

**PRIVATE COMPANY LIMITED BY SHARES**

**MEMORANDUM OF ASSOCIATION OF  
METASPHERE LIMITED**

THURSDAY



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19/03/2009  
COMPANIES HOUSE

1. The Company's name is **METASPHERE LIMITED**
2. The Company's Registered Office is to be situated in England and Wales.
3. The Company's objects are:-
  - (a) To carry on business as a general commercial company.
  - (b) To carry on any other business which in the opinion of the Company, may be capable of being conveniently or profitable carried out in connection with or subsidiary to any other business of the Company and is calculated to enhance the value of the Company's property.
  - (c) To purchase or by any other means acquire freehold, leasehold or any other property for any estate or interest whatever, movable or immovable or any interest in such property, and to sell, lease, let on hire, develop such property, or otherwise turn the same to the advantage of the Company.
  - (d) To apply for, register or by other means acquire any patents, patent rights, brevets d'invention, licences, trademarks, concessions and inventions and to use and turn to account the same or to develop, sell or assign the same or grant licences or privileges in respect thereof or otherwise turn the same to the advantage of the Company.
  - (e) To build, reconstruct or generally maintain buildings and works all kinds, whether or not these are situate on the property of the Company.
  - (f) To invest and deal with the monies of the Company in such shares or upon such securities and in such manner as from time to time may be determined.
  - (g) To enter into arrangement for joint workings in business or amalgamate with or enter into any partnership or arrangement for sharing profits, union of interests, reciprocal concession or co-operation with any company, firm or person carrying on or proposing to carry on any business within the objects of this Company or which is capable of being carried on so as directly or indirectly to benefit the Company.
  - (h) To purchase or otherwise acquire, take over and undertake all or any part of the business, property, liabilities and transactions of any person, firm or company carrying on any business the carrying on of which is calculated to benefit this Company or to advance its interests, or possessed of property suitable for the purposes of the Company.
  - (i) To sell, improve, manage, develop, turn to account, let on rent or royalty or share of profits or otherwise, grant licences or easements or other rights in or over, or in any

other manner deal with or dispose of the undertaking and all or any of the property and assets for the time being of the Company for such consideration as the Company may think fit.

- (j) To subscribe for, take, purchase or otherwise acquire either for cash, shares or debentures in this Company or any other consideration any other company or business which, in the opinion of the Company, may be carried on so as directly or indirectly to benefit the Company.
- (k) To sell or otherwise dispose of the whole or any part of the business or property of the Company for any consideration, shares or debentures as the Company may think fit.
- (l) To lend and advance money or give credit on any terms and with or without security to any company, firm or person (including without prejudice to the generality of the foregoing any holding company, subsidiary or fellow subsidiary of, or any other company associated in any way with, the Company), to enter into guarantees, contracts of indemnity and suretyships of all kinds, to receive money on deposit or loan upon any terms, and to secure guarantee in any manner and upon any terms the payment of any sum of money or the performance of any obligation by any company, firm or person (including with prejudice to the generality of the foregoing as such holding company, subsidiary, fellow subsidiary or associated company as aforesaid).
- (m) to borrow or raise money in any manner and to secure the repayment of any money borrowed raised, or owing by mortgage, charge, standard security, lien or other security upon whole or any part of the Company's property or assets (whether present or future), including its uncalled capital and also by a similar mortgage, charge, standard security, lien or security to secure and guarantee the performance by the Company or any obligation or liability it may undertake or which may become binding on it.
- (n) To draw, make, accept, endorse, discount, negotiate, executed and issue cheques, bills of exchange, promissory notes, bills of lading, warrants, debentures and other negotiable or transferable instruments.
- (o) To apply for, promote and obtain any Act of Parliament, order, or licence of the Department of Trade or other authority for enabling the Company to carry oany of its objects into effect, or for effecting any modification of the Company's constitution, or for any purpose which may seem calculated directly or indirectly to promote the Company's interests, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interests.
- (p) To support and subscribe to any funds and to subscribe to or assist in the promotion of any charitable, benevolent or public purpose or object for the benefit of the Company or its employees, directors or other officers past or present and to grant pensions to such persons to their dependents.
- (q) to distribute among the members of the Company in kind any property of the Company of whatever nature.
- (r) To pay all or any expenses in connection with the promotion, formation and incorporation of the Company, or to contract with any company, firm or person pay the same, and to pay commission to brokers and others for underwriting, placing, selling, or guaranteeing the subscription of any shares or other securities of the Company.
- (s) To do all such other things as may be deemed incidental or conducive to the attainment f the Company's objects or any of them.

- (t) Subject to, and always in compliance with, the provisions of sections 155 to 158 (inclusive) of the Act (if and so far as such provisions shall be applicable), to give, whether directly or indirectly, any kind of financial assistance (as defined in section 152(1)(a) of the Act) for any such purpose as is specified in Section 151(1) and/or section 151(2) of the Act.

None of the objects set forth in any sub-clause of this Clause shall be restrictively construed by the widest interpretation shall be given to such object, and none of such objects shall, except where the context expressly so requires, be in any way limited or restricted by reference to or interference from any other object or objects set forth in any such sub-clause or by reference to or inference from the terms to any other sub-clause of this Clause, or by reference to or inference from the name of the Company.

4. The liability of the Members is limited
5. The Company's authorised share capital is £2,503,554 divided into: 590,000 Ordinary Shares of £0.10 each and 2,444,554 B Ordinary Shares of £1.00 each.<sup>1</sup>

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<sup>1</sup> The authorised share capital of the Company was increased to this amount by a special resolution of the Company passed by the members on 18 March 2009.

We, the subscriber to this Memorandum of Association, wish to be formed into a Company pursuant to this Memorandum; and we agree to take the number of Shares shown opposite our respective name.

<b>Name and Address of Subscriber(s)</b>	<b>Number of Ordinary Shares taken by subscriber(s)</b>
SDG SECURITIES LIMITED 41 CHALTON STREET LONDON NW1 1JD	1

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Dated: 12 January 2006

Number 5673888

THE COMPANIES ACTS 1985 TO 2006

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PRIVATE COMPANY LIMITED BY SHARES

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N E W

ARTICLES OF ASSOCIATION

(Adopted by Special Resolution passed on 18 March 2009)

- of -

METASPHERE LIMITED

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THE COMPANIES ACTS 1985 TO 2006

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PRIVATE COMPANY LIMITED BY SHARES

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NEW  
ARTICLES OF ASSOCIATION

(Adopted by Special Resolution passed on 18 March 2009)

- of -

METASPHERE LIMITED

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**1. PRELIMINARY**

- 1.1 The regulations contained in Table A in the Companies (Tables A-F) Regulations 1985 (as amended prior to the adoption of these Articles) ("**Table A**") shall apply to the Company save in so far as they are excluded or varied hereby or to the extent inconsistent herewith.
- 1.2 The definitions and other interpretation provisions of the Schedule to these Articles shall apply.
- 1.3 Conditionally upon and with effect from section 2(1)(c) of the 1985 Act being repealed and sections 31(1) and 28 of the 2006 Act coming into force, the objects of the Company shall be unrestricted, notwithstanding any provisions contained in the Memorandum of Association of the Company prior to the date on which the above conditions are fulfilled.

**2. SHARES**

- 2.1 The authorised share capital of the Company as at the Adoption Date is £2,503,554 divided into 590,000 Ordinary Shares of £0.10 each and 2,444,554 B Ordinary Shares of £1.00 each.
- 2.2 Except as otherwise expressly provided in these Articles, the Ordinary Shares and B Ordinary Shares shall rank pari passu in all respects.

**3. INCOME**

- 3.1 Any profits resolved to be distributed in any financial year or period shall be distributed amongst the holders of the Ordinary Shares, pro rata to the number of Ordinary Shares respectively held by them.
- 3.2 The holders of the B Ordinary Shares shall not be entitled to receive a distribution of any profits resolved to be distributed at any time.

#### **4. CAPITAL**

- 4.1 On a return of assets on liquidation or otherwise, the assets of the Company remaining after payment of its debts and liabilities and available for distribution to holders of Ordinary Shares and B Ordinary Shares shall be applied in the following manner and order of priority:
- (A) first, in paying to the holders of the B Ordinary Shares the amounts respectively paid up or credited as paid up thereon;
  - (B) then, the balance (if any) shall be distributed between the holders of the Ordinary Shares pro rata to the number of Ordinary Shares respectively held by them.
- 4.2 On a Sale, the total consideration received in respect of the Ordinary Shares and B Ordinary Shares shall be allocated and where relevant held on trust and distributed between the sellers of such shares to the extent necessary to ensure that such consideration is apportioned in the order of priority provided in Article 4.1.

#### **5. VOTING RIGHTS**

- 5.1 The holders of the B Ordinary Shares shall have the right to receive notice of all General Meetings of the Company but shall have no right to attend or vote thereat, either in person or by proxy, by virtue or in respect of their holdings of B Ordinary Shares, unless the business of the meeting includes a resolution for the winding up of the Company and/or directly or indirectly altering or abrogating any of the special rights and privileges attaching to the B Ordinary Shares PROVIDED THAT, the holders of B Ordinary Shares shall be entitled to vote only on such resolution.
- 5.2 Except as expressly provided below, each holder of Ordinary Shares and (where applicable, in accordance with Article 5.1) B Ordinary Shares entitled to vote and present in person or by proxy or other corporate representative permitted by these Articles shall be entitled, on a show of hands, to one vote and, on a poll, to one vote for every Ordinary Share and (where applicable, in accordance with Article 5.1) B Ordinary Share of which he is the holder and is entitled at the relevant time to vote.
- 5.3 Unless otherwise agreed with Investor Consent, no member shall be entitled to exercise any voting rights attaching to his shares during any period in which a Mandatory Transfer Notice has been given or deemed given in respect of them and has not expired.
- 5.4 Unless otherwise determined by the Company with Investor Consent, neither a Bad Leaver nor any Relevant Member of his may exercise any voting rights attaching to his or their Relevant Shares.

