurred defending proceedings (whether civil or criminal) in which judgment is given in favour or in which he is acquitted or which are otherwise disposed of without a

finding or admission of material breach of duty on his part, or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company. Regulation 118 shall be extended accordingly.

## **26 Capitalisation**

26.1 The Board may with the authority of an ordinary resolution of the Company and with any necessary consent to the variation of the class rights attaching to the 'A' Ordinary Shares:

- (a) resolve to capitalise any undivided profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and
- (b) resolve to appropriate the sum resolved to be capitalised pursuant to (a) above and apply such sum in favour of such person or persons as agreed by the shareholders of the Company by way of ordinary resolution in or towards paying up in full at par value unissued shares of such class as are approved by the shareholders of the Company by way of ordinary resolution in the share capital of the Company and to allot such shares credited as fully paid to such members; and
- (c) make such provision by the issue of fractional certificates or by payment in cash or otherwise as they shall determine in the case of shares becoming distributable under this Article 26 in fractions.