#### **6. INVESTOR CONSENTS**

Except as expressly provided for or agreed in the Investment Agreement or the Business Plan (as defined therein) or any subsequent budgets expressly approved with Investor Consent for this purpose, Investor Consent shall be required before the Company shall:

- (A) create or allot or issue any further shares or grant or agree to grant to any person any option or right to subscribe for convert into or otherwise to require the issue or allotment of any shares or the creation or allotment or issue of shares, except to the Company or a wholly owned subsidiary thereof;
- (B) pass a resolution for the reduction or cancellation of its share capital or the reduction of any uncalled liability in respect thereof;

- (C) purchase or redeem the whole or any part of its share capital other than in accordance with the terms of issue of any class of share capital;
- (D) modify vary alter or abrogate any of the rights privileges or restrictions attaching to any of the classes of its share capital;
- (E) sell, transfer, lease, licence or otherwise dispose of the whole or any material part of its business, undertaking or assets whether by a single transaction or series of transactions related or not;
- (F) make or permit any material alteration (including cessation) to the general nature of the business carried on by it from time to time;
- (G) change its corporate name or any name under which it carries on its business or any part thereof;
- (H) make any alteration to its Memorandum and Articles of Association;
- (I) pass any resolution or seek any order or take any steps with a view to the liquidation, winding up or striking off dissolution or administration or receivership of the Company;
- (J) make any distribution by way of dividend or otherwise out of the profits or reserves of the Company;
- (K) except as expressly provided in the Investment Agreement, issue, redeem or purchase any loan stock or loan notes; or
- (L) make or provide any loan or financial facility other than (i) credit given in the ordinary course of business or (ii) loans to the Company or any subsidiary thereof and (iii) loans not exceeding £1,000 in the aggregate to any individual director or employee by way of advance to cover reasonable business expenses (iv) by way of season ticket loan to any individual director or employee;
- (M) incur any indebtedness, other than:
  - (1) any rental or similar payments under leases and hire purchase agreements;
  - (2) instalments under conditional sale agreements in respect of vehicles, plant or other machinery or equipment acquired or used by the Company;
  - (3) a single bank overdraft facility up to a maximum amount of £150,000; and
  - (4) any creditors incurred in the ordinary course of business;
- (N) give any guarantee suretyship or indemnity or similar liability in respect of the obligations of any person firm or company other than the Company or a wholly owned subsidiary thereof;
- (O) enter into any factoring or invoice discounting arrangements in respect of its debts;
- (P) permit or allow or do anything which results or will result in a breach of Article 24 (Borrowing Powers of Directors);



- (Q) acquire share or loan capital of another company wherever incorporated (other than by way of formation of a wholly owned subsidiary) or any business or undertaking;
- (R) dispose of or dilute its interest directly or indirectly in any subsidiary or subsidiary undertaking;
- (S) incur in any accounting period any capital expenditure or enter into any capital commitment (which expression shall include without limitation the entry into any transactions involving the taking by it or its own acquisition on hire and/or hire purchase of plant machinery or any conditional sale or deferred payment arrangement) exceeding in the aggregate £10,000 or ten per cent. (10%) of the budget set out in the Business Plan or such other limit as may from time to time be approved by Investor Consent;
- (T) acquire develop dispose relocate or close any property or premises or business outlet (freehold or leasehold) or any interest therein other than by way of renewal of any lease previously held by the Company or the subsidiary concerned on fair market terms;
- (U) except solely in the ordinary course or business, enter into any agreement to occupy or permit any third party to occupy any property or premises (whether freehold or leasehold) or vary any of the material terms under which it occupies or permits any third party to occupy any property or premises;
- (V) enter into or vary any of the material terms of any agreement for the acquisition and/or use or other exploitation (whether by the Company or a third party) of any intellectual property rights with a value in excess of £10,000;
- (W) engage or dismiss or enter into or terminate any agreement of service or for services with any director or Senior Executive;
- (X) make any material change to the remuneration or benefits (including but not limited to agreeing the extent of such benefits) or other terms of employment or engagement any of its directors or Senior Executives or grant any material waiver or consent in respect thereof;
- (Y) make payment by way of bonus or profit share to, any of its directors or Senior Executives which has not been approved by any remuneration committee of the Board;
- (Z) appoint or remove any director (other than an alternate director, an Investor Director or the Management Director pursuant to these Articles);
- (AA) enter into any transaction or arrangement which is not either properly ancillary to or in the normal and ordinary course of conducting its business;
- (BB) enter into any transaction or arrangement which is not on arm's length terms;
- (CC) enter into or in any material respect vary the terms of or grant any material waiver or consent in respect of an agreement or a transaction with any person who is or has in the previous twelve months been a director or shareholder of the Company or connected person of a director or shareholder;
- (DD) institute, settle or compromise any legal proceedings, save in relation to:

- (1) proceedings where damages and/or the sums claimed (excluding legal costs) are £10,000 or less in aggregate; and
- (2) the collection of debts arising in the ordinary course of business;
- (EE) create or permit to be created any mortgage, charge, encumbrance or other security interest over any material asset or substantially the whole of its assets or undertakings save in relation to liens or other encumbrances arising in the ordinary course of business;
- (FF) remove its Auditors or appoint any new or additional Auditors, except in the case of a subsidiary or subsidiary undertaking of the Company to remove its auditors and appoint in their place the auditors of the Company; or
- (GG) change its accounting reference date (except, in the case of a subsidiary, to conform with that of the Company);
- (HH) seek to take any steps to achieve a Flotation; or
- (II) enter into any agreement, commitment or arrangement to do any of the foregoing.

## **7. NEW SHARE ISSUES**

7.1 Subject to the special rights of the respective classes of shares and to Articles 7.2 and 7.3 and (subject thereto) as may otherwise be agreed by special resolution, any unissued shares (whether forming part of the original share capital or not) shall, before they are issued, first be offered as follows to the members:

- (A) the offer shall be made by notice in writing to all the members specifying the number and class and subscription price of the shares on offer limiting the time (not being less than twenty-one days or, during a Default Period, such shorter period as determined with Investor Consent) within which the offer may be accepted;
- (B) acceptances shall be given to the Company by notice in writing and in such acceptance the applicant shall state the number of the shares on offer which he is willing to subscribe for;
- (C) after the end of such offer period or after the Company shall have received notice of the acceptance or as the case may be refusal of such offer from every offeree (whichever shall be the earlier event) the Directors shall allot the offered shares first to and amongst the applicants who are registered as holders of the then issued Ordinary Shares and to the extent there is competition between them, pro-rata according to the number of Ordinary Shares in respect of which they are respectively registered as holders and secondly (if any of the offered shares shall remain after such applicants have been satisfied in full) to and amongst the remaining applicants and, to the extent there is competition between them, pro rata to the number of shares of the Company other than Ordinary Shares in respect of which they are respectively registered as holders,

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

7.2 If all or any of the unissued shares to which Article 7.1 applies are not taken up in accordance with the provisions of Article 7.1 the Directors may, with Investor Consent, offer such shares to a third party and, subject to these Articles and to the provisions of the Acts, such shares

shall be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper, provided that:

- (A) no such shares shall be issued more than three months after the expiry of the period for acceptance of the last offer of such those shares made under Article 7.1 unless the procedure set out in Article 7.1 is repeated in respect of such shares;
- (B) no such shares shall be issued at a price less than that at which they were offered in accordance with Article 7.1; and
- (C) if the Directors are proposing to issue such shares wholly or partly for non-cash consideration, the cash value of such consideration shall be as reasonably determined by the Auditors whose determination shall be final and binding on the Company and each of its members.

7.3 Article 7.1 shall not apply to any shares to be allotted under any express provision of the Investment Agreement.

7.4 Article 7.1 shall not apply to the grant of a Permitted Option nor to the allotment of Ordinary Shares on exercise thereof but subject always to the requirement (if any) for Investor Consent relevant to the Subscription Rights concerned.

7.5 No allotment or issue of shares or other Restricted Securities shall be made in breach of Article 10.

## **8. VARIATION OF RIGHTS**

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

8.2 The provisions of these Articles relating to General Meetings shall apply to every separate General Meeting referred to in Article 8.1, but the necessary quorum shall be two persons at least holding or representing by proxy or corporate representative three quarters or more in nominal value of the issued shares of the class and that any holders of shares of the class present in person or by proxy may demand a poll and on a poll each share concerned shall carry one vote PROVIDED THAT where there is only one holder of the issued shares of the relevant class a quorum shall be that holder alone present in person or by proxy or corporate representative.

8.3 For the avoidance of doubt, the variation modification abrogation or cancellation of this Article or of any provision of these Articles which contains or affects any class rights shall (save as expressly provided herein) require the consent aforesaid of the holders of shares of the class or classes concerned to be effective.

8.4 In exercising any class rights as the holder of any particular class of share such holder shall be entitled to exercise such rights in its absolute discretion as it sees fit including, without limitation, without obligation to have regard to:

- (A) the interests of any other holder of the same class of shares or the rights of holders of that particular class as a whole or the holder(s) of any other class or classes of share or any of them; and
  - (B) the interests of the Company (as a commercial entity or otherwise) and/or the interests of the general body of its shareholders.
- 8.5 The creation or issue of further shares of the same class shall not of itself constitute a variation or modification or abrogation of the class rights of the holders of shares of that class already in issue.

## 9. LIENS AND OTHER CAPITAL PROVISIONS

- 9.1 The Company shall have a first and paramount lien on all shares standing registered in the name of any person indebted or under liability to the Company and a right of set off against all moneys payable by the Company on or in respect of the same, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company whether in respect of those shares or otherwise.
- 9.2 Subject to the provisions the Acts and to the rights of the holders of the respective classes of shares of the Company, the Company may issue shares which are to be redeemed or are liable to be redeemed at the option of the Company or the shareholder; purchase its own shares (including any redeemable shares); and make a payment in respect of the redemption or purchase otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares to the extent permitted by the Acts.

## 10. EMPLOYEE SHARE PROVISIONS

- 10.1 If any PAYE or income tax and/or national insurance contribution (or similar or substituted tax) liability and/or related interest penalties, fines, costs and expenses (together "**employee related tax liability**") becomes payable by the Company and/or any subsidiary thereof by reference to any shares held or disposed of by any member (even if the employee or director or former employee or director of the Company by reference to which the relevant employee related tax liability arises or arose is a person other than that member) then (except to the extent that such contribution may not lawfully be demanded) the member concerned shall be liable on demand by the Company to make payment to the Company of such amount as on an after tax basis will meet the employee related tax liability concerned and the lien referred to in Article 9.1 shall extend, as security for any such amount payable, to the shares concerned and to any proceeds for sale or other disposal thereof. On a Sale or Flotation the Company shall without limitation be irrevocably appointed as agent and attorney and authorised on behalf of any such member to make such arrangements as are necessary for any such amounts payable by him under this Article 10.1 to be directly paid to the Company out of any proceeds of sale which are payable for such shares on such Sale or under the Flotation arrangements.
- 10.2 The following provisions shall apply as regards Restricted Securities, except to the extent otherwise agreed by the Board or with Investor Consent.
- (A) for the purposes of these Articles "**Restricted Securities**" shall mean any restricted securities or interests in restricted securities as defined in Part 7 of The Income Tax (Earnings and Pensions) Act 2003 ("ITEPA") in the Company or any member of the Group and other words and expressions defined in such Part 7 shall bear the same meaning except where clearly inconsistent with the context;

- (B) no Restricted Security or interest therein shall be transferred or otherwise disposed of or allotted or issued to any person in circumstances where as a result that person and the Company could make an election in respect thereof under Section 431(1) ITEPA (an "Up Front Election"), unless the Board is satisfied that such election will be made in the manner and by the latest time provided by Section 431(1) and (5) ITEPA;
- (C) each member who through employment or appointment as a director by the Company becomes entitled to make an Up Front Election or who is an associated person of a person so entitled shall and shall procure that any such associated person shall duly join with the Company in duly making that election as and within the time limits provided in Sections 431(4) and (5) ITEPA and such member hereby irrevocably and as security for his due performance of such obligation appoints the Secretary for the time being of the Company as his attorney for the purposes of signing, making and submitting any such election on his behalf;
- (D) each member shall duly provide to the Company such information as either of them shall require or need for the purposes of fulfilling its obligations as a responsible person in relation to that member and/or his associated persons and/or any Restricted Securities or interest therein from time to time held or owned or formerly held or owned or proposed to be acquired by him and/or any such associated person and in particular and without limitation shall notify the Company of any reportable event and/or chargeable event relevant thereto without delays after it occurs; and
- (E) the Company shall procure that any Up Front Elections required to be signed and made by it as required by the foregoing are duly made as so required and in the manner and by the latest time provided in Sections 431(4) and (5) ITEPA.

## **11. TRANSFERS - GENERAL**

- 11.1 No shares or any interest therein shall be transferred and the Directors shall not register any transfer of shares in the Company other than a Permitted Transfer and, subject only to Article 12, the Directors shall be obliged to register a Permitted Transfer.
- 11.2 For the purposes of the provisions of these Articles relating to transfer of shares, a transfer of shares includes a renunciation of any allotment of shares or of any Subscription Rights and any other disposition of any interest in any share (or the income or capital or other rights referable thereto) whether legal beneficial or otherwise (including the entry into any option or other agreement (conditionally or otherwise) for the possible sale or transfer thereof or grant of any security thereover) and whether or not for consideration or by written disposition or otherwise.
- 11.3 Any transfer or purported transfer of any share or of any interest therein made otherwise than in accordance with these Articles shall be void and of no effect whatsoever. In addition the Directors shall be at liberty by notice in writing to the registered holders thereof to disenfranchise any shares which are the subject of a transfer not made in accordance with these Articles until such time as the Directors (acting reasonably) are satisfied that the provisions of these Articles relating to transfer of shares have been complied with.
- 11.4 The transferor of any share shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register of Members in respect thereof.
- 11.5 Where any shares are sold or transferred under the terms of these Articles, then (except to the extent otherwise agreed in writing by the transferee) the transferor shall be deemed hereby to undertake to the transferee that he or it has full power capacity and authority to make the sale

or transfer and that the shares concerned are sold or transferred with full title guarantee and free from all charges liens and encumbrances.

## **12. SPECIAL TRANSFER RESTRICTIONS**

- 12.1 No transfer of shares in the Company or any interest therein shall be made or registered without Investor Consent except:
- (A) where made in accordance with Article 13; or
  - (B) where required and made in accordance with Article 14; or
  - (C) pursuant to acceptance of an offer made and completed under and in accordance with Article 15.1 or Article 15.2.
- 12.2 No transfer of any shares or any interest therein shall be made or registered, without Investor Consent:
- (A) in breach of Article 10; or
  - (B) in breach of the Investment Agreement or any deed of adherence thereto.
- 12.3 The Directors may in their absolute discretion and shall if required by any Investor Director and, without assigning any reason therefor, decline to register (i) any transfer of any share over which the Company has a lien; (ii) any transfer to more than four transferees; (iii) any transfer of any share which is not fully paid to a person of whom the Directors do not approve; (iv) any transfer to an infant bankrupt or person suffering from mental disorder as that expression is used in Regulation 81(c) of Table A; or (v) any transfer made otherwise than in accordance with Regulation 24(a) of Table A.

## **13. EXPRESSLY PERMITTED TRANSFERS**

- 13.1 The provisions of this Article 13 are subject to the restrictions in Article 12.
- 13.2 Any member may, with Investor Consent, transfer shares to any other person without restriction as to price or otherwise and any such transfer shall be registered by the Directors.
- 13.3 Any Kaye Person may transfer all or any of its shares to another Kaye Person without, in any case, restriction as to price or otherwise and any such transfer shall be registered by the Directors.
- 13.4 Without prejudice to Regulation 5 of Table A, any share may be transferred to a person to be held as bare nominee and any shares held by a member as bare nominee may be transferred to any other person or persons provided, in either such case, that the transferor and transferee certify to the Company and the Directors are satisfied that no beneficial interest in such shares passed by reason of the transfer.
- 13.5 Subject to Article 13.6, the following transfers of shares shall be permitted and constitute Permitted Family Transfers for the purposes of these Articles:
- (A) a transfer of shares by their absolute beneficial owner, being an individual ("**the Original Member**") or his personal or other legal representatives, to a Privileged Relation of his or to trustees to be held on Family Trusts of his;

- (B) a transfer of any shares transferred under Article 13.5(A) and/or any Related Shares thereof:
  - (1) to the Original Member or any Privileged Relation of his; or
  - (2) by the trustees of the Family Trust concerned to new or continuing trustees thereof.
- 13.6 If a member holds shares as a result of an earlier transfer under Article 13.5 that member may only transfer such shares and/or any Related Shares thereof under Article 13.5 to a person to whom the member who originally transferred him the shares could have transferred them under Article 13.5.
- 13.7 Any member which is a body corporate may transfer all or any of its shares to a Permitted Corporate Transferee.
- 13.8 If a member holds shares as a result of an earlier transfer under Article 13.7, that member may only transfer such shares and/or any Related Shares thereof under Article 13.7 to a person to whom the member who originally transferred him the shares could have transferred them under Article 13.7.
- 13.9 Any shares may be transferred to the trustees of an Employees Trust or by the trustees of an Employees Trust to any beneficiary thereunder and the trustees of an Employee Trust may grant options in favour of any such directors or employees, provided in any such case such transfer or option is effected or granted in accordance with the terms of such trust and has been approved by Investor Consent.
- 14. MANDATORY TRANSFERS**
- 14.1 If a person becomes a Leaver or is given or gives notice to terminate his employment or engagement in circumstances where he will as a result become a Leaver:
  - (A) he and each Relevant Member of his shall, if and to the extent required by the Directors or any Investor Director by notice in writing given to him (or his personal representative, as appropriate) at any time and from time to time during the period of eighteen months following his Leaving Date, give a Mandatory Transfer Notice or Notices in respect of all or any of his or their Relevant Shares;
  - (B) he shall, if he subsequently becomes registered or unconditionally entitled to be registered as the holder of shares in the Company pursuant to a right or opportunity made available to him prior to his becoming a Leaver, be deemed (unless otherwise agreed by all the Directors with Investor Consent) to have served a Mandatory Transfer Notice in respect of all such shares, upon becoming so registered or entitled.
- 14.2 If a Family Trust ceases for any reason to be a Family Trust any shares held by such trust shall be transferred (either directly or upon trust) to the Original Member or Approved Beneficiary whose Family Trust it is or to Privileged Relation(s) of that Original Member or Approved Beneficiary within twenty one days of that event failing which the trustees shall be deemed to have given a Mandatory Transfer Notice (in respect of all such shares held by the trustees) at such time thereafter as the Directors of the Company or any Kaye Director shall notify it in writing.
- 14.3 If any person holding shares as a bare nominee as contemplated by Article 13.4 ceases to be such a nominee and shall fail within twenty-one days of such event to transfer all the shares

concerned to the original beneficial owner then such person shall be deemed to have given a Mandatory Transfer Notice in respect of such shares at such time thereafter as the Directors of the Company or any Investor Director shall notify in him in writing.

- 14.4 A person entitled to shares in consequence of the death, bankruptcy, receivership or liquidation of a member shall be bound at any time within eighteen months of becoming so entitled, if and when called upon in writing by the Directors or any Investor Director so to do, to give a Mandatory Transfer Notice in respect of all shares then registered in the name of the deceased or insolvent member unless such person is, or shall (within twenty-one days of becoming so entitled) transfer such shares to, a person to whom shares may be transferred pursuant to Article 13. Regulations 20 to 31 inclusive of Table A shall be modified accordingly.
- 14.5 If the Directors become aware that any shares are held by or for a Competitor they may with Investor Consent require, by written notice, the holder of the shares concerned to give a Mandatory Transfer Notice in respect of all or any of those shares either immediately or within such period as shall be specified in that notice.
- 14.6 For the purpose of ensuring that a transfer of shares is in accordance with the provisions of these Articles and duly authorised hereunder or that no circumstances have arisen whereby a Transfer Notice is required to be given hereunder the Directors may (and shall if required by an Investor Director) from time to time require any member or past member (including any one or more of joint holders of shares) or the legal personal representatives or the trustee in bankruptcy of any member or any person named as a transferee in any instrument of transfer lodged for registration, to furnish to the Company such information and evidence as the Directors (including an Investor Director) may reasonably think fit regarding any matter which they may reasonably deem relevant to such purpose.
- 14.7 If any information or evidence requested under Article 14.6 is not provided to the reasonable satisfaction of the Directors (including an Investor Director) within fourteen days after such a request, the Directors may (and will if required by an Investor Director) refuse to register the transfer in question or (in case no transfer is in question) require by notice in writing that a Mandatory Transfer Notice is given in respect of the shares concerned. If such information or evidence discloses that in the reasonable opinion of the Directors a Transfer Notice ought to have been given in respect of any shares the Directors may (and will if required by an Investor Director) by notice in writing require that a Mandatory Transfer Notice is given pursuant to these Articles in respect of the shares concerned.
- 14.8 Where under the provisions of these Articles a Mandatory Transfer Notice is required to be given in respect of any shares but it is not given within a period of fourteen days of demand therefor being made or within any other period specified it shall, be deemed to have been given on the fourteenth day after such demand is made or at the end of the relevant specified period, as appropriate.

## **15. TAG ALONG AND DRAG ALONG**

- 15.1 No sale or transfer of any shares ("**the Specified Shares**") shall be made which would result if made and registered (when taken together with all other proposed contemporaneous sales or transfers of shares in the Company) in a person or connected persons obtaining a Controlling Interest (who did not previously have a Controlling Interest) in the Company unless the proposed transferee or transferees or his or their nominees has or have made a Qualifying Offer, as provided below.



15.2 If a Qualifying Offer is approved in writing for the purposes of this Article 15.2 by the holders of at least fifty per cent. (50%) in nominal value of the Ordinary Shares ("**the accepting shareholders**") and such offer is not made by or on behalf of any of the accepting shareholders or any persons connected with the accepting shareholders then the holders of the other shares in the Company (including those who become such holders through exercise of Subscription Rights) shall be deemed hereby and as security for the due performance of their obligations under these Articles to appoint such person as shall be appointed for this purpose by an Investor Director as their attorney for the purposes of receiving and accepting and executing any documents and attending to such other things on their part as may be required under the terms of the offer and also receiving as agent or trustee on their behalf (without obligation to earn or pay interest thereon pending accounting therefor to the persons entitled thereto) any consideration payable under the terms of the offer. Such attorney shall without limitation have power to sign and vote on and deliver any resolutions approving any financial assistance involved in the context of the sale of shares under the offer and also to appoint the purchaser or transferee of shares under the offer as the attorney of the holder thereof for the purposes of exercising the voting rights attaching thereto pending their registration in the name of the transferee.

15.3 A "**Qualifying Offer**" for the purposes of these Articles shall be in writing and:

- (A) constitute an offer by the offeror to purchase all of the Ordinary Shares and B Ordinary Shares in the Company then in issue and all shares to be issued on the exercise of any outstanding Subscription Rights, but excluding (to the extent the offeror so elects) any such shares already held or owned by the offeror and/or persons connected or acting in concert with the offeror;
- (B) be notified in writing to the holders of all of the Ordinary Shares and B Ordinary Shares;
- (C) be accepted by the Investor Directors;
- (D) be unconditional or subject to a condition that if its conditions are not satisfied (or waived with Investor Consent) the proposed sale or transfer of the Specified Shares will not proceed;
- (E) be open for acceptance for at least twenty-one days from its date, which shall be specified therein;
- (F) be made at the Specified Price, as defined below; and
- (G) include a commensurate cash alternative for any part of the Specified Price that would otherwise not have been payable:-
  - (1) in cash; or
  - (2) by the allotment or transfer of shares in any company where such shares are (i) admitted to the Official List of the Financial Services Authority; (ii) admitted to trading on AIM; or (iii) dealt with on any other recognised investment exchange or, in each case, such shares will be so admitted or dealt immediately following the completion of the Qualifying Offer or as a condition thereof.

15.4 For the purpose of this Article the expression "**the Specified Price**":

- (A) means in the case of any shares and subject as provided below, a price per share at least equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees respectively for the Specified Shares of the same class; and
  - (B) shall include an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holder or holders of the Specified Shares which having regard to the substance of the transaction as a whole can reasonably be regarded as in addition to the price paid or payable for the Specified Shares.
- 15.5 Article 15.1 shall not apply to any sale or transfer of shares under any of Articles 13.3 to 13.9 inclusive.
- 15.6 Article 16 shall not apply to any transfer of shares made under Article 15.2 in circumstances where the holders of all of the shares who receive the Qualifying Offer accept or are hereby deemed to accept such offer.
- 15.7 In the event of disagreement as to the calculation of the Specified Price or the amount of any cash alternative therefor for the purposes of this Article such disagreement shall, if not resolved within fourteen days of it arising, be referred to for Determination by a Determiner and Article 26 shall apply.
- 16. THIRD PARTY TRANSFERS**
- 16.1 Subject to Articles 12, 13 and 15, no shares or any interest therein shall be transferred or disposed of whether by way of sale or otherwise except in accordance with the following provisions of this Article 16.
- 16.2 Every holder of shares or person entitled to be registered in respect of a share or shares of the Company who intends to transfer or dispose of any share or shares registered in his name and/or to which he is so entitled or any interest therein ("**the Proposed Transferor**") shall give notice in writing to the Directors of such intention ("**a Transfer Notice**").
- 16.3 A Transfer Notice shall specify the number and class of shares which the Proposed Transferor intends to transfer and where a Transfer Notice is given or deemed given in respect of shares of more than one class a separate Transfer Notice shall be deemed to have been given in respect of each such class of share.
- 16.4 A Voluntary Transfer Notice may provide as a condition ("**a Total Transfer Condition**") that unless all the shares specified or deemed comprised therein are sold to persons found by the Company pursuant to this Article none shall be sold, and except as hereinafter provided, a Transfer Notice once given or deemed to be given shall not be revocable without the written consent of the Board which shall include the consent of a majority by number of the Investor Directors (if any) in office at the time.
- 16.5 A Transfer Notice shall constitute the Company the agent of the Proposed Transferor to sell all the shares specified or deemed comprised therein ("**the Offered Shares**") in accordance with the provisions of this Article.
- 16.6 Upon the expiry of seven days after determination of the Transfer Value of the Offered Shares and, provided the Proposed Transferor shall not have withdrawn the Transfer Notice as permitted in Article 16.7, the Directors shall, with Investor Consent:

- (A) elect that none, some or all of the Offered Shares shall be purchased by the Company at the Transfer Value in accordance with the Acts and the provisions of Articles 16.10, 16.11 and 16.12; and/or
  - (B) elect that none, some or all of the Offered Shares shall be purchased by an Employees Trust at the Transfer Value; and/or
  - (C) where the Offered Shares are shares originally subscribed by an Employees Trust or the subject of a Mandatory Transfer Notice given in accordance with Article 14.1, elect that none, some or all of the Offered Shares shall be purchased at the Transfer Value by such employees or proposed employees of any Group Company as the Directors shall nominate; and/or
  - (D) forthwith, by notice in writing, inform each of the members (other than the Proposed Transferor and any other member whose shares are the subject of a Mandatory Transfer Notice) of the number of and the price (being the Transfer Value) of those of the Offered Shares (if any) which they have not elected to sell pursuant to Articles 16.6(A) and 16.6(B) ("**Remaining Shares**") and invite each member to whom such notice is given to apply in writing to the Company within twenty one days of the date of despatch of the notice (which shall be specified therein) for such maximum number of those Offered Shares (being all or any thereof) as he shall specify in such application.
- 16.7 The Directors shall, within seven days after the end of the twenty one day period referred to in Article 16.6 (or such earlier date as they shall have elected to sell all the Offered Shares pursuant to Articles 16.6(A), 16.6(B) and/or 16.6(C)) notify the Proposed Transferor of the number of Offered Shares (if any) for which they have found a purchaser or purchasers pursuant to Article 16.6 and, if the Directors have found such a purchaser or purchasers in respect of some only of the Offered Shares and the Transfer Notice properly contained a Total Transfer Condition, the Proposed Transferor shall be entitled to withdraw the Transfer Notice (in whole but not in part) within five days of such notification.
- 16.8 During the three months following the end of the period of seven days referred to in Article 16.7, the Proposed Transferor (whether or not the Transfer Notice has been withdrawn under that paragraph) may (subject to Article 12), with Investor Consent, transfer to any person or persons at any price per share (not being less than the Transfer Value thereof determined aforesaid) any share not allocated in accordance with the provisions of this Article, except that, if he has withdrawn the Transfer Notice under Article 16.7, he may not, except with Investor Consent, sell some only of the Offered Shares.
- 16.9 If within the period of twenty-one days referred to in Article 16.6(D) applications are found for all or (except where the Transfer Notice is withdrawn under Article 16.7) any of the Remaining Shares, the Directors shall allocate the Remaining Shares (or so many of them as shall be applied for as aforesaid) as follows:
- (A) where the Remaining Shares are Ordinary Shares, first to and amongst the applicants who are registered holders of Ordinary Shares and, to the extent there is competition between such applicants, pro rata according to the number of Ordinary Shares of which they are registered as holders; secondly (if any Remaining Shares have not been allocated after such applications have been satisfied in full) to and amongst the applicants who are registered holders of B Ordinary Shares and, to the extent there is competition between such applicants, pro rata according to the number of B Ordinary Shares of which they are registered as holders;

- (B) where the Remaining Shares are B Ordinary Shares, first to and amongst the applicants who are registered holders of B Ordinary Shares and, to the extent there is competition between such applicants, pro rata according to the number of B Ordinary Shares of which they are registered as holders; secondly (if any Remaining Shares have not been allocated after such applications have been satisfied in full) to and amongst the applicants who are registered holders of Ordinary Shares and, to the extent there is competition between such applicants, pro rata according to the number of Ordinary Shares of which they are registered as holders,

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

- 16.10 If the Directors elect pursuant to Articles 16.6(A), 16.6(B) and/or 16.6(C) that some or all of the Offered Shares shall be purchased by the Company, an Employees Trust and/or any employees or proposed employees of the Company at the Transfer Value per share then:

- (A) the Directors are hereby authorised to appoint someone (including, without limitation, a Director) to execute on behalf of the Proposed Transferor a contract of sale in the form which, in the opinion of the Directors, is required to effect the purchase by the Company or the Employees Trust (as the case may be) of those Offered Shares at the Transfer Value per share on terms that such consideration is payable forthwith upon execution of the contract of sale;
- (B) the Directors shall pay the aggregate Transfer Value in respect of the relevant Offered Shares to the Proposed Transferor forthwith upon the execution of such contract of sale.

- 16.11 In making an election pursuant to Article 16.6(A) that some or all of the Offered Shares shall be purchased by the Company, the Directors shall have due regard to the general cash requirements of the Company and the requirements of the Acts and shall procure that, as soon as reasonably practicable (after, if applicable, the expiry of the twenty one day period referred to in 16.6(D)) above, that a notice of general meeting be despatched to members setting out a resolution implementing the relevant provisions of sections 162-170 of the 1985 Act or sections 690-700 of the 2006 Act (once in force) and that other formalities of the said sections are complied with in order for the Company to purchase the relevant Offered Shares or so many of them as the Company shall at that time be reasonably able and permitted as aforesaid to purchase at the Transfer Value per share. Each of the members hereby covenants with each other and the Company that they will vote their shares in order to approve all measures to enable the Company lawfully to purchase such number of Offered Shares as aforesaid PROVIDED THAT no member shall vote their shares in favour of any resolution which specifically relates to the approval of the purchase or the contract for the purchase by the Company of any of the Offered Shares held by that member.

- 16.12 If the Directors elect pursuant to Article 16.6(A) that some or all of the Offered Shares shall be purchased by the Company and the Company is not able to do so because of its inability to satisfy the requirements of the Acts as regards the purchase by the Company of its own shares in respect of the purchase of those Offered Shares, the Directors shall, within seven days of it being determined that the Company is not able to satisfy those requirements, give the notice referred to in Article 16.7 in respect of those Offered Shares.

- 16.13 The Directors shall forthwith give notice in writing of the allocations of Offered Shares made pursuant to Article 16.9 (an "Allocation Notice") to the Proposed Transferor and to the

persons to whom Offered Shares have been allocated and (provided that the aggregate number of shares so allocated coincides with the number of shares notified to the Proposed Transferor pursuant to Article 16.7) the Proposed Transferor shall thereupon be bound to transfer the shares allocated upon payment of the Transfer Value thereof. An Allocation Notice shall state the names and addresses of the purchasers and the number of shares agreed to be purchased by them respectively and the purchases shall be completed at such place and such time as shall be specified by the Directors in such Notice being not less than seven days nor more than twenty eight days after the date of such Notice.

- 16.14 If the Proposed Transferor having become bound as aforesaid makes default in accepting payment of the purchase price for any Offered Share or, as the case may be, in transferring the same, the Directors may receive such purchase money and may nominate some person to execute an instrument of transfer of such share in the name and on behalf of the Proposed Transferor and thereafter when such instrument has been duly stamped the Directors shall cause the name of the transferee to be entered in the Register of Members as the holder of such share and where applicable shall hold the purchase money in trust without interest for the Proposed Transferor. The receipt of any Director for the purchase money shall be a good discharge to the purchaser (who shall not be bound to see to the application thereof) and after his name has been entered in the Register of Members in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person.

## **17. TRANSFER VALUE**

- 17.1 Where a Transfer Notice is given pursuant to acceptance of an offer made under Article 15, the Transfer Value shall be the Specified Price of the Offered Shares concerned.

- 17.2 Where a Mandatory Transfer Notice is deemed to be given pursuant to Article 14.1 by a Bad Leaver or by a Relevant Member of a Bad Leaver in respect of Offered Shares which are Ordinary Shares, the Transfer Value shall be:

(A) in the case of Ordinary Shares issued prior to 20 December 2007:

- (1) the Fair Value of the relevant Offered Shares multiplied by the Relevant Multiplier in respect of such Bad Leaver;
- (2) or, if greater, the amount paid up on the relevant Offered Shares; and

(B) in the case of Ordinary Shares issued on or after 20 December 2007, the Fair Value of the Relevant Offered Shares multiplied by the Relevant Multiplier in respect of such Bad Leaver.

- 17.3 Where a Mandatory Transfer Notice is deemed to be given pursuant to Article 14.1 (or when it could have been so required) by a Good Leaver or by a Relevant Member of a Good Leaver in respect of Offered Shares which are Ordinary Shares, the Transfer Value shall be the Fair Value of the relevant Offered Shares.

- 17.4 Subject to Articles 17.1 to 17.3, the Transfer Value per share of any shares to be transferred pursuant to the provisions of these Articles shall be such sum as may be agreed or (as provided below) deemed agreed between the Proposed Transferor and the Directors within twenty-eight days of the service or deemed service upon the Company of a Transfer Notice in which the Offered Shares are comprised or, in default of such agreement or deemed agreement, such sum as shall be Determined by a Determiner as being in his opinion the fair value thereof on the Relevant Date (as defined below) ("**the Fair Value**") on the following basis:

- (A) assuming a sale as between a willing vendor and a willing purchaser of the whole of the issued shares of the Company in the open market;
- (B) by attributing to each class of shares such proportion of the sum calculated above as the Determiner shall consider appropriate; and
- (C) by determining the Transfer Value per share of the Offered Shares by dividing the total value determined as aforesaid of the issued shares of the same class as (and including) the Offered Shares by the number of shares of such class then in issue.

For these purposes, if the Directors shall (with Investor Consent or the consent of an Investor Director as to the amount concerned) notify a Proposed Transferor in writing of the amount which they consider should be the Fair Value of the Offered Shares and the Proposed Transferor shall fail before 5.00 p.m. London time on the fourteenth day after the date of that notification to notify the Directors in writing received at the Company's registered office that he disputes that amount (giving reasonable details of the grounds for such dispute), the Fair Value of the Offered Shares shall on the expiry of that time period be deemed to have been agreed at the amount so notified by the Directors.

17.5 For the purposes of Article 17.4 the "**Relevant Date**" shall mean:

- (A) in the case of a Voluntary Transfer Notice, the date on which it was given; and
- (B) in the case of any other Mandatory Transfer Notice, the date on which it was given or (if earlier) first required to be given under these Articles.

17.6 In the case of a Voluntary Transfer Notice where the Transfer Value is required to be Determined, the Proposed Transferor shall have the right (at any time before the expiry of seven days after issue of the report by the Determiner as to the Transfer Value of the Offered Shares and even if the Determiner has not been appointed at the time) to withdraw the Transfer Notice by giving notice of such withdrawal to the Directors in writing and in such event he shall be responsible for the fees and expenses of the Determiner to the extent incurred before the date the Transfer Notice was withdrawn.

17.7 Upon receipt of a written application from any member holding shares in the Company, and subject to payment by him of the related fees and expenses, the Directors shall request the Auditors to state the sum which, in their opinion, is the Fair Value of the share or shares being the subject of such application and such statement shall be certified in writing by the Auditors (acting as experts and not as arbitrators). Any member holding shares in the capital of the Company shall be entitled at any time to make an application to the Directors in pursuance of this Article and such application shall not be deemed to constitute a notice of his intention to transfer shares within the meaning of these Articles.

## 18. GENERAL MEETINGS

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

18.2 Two members present in person or by proxy (or, being a corporation, by representative) shall be a quorum provided that, subject to Article 18.3, one such member must be a holder of Ordinary Shares and (during a Default Period) one such member must be a holder of B Ordinary Shares, present in person or by proxy or corporate representative.

- 18.3 If at an adjourned meeting a quorum for the purposes of Article 18.2 is not present within half an hour from the time appointed for the meeting the meeting shall be dissolved, unless the meeting was adjourned for fourteen days or more and written notice of such adjournment was given to the members within five days of the adjournment, whereupon the quorum at any such adjourned meeting shall be any two members present in person or by proxy (or, being a corporation, by representative). Regulation 41 of Table A shall be read and construed accordingly.
- 18.4 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before, or on the declaration of the result of, the show of hands) demanded by the Chairman or by any member present in person or by proxy. On a show of hands votes may be given either personally or by proxy.
- 18.5 Unless a poll is demanded as provided in Article 18.4, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the Minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.
- 18.6 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall not be entitled to a second or casting vote.
- 18.7 Subject to the Acts, a resolution in writing signed by all the members for the time being entitled to vote shall be as effective for all purposes as a resolution duly passed at a general meeting of the Company duly convened and held, and may consist of several documents in the like form each signed by one or more members. In the case of a corporation the resolution may be signed on its behalf by a Director thereof or by its duly appointed or duly authorised representative.
- 18.8 Notwithstanding Regulation 62 of Table A and if so agreed with Investor Consent, an instrument of proxy shall be valid if deposited at the registered office of the Company or with the Chairman or proposed Chairman of the meeting or adjourned meeting to which it relates on or at any time before the commencement of the meeting or adjourned meeting concerned.

## **19. APPOINTMENT AND REMOVAL OF DIRECTORS**

- 19.1 Subject to the Acts and unless and until the Company by special resolution shall otherwise determine, there shall be no maximum number of Directors and there shall be no minimum number of Directors.
- 19.2 The office of a Director shall be vacated if:
- (A) he ceases to be a Director by virtue of any provision of the Acts or he becomes prohibited by law from being a Director; or
  - (B) he becomes bankrupt or insolvent or makes any arrangement or composition with his creditors; or
  - (C) he is, or may be, suffering from mental disorder and either:

- (1) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
- (2) an order is made by a Court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
- (D) (not being precluded from so doing by the terms of any contract with the Company) he resigns the office of Director by notice in writing to the Company; or
- (E) in accordance with these Articles, he is removed from office by a resolution duly passed pursuant to any provision of the Acts;
- (F) he shall for more than six consecutive months have been absent without permission of the Directors from meetings of the Directors held during that period and the Directors resolve that his office is vacated;
- (G) he is not a Director appointed pursuant to Article 20 or 21 and has, in the opinion of any Investor Director (acting reasonably), acted in serious and/or persistent breach of the fiduciary duties he owes to the Company; or
- (H) he is removed from office pursuant to Article 20 or 21.

## **20. INVESTOR DIRECTORS**

- 20.1 The holder(s) of a Majority of B Ordinary Shares or where there are no B Ordinary Shares in issue, a Majority of Ordinary Shares, shall be entitled (i) to appoint such number of Directors of the Company as would constitute a majority of the Board at any given time of whom one shall be chairman of the Board if such person(s) so elect in writing to the Company and (ii) to remove from office any person(s) so appointed and (subject to such removal) to appoint another person in his place.
- 20.2 During any Default Period, the holder(s) of a Majority of the B Ordinary Shares or where there are no B Ordinary Shares in issue, a Majority of Ordinary Shares may, by notice to the Company or any director or the secretary thereof, declare that upon receipt of such notice an Investor Director shall have that number of votes in relation to resolutions of the Board which exceed by one the number of votes in aggregate of the other Directors, including any casting vote of the Chairman.
- 20.3 Any Investor Director appointed pursuant to this Article shall not himself be required to hold any share qualification.
- 20.4 Any appointment or removal of a director under this Article shall be by instrument in writing signed by the relevant appointor(s) given to any officer of the Company (not being the director the subject of the notice) or to the Company at its registered office and shall take effect on and from the date on which such instrument is so given. Any officer receiving such a notice shall promptly supply a copy of it to the Company.
- 20.5 A director appointed under this Article may appoint any person as an alternate pursuant to Article 23 without the approval of a resolution of the Directors.
- 20.6 An Investor Director shall be entitled to be a member of any committee of the Board.



- 20.7 For so long as the right to appoint an Investor Director under this Article subsists, upon a poll being taken in connection with a resolution of the Company in General Meeting to remove an Investor Director or to restrict or delete this Article, the appointor(s) thereof shall between them be entitled to exercise such total number of votes in respect of their holdings of Ordinary Shares as shall equal twice the total number of votes cast on such resolution by all other shareholders of the Company.

## **21. MANAGEMENT DIRECTOR**

- 21.1 For so long as the Management Investor:

- (A) holds such number of Ordinary Shares as is not less than the number agreed to be subscribed by the Management Investor pursuant to the Investment Agreement; and
- (B) is engaged as a full time employee of the Company in a role no less senior than that carried out by the Management Director on the date of the Investment Agreement (save where his engagement with the Company has been terminated or his level of seniority reduced in breach of his service agreement),

the Management Investor shall be entitled to be appointed as a Director of the Company (the "**Management Director**") and to resign from such office.

- 21.2 The Investor Director(s) shall be entitled to require the Management Director to resign from the Board by notice to him in writing (a) during any Default Period; and/or (b) if the Management Investor is no longer entitled to appoint a director pursuant to Article 21.1. Upon receipt of such notice, the Management Director shall immediately resign from his position as Director, such resignation to be in the form reasonably required by the Investor Director(s).
- 21.3 For so long as the right for the Management Investor to be appointed as a Management Director under this Article subsists, and the Management Director has not been required to resign pursuant to Article 21.2 upon a poll being taken in connection with a resolution of the Company in General Meeting to remove the Management Director or to restrict or delete this Article, the Management Investor thereof shall be entitled to exercise such total number of votes in respect of his holdings of Ordinary Shares as shall equal twice the total number of votes cast on such resolution by all other shareholders of the Company.

## **22. DIRECTORS MEETINGS**

- 22.1 The quorum necessary for the transaction of business of the Directors shall be three, at least one of whom shall be an Investor Director or his alternate (except with Investor Consent).
- 22.2 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit provided that (unless otherwise agreed by all the Directors at the time as regards the meeting concerned) all meetings of the Directors shall be held within the United Kingdom. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors. Save in the case of an emergency and unless all the Directors (or their duly appointed alternates) shall agree to the holding of a meeting by shorter notice, at least seven days' notice of every meeting of Directors shall be given either in writing or by facsimile or other similar means of visible communication to each Director, unless absent from the United Kingdom and he has failed to leave an address at which he may be contacted by facsimile or other similar visible communication.

- 22.3 If within half an hour of the time appointed for a meeting of the Directors a quorum is not present (in accordance with Article 22.1) the meeting shall stand adjourned to the same time and place three days later unless agreed by all the Directors. If at the adjourned meeting a quorum is not present (in accordance with Article 22.1) within half an hour of the time appointed for the meeting, the Directors present shall, provided that at least one such Director is an Investor Director, constitute a quorum. Notice of a meeting adjourned for absence of a quorum shall be given to all Directors.
- 22.4 Any Director enabled to participate in the proceedings of a meeting by means of a communication device (including a telephone) which allows all the other Directors present at such meeting whether in person or by means of such type of communication device, to hear at all times such Director and such Director to hear at all times all other Directors present at such meeting (whether in person or by means of such type of communication device) shall be deemed to be present at such meeting and shall be counted when reckoning a quorum.
- 22.5 Subject to Article 20.2, at any meeting of the Directors each Director (or his alternate Director if the Director himself is not present) present at the meeting shall be entitled to one vote. In the case of an equality of votes at any meeting the Chairman of such meeting shall not be entitled to a second or casting vote. Regulation 88 of Table A shall be modified accordingly.
- 22.6 A resolution in writing signed by all the Directors shall be as effective for all purposes as a resolution passed at a meeting of the Directors duly convened and held, and may consist of several documents in the like form, each signed by one or more of the Directors, but so that the expression "**Director**" in this Article shall not include an alternate Director.
- 22.7 Subject to the Acts a Director (including an alternate Director) may contract with and participate in the profits of any contract or arrangement with the Company as if he were not a Director. A Director shall also be capable of voting in respect of such contract or arrangement, where he has previously disclosed his interest to the Company, or in respect of his appointment to any office or place of profit under the Company or of the arrangement of the terms thereof and may be counted in the quorum at any meeting at which any such matter is considered.

### **23. ALTERNATE DIRECTORS**

- 23.1 Each Director shall have the power at any time to appoint as an alternate Director either another Director or, subject to Article 20.5, any other person approved for that purpose by a resolution of the Directors (such approval not to be unreasonably withheld), and, at any time, to terminate such appointment. Every appointment and removal of an alternate Director shall be in writing signed by the appointor and (subject to any approval required) shall (unless all the Directors agree otherwise) only take effect upon receipt of such written appointment or removal at the registered office of the Company.
- 23.2 An alternate Director so appointed shall not be entitled as such to receive any remuneration from the Company except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, but shall otherwise be subject to the provisions of these Articles with respect to Directors. An alternate Director shall during his appointment be an officer of the Company and shall not be deemed to be an agent of his appointor.
- 23.3 An alternate Director so appointed shall not be entitled as such to receive any remuneration from the Company except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, but shall otherwise be subject to the provisions of these Articles with respect to

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

- 23.4 An alternate Director shall (unless absent from the United Kingdom and subject to his giving to the Company an address at which notices may be served upon him) be entitled to receive notices of all meetings of the Directors and of any committee of the Directors of which his appointor is a member and to attend and to vote as a Director at any such meeting at which his appointor is not personally present and generally in the absence of his appointor to perform and exercise all functions, rights, powers and duties as a Director of his appointor and to receive notice of all General Meetings.
- 23.5 The appointment of an alternate Director shall automatically determine on the happening of any event which if he were a Director would cause him to vacate such office or if his appointor shall cease for any reason to be a Director otherwise than by retiring and being re-appointed at the same meeting.
- 23.6 A Director or any other person may act as alternate Director to represent more than one Director and an alternate Director shall be entitled at meetings of the Directors or any committee of the Directors to one vote for every Director whom he represents in addition to his own vote (if any) as a Director, but he shall count as only one for the purpose of determining whether a quorum is present.

#### **24. DIRECTORS' INTERESTS**

- 24.1 Subject to the provisions of the Acts and to the other provisions of these Articles, no Director or proposed or intending Director shall be disqualified by his office from contracting with the Company, either with regard to his tenure of any office or place of profit or as vendor, purchaser or in any other manner whatever, nor shall any contract in which any Director is in any way interested be liable to be avoided, nor shall any director who is so interested be liable to account to the Company or the members for any remuneration, profit or other benefit realised by the contract by reason of the Director holding that office or of the fiduciary relationship so established.
- 24.2 A Director may hold any other office or place of profit with the Company (except that of auditor) in conjunction with his office of director for such period (subject to the provisions of the Companies Acts) and upon such other terms as the Board may decide, and may be paid such extra remuneration for so doing (whether by way of salary, commission, participation in profits or otherwise) as the Board (or any committee authorised by the Board) may decide, and either in addition to or in lieu of any remuneration provided for by or pursuant to any other Article.
- 24.3 A Director may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested or as regards which it has any power of appointment, and shall not be liable to account to the Company or the members for any remuneration, profit or other benefit received by him as a director or officer of or from his interest in the other company. The Board may also cause any voting power conferred by the shares in any other company held or owned by the Company or any power of appointment to be exercised in such manner in all respects as it thinks fit, including the exercise of the voting power or power of appointment in favour of the appointment of the directors or any of them as directors or officers of the other company, or in favour of the payment of remuneration to the directors or officers of the other company.

- 24.4 A Director may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm may be entitled to remuneration for professional services as if he were not a Director.
- 24.5 Subject to the provisions of the Acts and to Article 24.14, a Director may vote on and be counted in the quorum in relation to any resolution of the Board in respect of any contract in which he has an interest.
- 24.6 A Director who is in any way (directly or indirectly) interested in a proposed transaction or arrangement with the Company shall declare the nature of his interest to the other Directors (i) at a meeting of the Directors; or (ii) by a notice in writing in accordance with section 184 of the 2006 Act; or (iii) by a general notice in accordance with section 185 of the 2006 Act prior to that transaction or arrangement being entered into by the Company (where section 177 of the 2006 Act applies) or as soon as required by section 182 of the 2006 Act, where that section applies. If a declaration of interest under this Article proves to be, or becomes, inaccurate or incomplete, a further declaration must be made. This Article 24.6 does not require a declaration of an interest of which the Director is not aware or where the Director is not aware of the transaction or arrangement in question. For this purpose a Director shall be deemed to be aware of matters of which he ought reasonably to be aware. A Director need not declare an interest in the circumstances set out in section 177(6) or section 182(6) of the 2006 Act, as applicable.
- 24.7 For the purposes of these Articles and subject to the Acts, and unless his appointors shall by written notice to the Company prescribe that this Article 24.7 is not to apply to the Director concerned, each Investor Director shall be deemed by these Articles generally to have disclosed that he is to be regarded as interested in any contracts between and/or situations involving the Company or any member of the Group on the one hand and Kaye and any other Kaye Person on the other.
- 24.8 References in this Article to:
- (A) a contract include references to any proposed contract and to any transaction or arrangement whether or not constituting a contract;
  - (B) any contract with or situation involving the Company shall include also any contract with or situation involving any of its subsidiaries or subsidiary undertakings for the time being;
  - (C) an interest of a Director shall include any interest of any person who is connected with him for the purposes sections 252 to 255 (inclusive) of the 2006 Act, to the extent the Director is aware of the interest of that connected person; and
  - (D) an interest of an alternate Director shall also include the interest of his appointor, to the extent the alternate Director is aware of that interest.
- 24.9 Subject to the provisions of the Acts, the Company may, by Investor Consent or by ordinary resolution passed with Investor Consent, suspend or relax the provisions of this Article to any extent or ratify any contract not properly authorised by reason of a contravention of this Article. Neither a Director nor any member connected with him for the purposes of section 239 of the 2006 Act shall vote on any resolution of the Company relating to the ratification of any action by him amounting to negligence, default, breach of duty or breach of trust in relation to the Company.

24.10 Subject to Article 24.11, the Directors are empowered under these Articles and for the purposes of section 175 of the 2006 Act, to authorise any Conflict Situation that may arise and to amend or vary any such authorisation so given. Any such authorisation, amendment or revocation shall be given by resolution of the Directors made in accordance with these Articles and, in the case of such authorisation, that section. The Directors may give any such authorisation subject to such terms as they shall consider appropriate and reasonable in the circumstances.

24.11 Investor Consent shall be required before the Company or any member of the Group shall:

(A) through its directors, authorise for the purposes of section 175 of the 2006 Act or otherwise any situation or matter in which any director (other than an Investor Director) has, or can have, a direct or indirect interest which conflicts, or may possibly conflict, with the interests of the Company;

(B) amend or vary any authorisation referred to in Article 24.10

For the purposes of sections 175 and 180(4) of the 2006 Act and for all other purposes, it is acknowledged that an Investor Director may be or become subject to a Conflict Situation or Conflict Situations as a result of his also being or having been or being party to an agreement or arrangement or understanding or circumstances under which he may become an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or a direct or indirect investor in and/or otherwise commercially involved with or economically interested in Kaye or any Kaye Person.

24.12 An Investor Director's duties to the Company arising from his holding office as director shall not be breached or infringed as a result of any Conflict Situation envisaged by Article 24.11 having arisen or existing in relation to him and he shall not be held accountable to the Company for any benefit he directly or indirectly derives from his involvement with any person or entity referred to in Article 24.11 (irrespective of whether the activities of such person or entity are or may become competitive with those of the Company and/or any of its subsidiaries).

24.13 Any Investor Director the subject of a Conflict Situation envisaged by Article 24.11 shall be entitled to:

(A) receive notice (including any relevant board papers) of, attend, count in the quorum towards and vote at board meetings relating in any way to, and deal generally with, matters concerning, connected with or arising from the Conflict Situation concerned; and

(B) keep confidential and not disclose to the Company any information which comes into his possession as a result of such Conflict Situation where such information is confidential as regards any third party.

24.14 The Director in question and any other interested Director shall not vote or be counted in the quorum on any resolution of the Board in accordance with Article 24.10.

24.15 The provisions of this Article are without prejudice to the requirements of Article 6.

## **25. BORROWING POWERS OF DIRECTORS**

25.1 Subject as otherwise provided in these Articles, the Directors may exercise all the powers of the Company to borrow money, whether in excess of the nominal amount of the share capital

of the Company for the time being issued or not, and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and, subject to the provisions of these Articles and of the Acts, to issue debentures, debenture stocks and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

- 25.2 In this Article the expression "**borrowings**" shall include any obligation for the payment or repayment of money, whether as principal or as surety and whether present or future, actual or contingent, incurred in respect of (i) money borrowed or raised, (ii) any bond, note, loan stock, debenture or similar instrument, (iii) acceptance or documentary credit facilities, (iv) foreign exchange options, (v) rental payments under leases and hire purchase agreements and instalments under conditional sale agreements (in all cases whether in respect of land, machinery, equipment or otherwise) entered into primarily as a method of raising finance or of financing the acquisition or use of the asset concerned, (vi) guarantees, indemnities, bonds, standby letters of credit or other instruments issued in connection with the performance of contracts and or in respect of the indebtedness of any other person (vii) invoice discounting factoring or similar facilities and (viii) the amount paid up on any share capital of any subsidiary of the Company (other than equity share capital) not for the time being owned by the Company or any subsidiary thereof.
- 25.3 No debt incurred or security given in respect of monies borrowed or to be taken into account as monies borrowed in excess of the aforesaid limit shall be invalid or ineffectual except in the case of express notice to the lender or the recipient of the security at the time when the debt was incurred or security given that the limit hereby imposed had been or was thereby exceeded, but no lender or other person dealing with the Company shall be concerned to see or inquire whether such limit is observed.

## **26. DETERMINATION PROVISIONS**

- 26.1 If a matter is to be Determined or referred to a Determiner for Determination as provided in these Articles, the following provisions of this Article shall apply.
- 26.2 The Determiner shall be the Auditors or, if any of the Relevant Parties shall object within five business days of the obligation or entitlement to refer the matter for Determination arising, such person as shall be agreed in writing between the Relevant Parties (as defined below) within five business days of such Relevant Party giving notice of objection to each of the other Relevant Parties, failing which such independent chartered accountant or independent valuer as shall be nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales on application by any such Relevant Party.
- 26.3 For the purposes of these Articles the "**Relevant Parties**" shall be:
- (A) in the case where the Determination is to be made for the purposes of Article 15.7, the parties to the disagreement concerned; or
  - (B) the Proposed Transferor (or holder of the relevant shares) and the Company, in any other case where the matter to be Determined involves the determination of the Fair Value or Transfer Value of any shares.
- 26.4 The terms of engagement of a Determiner (including without limitation his fees and costs and any limitations on liability) shall be such reasonable commercial terms as shall be agreed between the Determiner and the Lead Appointor (as defined below), consistently with the following provisions of this Article 26:

- (A) the Determiner shall act as an expert and not as an arbitrator;
  - (B) the Determiner shall be instructed to issue his determination in writing and address and supply it to the Relevant Parties;
  - (C) the Determiner shall be instructed to take account of such representations as may be made by the Relevant Parties as he shall see fit, and each of the Relevant Parties shall be entitled to make such representations separately but shall do so as expeditiously as reasonably possible; and
  - (D) the Determiner shall be instructed to make his determination as expeditiously as is reasonably possible.
- 26.5 The terms of engagement need only be signed between the Determiner and the Lead Appointor but shall bind all of the Relevant Parties.
- 26.6 The "**Lead Appointor**" shall be:
- (A) in the case where the Determination is to be made for the purposes of Article 15.7, the holders of a Majority of the B Ordinary Shares or, if there are no B Ordinary Shares in issue, the Ordinary Shares held by the Relevant Parties (or such person as may be nominated in writing for such purposes by such a Majority) or (if there are no Relevant Parties holding B Ordinary Shares or Ordinary Shares as the case may be) the Company as agent for the Relevant Parties; or
  - (B) the Company, acting with Investor Consent, in any other case where the matter to be Determined involves the determination of the Fair Value or Transfer Value of any shares.
- 26.7 The Lead Appointor shall in that capacity act as it shall see fit in its absolute discretion, and (absent its proven fraud or wilful default) shall not in that capacity be under any liability to any of the Relevant Parties or any other person.
- 26.8 Nothing shall oblige a Lead Appointor to enforce any terms of engagement or other rights against a Determiner unless it shall first have been indemnified and secured to its reasonable satisfaction against any costs, expenses and other liability that may be thereby involved, after taking account of any due proportion of those costs, expenses and liability that should be borne by it having regard to its financial interest in the matter being Determined.
- 26.9 If the Lead Appointor is nominated under Article 26.6, the members and Company shall be deemed hereby irrevocably to appoint the relevant Investor Majority as their attorney to enter into any documentation required to agree on their behalf directly with the Lead Appointor in the terms specified in Articles 26.7 and 26.8.
- 26.10 Each of the Company and other Relevant Parties shall, promptly after request, supply the Determiner with such information as he may from time to time reasonably require for the purposes of making his Determination.
- 26.11 The Determination of a Determiner which shall be in writing and (in the absence of manifest error on its face) shall be final and binding for the purposes of the relevant provisions of these Articles.
- 26.12 Except as expressly provided to the contrary in these Articles, the fees and expenses of the Determiner shall be borne as the Determiner shall direct or, in the absence of such a direction, by the Company, where the dispute is as to the Transfer Value of any of Offered Shares or in

any other case where the Company is a party to the dispute or, where the Company is not party to the dispute and/or it is not lawful for the Company to bear such costs, between the other Relevant Parties pro rata to the number of Equity Shares held by them respectively.

- 26.13 The Company and other Relevant Parties shall use all reasonable endeavours to procure that any Determination required is obtained with due expedition.

## **27. NOTICES**

- 27.1 Every Director of the Company and every alternate Director shall, upon supplying the Company with an address in the United Kingdom for the giving of notices therefor, be entitled to receive notices of general meetings, provided always that non-receipt of any such notice by any Director or alternate Director shall not invalidate the proceedings at the general meeting convened by such notice.
- 27.2 A notice may be given (i) by the Company to any member or Director either personally or by sending it by first class post (airmail if abroad) or Royal Mail Special Delivery post or by facsimile, email or other means of visible communication to him or to his registered address or to the electronic or postal address supplied by him to the Company for the giving of notice to him or (ii) to the Company for the purpose of these Articles by like method at its registered office for the time being.
- 27.3 Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, preparing and posting a letter containing the notice, and to have been effected at the expiration of twenty four hours if posted by first class pre-paid post or forty-eight hours in any other case after the letter containing the same is posted. Where a notice is sent by facsimile or other means of visible communication, service of the notice shall be deemed to be effected forthwith.
- 27.4 Notwithstanding anything else provided in these Articles, any Director who has not given an address for service to the Company shall not be entitled to notices hereunder.

## **28. INDEMNITY**

- 28.1 Subject to and to the fullest extent permitted by the Acts, but without prejudice to any indemnity to which he may be otherwise entitled:
- (A) every present and former Director and other officer of the Company (not being its auditor) and alternate Director shall be entitled to be indemnified out of the assets of the Company against all costs and liabilities incurred by him in relation to any proceedings (whether civil or criminal) which relate to anything done or omitted or alleged to have been done or omitted by him as a Director or alternate present and former Director save that no present and former Director or officer or alternate Director shall be entitled to be indemnified:
- (1) for any liability incurred by him to the Company or any associated company of the Company (as defined by section 309(A)(6) of the 1985 Act or section 256 of the 2006 Act, whichever is in force at the time, for these purposes);
  - (2) for any fine imposed in criminal proceedings which have become final;
  - (3) for any sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature howsoever arising;



- (4) for any costs for which he has become liable in defending any criminal proceedings in which he is convicted and that conviction has become final;
    - (5) for any costs for which he has become liable in defending any civil proceedings brought by the Company or an associated company in which a final judgment has been given against him; and
    - (6) for any costs for which he has become liable in connection with any application under sections 144(3) or (4) or 727 of the 1985 Act or sections 661(3) or (4) or 1157 of the 2006 Act in which the court refuses to grant him relief and that refusal has become final.
  - (B) every present and former Director and other officer (not being its auditor) and alternate Director shall be entitled to have funds provided to him by the Company to meet expenditure incurred or to be incurred in any proceedings (whether civil or criminal) brought by any party which relate to anything done or omitted or alleged to have been done or omitted by him as a Director or officer or alternate Director, provided that he will be obliged to repay those amounts no later than:
    - (1) if he is convicted in proceedings, the date when the conviction becomes final;
    - (2) if judgment is given against him in proceedings, the date when the judgment becomes final; or
    - (3) if the court refuses to grant him relief on any application under sections 144(3) or (4) or 727 of the 1985 Act or sections 661(3) or (4) or 1157 of the 2006 Act, the date when the refusal becomes final.
- 28.2 Conditionally upon and with effect from section 235 of the 2006 Act coming into force, every Director and alternate Director shall be entitled to be indemnified out of the assets of the Company against all costs and liabilities incurred by him in relation to any of the Company's activities as trustee of an occupational pension scheme (as defined in section 235(6) of the 2006 Act) save that no Director or alternate Director shall be entitled to be indemnified (i) for any fine imposed in criminal proceedings which have become final; or (ii) for any sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature howsoever arising; or (iii) for any costs for which he has become liable in defending any criminal proceedings in which he is convicted and that conviction has become final.
- 28.3 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 or which he may be guilty in relation to the Company.

## SCHEDULE

### (Definitions and Interpretation)

1. The following provisions of Table A shall not apply to this Company: Regulations 3, 24, 35, 39, 40, 46, 47, 50, 53, 54, 64 to 69 (inclusive) and 73 to 77 (inclusive), the last two sentences of Regulation 79 and Regulations 80, 81, 88, 89, 93 to 98 (inclusive) 115 and 118.
2. In these Articles (including this Schedule) unless the context otherwise requires:

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

"**2006 Act**" means the Companies Act 2006;

"**Acts**" means the 1985 Act and the 2006 Act;

"**Adoption Date**" means the date of the passing of the resolution adopting these Articles;

"**Approved Beneficiary**" means any person who, in relation to a Family Trust, is approved as such from time to time by means of Investor Consent;

"**associated company**" means, in relation to a company, a subsidiary or subsidiary undertaking or holding company for the time being of such company or a subsidiary or subsidiary undertaking for the time being of such a holding company;

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

"**B Ordinary Shares**" means B Ordinary Shares of £1.00 each in the capital of the Company;

"**Bad Leaver**" means any Leaver who is not a Good Leaver;

"**the Board**" means the board of directors for the time being of the Company or any duly constituted and authorised committee thereof;

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

"**Competitor**" means any person who, in the opinion of the Board (including an Investor Director), carries on or is interested, directly or indirectly, in any business which competes, directly or indirectly, with any business carried on by the Group or who is connected with or an associated company of such a person;

"**Controlling Interest**" means an interest (within the meaning of Schedule 13 Part 1 and Section 324 of the 1985 Act) in shares which confer in the aggregate more than 50% of the total voting rights conferred by all the shares in the share capital of the Company for the time being in issue and conferring the right to vote at all General Meetings;

"**Default Period**" means except with Investor Consent any period in which:

- (a) the Company is in liquidation or receivership or administration or otherwise insolvent within the meaning of Section 123 of the Insolvency Act 1986 (or the equivalent in any jurisdiction outside England and Wales); or

- (b) the Company has, as a matter of fact, for a period of two weeks been unable to pay its debts as they fall due unless such delay in payment has previously been agreed in writing with the creditors concerned; or
- (c) an event of default (by whatever name called) is outstanding for the purposes of any borrowings or financial facilities of the Company;
- (d) any of the special rights or privileges attaching to the B Ordinary Shares in these Articles and/or the terms of any required Investor Consent shall have been materially breached and (if remediable) not remedied within twenty one days of the breach to the satisfaction of an Investor Director (acting reasonably);

**"Employees Trust"** means any trust established by the Company to acquire and hold shares in the capital of the Company for the benefit of employees and/or former employees of the Company and/or or their dependants;

**"Exit"** means the first to occur of a sale or flotation;

**"Fair Value"** means the fair value of any shares in the Company determined as provided in Article 17.4;

**"Family Trust"** means in relation to any Original Member or Approved Beneficiary a trust (whether arising under a settlement inter vivos or a testamentary disposition by whomsoever made or on intestacy) under which:

- (a) no immediate beneficial interest in the shares in question is for the time being vested in any person other than the Original Member or Privileged Relations of his; and
- (b) no power of control over the voting powers conferred by such shares is for the time being exercisable by or subject to the consent of any person other than the trustees as trustees or the Original Member or Privileged Relations of his

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 any exercise of a power or discretion conferred thereby on any person or persons;

**"Flotation"** means the effective admission of any part of the share capital of the Company to the Official List of the Financial Services Authority or the grant of effective permission for dealings to take place in the same on AIM or the commencement of dealings in the same on any other recognised investment exchange (whichever is the earlier);

**"Good Leaver"** means a Leaver who:

- (a) becomes a Leaver because:
  - (i) he is dismissed in circumstances where the Company is in breach of his service or consultancy agreement (whether constructively or expressly); or
  - (ii) he is dismissed in accordance with the terms of his service or consultancy agreement for the time being with the Company, unless such dismissal is in the valid exercise of a right to terminate such service or consultancy agreement by reason of his misconduct or serious and/or persistent breach of

contract without notice or payment in lieu of notice of the same by the Company; or

- (iii) he dies or retires at normal retirement age; or
- (iv) he resigns because he has suffered a physical or mental deterioration which, in the opinion of an appropriately qualified independent medical expert is sufficiently serious to prevent him from duly performing his normal duties as a Relevant Executive; or

- (b) does not fall within any of the foregoing categories but nevertheless the Board, with Investor Consent, designates him as a Good Leaver for the purposes of these Articles;

**"Interest Rate"** means a rate (as well as before judgement or liquidation) of three per cent. (3%) per annum above the base rate for the time being of Barclays Bank Plc;

**"Investor Director"** means a director appointed pursuant to Article 20;

**"Investment Agreement"** means the Investment Agreement entered into on or around the Adoption Date between, *inter alios*, the Company and certain of its members, as from time to time amended, supplemented or novated;

**"Investor Consent"** means the consent of the holders of a Majority of the B Ordinary Shares or, if there are no B Ordinary Shares in issue, the Ordinary Shares (and for the purposes of these Articles, a decision on whether or not to give such consent (and the communication of that decision) shall not be unreasonably delayed by such holders);

**"Kaye"** means Kaye Enterprises Limited (company number 2332671) whose registered office is at Oakleigh House, High Street, Hartley Wintney, Hampshire, RG27 8PE;

**"Kaye Person"** means, in relation to Kaye and its associated companies from time to time (the **"Kaye Group"**):

- (a) Kaye;
- (b) any body corporate controlled by Kaye or another member of the Kaye Group or which immediately following the transfer of the shares concerned will be such a body corporate;
- (c) any investment fund or trust or partnership controlled or managed or advised (in an investment adviser capacity) or promoted by Kaye or another member of the Kaye Group or any investment manager or advisor thereof;
- (d) any trustee or manager or beneficiary or shareholder or partner or unitholder or other participant in or of Kaye or any investment fund or trust or partnership referred to in paragraph (c) above;
- (e) a nominee or custodian for any of the foregoing;

**"Leaver"** means any employee or director of the Company who ceases or (as the case may be) will cease (through having given or been given notice) to be such an employee or director in circumstances where he does not or (as the case may be) will not continue immediately thereafter to be a director or employee of the Company;

**"Leaving Date"** means the date on which the Leaver concerned became a Leaver or, where he was given or gave notice to terminate his employment or engagement, the date when such notice was given, if earlier;

**"Majority"** means 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;

**"Management Director"** means a director appointed pursuant to Article 21;

**"Management Investor"** means Neil Raymond Tubman;

**"Mandatory Transfer"** means any transfer of shares required pursuant to Article 14 or which is given by any person at a time when he could be required under Article 14 to make such a transfer;

**"Mandatory Transfer Notice"** means a Transfer Notice given or deemed to be given pursuant to Article 14 or given by a person at a time when he could be required under Article 14 to give such a Transfer Notice;

**"Ordinary Shares"** means Ordinary Shares of £0.10 each in the capital of the Company;

**"Original Member"** means an Original Member as defined in Article 13.5;

**"Permitted Family Transfer"** means a Permitted Family Transfer as defined in Article 13.5 and references to a **"Permitted Family Transferee"** shall be construed accordingly;

**"Permitted Corporate Transferee"** means in relation to any member which is a body corporate, any associate company for the time being thereof;

**"Permitted Option"** means any Subscription Right:

- (a) outstanding on the Adoption Date;
- (b) granted after the Adoption Date with Investor Consent; or
- (c) expressly envisaged in the Investment Agreement;

**"Permitted Transfer"** means a transfer of shares permitted by Articles 10 to 16 (inclusive);

**"Privileged Relation"** means 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 PROVIDED THAT, in each case, such person shall have reached the age of eighteen years;

**"Proposed Transferor"** shall have the meaning given in Article 16.2;

**"Qualifying Offer"** shall have the meaning given in Article 15.3;

**"recognised investment exchange"** shall have the meaning given to such term in Part XVIII of the Financial Services and Markets Act 2000;

**"Redemption Event"** means the first to occur of a Sale or Flotation;

**"Related Shares"** means in relation to any shares, any shares issued in respect of such shares by way of capitalisation or bonus issue or acquired in exercise of any right or option granted or arising by virtue of them;

**"Relevant Leaving Date"** means, in respect of a Leaver, the date on which that Leaver became a Leaver;

**"Relevant Executive"** means a director or employee of, or a consultant to, the Company;

**"Relevant Member"** means, in relation to a particular Relevant Executive or Leaver, and unless otherwise agreed with Investor Consent that Relevant Executive or Leaver and any member to whom such Relevant Executive or Leaver (or his personal representatives) has made or at the relevant time could if he held shares in the Company make a Permitted Family Transfer (assuming for these purposes that any restrictions on such a transfer in the Shareholders Agreement or relevant to Mandatory Transfer Notices do not apply);

**"Relevant Multiplier"** means, in respect of a Bad Leaver:

- (a) where his Relevant Leaving Date falls on or before the first anniversary of the Adoption Date, 25 per cent.;
- (b) where his Relevant Leaving Date falls after the first anniversary of the Adoption Date and on or before the second anniversary of the Adoption Date, 37.5 per cent.;
- (c) where his Relevant Leaving Date falls after the second anniversary of the Adoption Date and on or before the third anniversary of the Adoption Date, 50 per cent.;
- (d) where his Relevant Leaving Date falls after the third anniversary of the Adoption Date and on or before the fourth anniversary of the Adoption Date, 62.5 per cent.; and
- (e) where his Relevant Leaving Date falls after the fourth anniversary of the Adoption Date, 75 per cent.

**"Relevant Shares"** means any shares in the Company for the time being held by a Relevant Member and/or in respect of which a Relevant Member is unconditionally entitled to be registered as the holder;

**"Restricted Securities"** shall have the meaning given in Article 10.2(A)

**"Sale"** means the sale or transfer of any Ordinary Shares (excluding any acquisition of shares by way of Permitted Transfer under Article 13) constituting at least 90% of the issued share capital of the Company to a single purchaser or to one or more purchasers as part of a single transaction, or the acquisition (whether or not as part of a single transaction but excluding by way of Permitted Transfer under Article 13 or by way of subscription by any existing shareholder) of Ordinary Shares constituting such an interest by any person or group of persons who are connected persons of each other or who are acting in concert and who did not previously hold such an interest;

**"Senior Executive"** means a Relevant Executive who is entitled (or will become entitled), contingently or otherwise, to receive remuneration (including for this purpose all amounts paid by way of commission or bonus or under any profit sharing bonus or incentive scheme or by way of pensions contribution) in excess of £45,000 per annum or such increased amount as may from time to time have been approved by Investor Consent;

**"Specified Price"** shall have the meaning given in Article 15.4;

"**Subscription Rights**" means any rights (whether under options, warrants, on conversion of any indebtedness or otherwise) to call for the allotment or issue of shares in the Company;

"**Transfer Notice**" means a Voluntary Transfer Notice or a Mandatory Transfer Notice, as the case may be;

"**the Transfer Value**" means the value attributable to the shares comprised in any Transfer Notice determined as provided in Article 17;

"**Voluntary Transfer**" means any transfer of shares other than a Mandatory Transfer;

"**Voluntary Transfer Notice**" means a Transfer Notice other than a Mandatory Transfer Notice.

3. In these Articles, any reference to a matter to be "**Determined**" or to be referred for "**Determination**", shall mean that the matter is to be determined by a Determiner as provided in Article 26.
4. In these Articles references to a document being executed include references to its being executed under hand or under seal or as a deed or by any other method and references to writing include references to any visible substitute for writing and to anything partly in one form and partly in another form.
5. In these Articles words denoting the singular number include the plural number and vice versa, words denoting the masculine gender include the feminine gender and words denoting persons include corporations.
6. Where the context so admits, words or expressions contained in these Articles bear the same meaning as in the Acts as in force on the Adoption Date.
7. Except where expressly stated references in these Articles to any provision of any enactment or of any subordinate legislation (as defined by Section 21(1) of the Interpretation Act 1978) include any modification or re-enactment of that provision for the time being in force.
8. References in these Articles to a "**connected person**" of any person and "**control**" shall mean any connected person thereof and control for the purposes of Sections 839 and 840 of the Income and Corporation Taxes Act 1988 as in force on the Adoption Date and references to "**acting in concert**" shall be construed in accordance with the City Code on Take-overs and Mergers published by the Panel on Take-overs and Mergers as in force on the Adoption Date.
9. References to the amount "**paid up**" on a share shall include all amounts credited as paid up thereon including any premium.
10. The headings in these Articles are inserted for convenience only and shall not affect their construction.