

The Companies Act 1985 (as amended)

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

INTREPID INVESTMENTS LIMITED

(adopted by Special Resolution passed on 13th November 2006)

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COMPANIES HOUSE

THE COMPANIES ACT 1985 (AS AMENDED)

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION
(the "Articles")

of

INTREPID INVESTMENTS LIMITED
(the "Company")

(adopted by Special Resolution passed on ~~1~~ ^{13th} November 2006)

1 Definitions and interpretation

1.1 In these Articles:

"Act" means the Companies Act 1985 as amended re-enacted or replaced from time to time;

"**acting in concert**" has the meaning ascribed to it by the City Code on Takeovers and Mergers as in force and construed on the date of adoption of these Articles;

"**A Shareholders**" means the holders of the A Shares from time to time;

"**A Shares**" means the 'A' Ordinary shares of £1.00 each in the capital of the Company;

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

"**Banking Facilities**" means such banking facilities as the Company may from time to time negotiate and utilise;

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

"**B Shareholder Majority**" means the holder(s) of 51% or more of the B Shares for the time being in issue;

"**B Shareholders**" means the holders of the B Shares from time to time;

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

"**C Share**" means the 'C' share of £1.00 in the capital of the Company;

"**C Shareholder**" means the holder of the C Share from time to time;

"**Business Day**" means a day other than a Saturday or a Sunday on which U.K. clearing banks are generally open for business in England;

"Change of Control" means the acquisition whether by purchase, transfer, renunciation or otherwise (but excluding a transfer of Shares made in accordance with Article 8) by any person not subscribing for Shares at the date of the adoption of these Articles (**"a Third Party Purchaser"**) of any interest in any Shares if, upon completion of that acquisition, the Third Party Purchaser, together with persons acting in concert or connected with him (excluding any person who subscribed for shares at the date of the adoption of these Articles), would hold more than 50 per cent in voting rights attached to the issued Shares;

"connected with" has the meaning ascribed to it in section 839 Income and Corporation Taxes Act 1988 save that there shall be deemed to be control for that purpose whenever either section 416 or section 840 of that act would so require;

"Deemed Transfer Notice" has the meaning ascribed to it in Article 10.2;

"Early Leaver" means a person (other than a Good Leaver or the Investor) who for any reason and in any circumstances ceases to be either an employee or director on or before the Option Date and following which is a Relevant Member (as defined in Article 10.1) in respect of whom a Transfer Event (as hereinafter defined) occurs provided always that an Investor Majority may resolve that such person shall nevertheless be treated as a Good Leaver;

"Event of Default" means the occurrence of any event which entitles the holders of the A Shares to serve an Activation Notice under Article 3.4(b) (whether or not any such Activation Notice is in fact served as a consequence);

"Good Leaver" refers to a Relevant Member who ceases to be a director or employee as a result of:

- (i) death, illness (including mental illness), permanent disability or permanent incapacity through ill health certified by an independent doctor;
- (ii) dismissal from employment by a Group Company in circumstances where such dismissal is found, by any industrial tribunal or any appellate body thereof or, as the case may be, by any court of competent jurisdiction or any appellate body thereof, to have been either unfair dismissal or as a result of a breach by the Company of the Relevant Member's contract of employment; or
- (iii) the Relevant Member being dismissed by the relevant Group Company on notice (but not summarily) in accordance with the notice provisions in his terms of employment;
- (iv) the death or long-term illness or disability of a spouse, long-term partner or child of the Relevant Member making it, in the Relevant Member's view, reasonably necessary for the Relevant Member to provide care himself to that spouse, partner or child; or
- (v) as a result of the retirement of the Relevant Member at the normal retirement age of 65 years.

"Group" means the Company, its subsidiary undertakings, quasi subsidiary undertakings, joint ventures and associates for the time being as defined in the relevant, extant UK Financial Reporting Standards and Statements of Accounting Practice as published by the Accounting Standards Board or its predecessor bodies and abstracts

published by the Urgent Issues Task Force; and, "**member of the Group**" shall be construed accordingly;

"**Investor**" means Ronald Russell, Drumforskier, Bridge of Dee, Aberdeen, AB12 5XJ, Scotland, the original A Shareholder;

"**Investor Director**" has the meaning ascribed to it in Article 17;

"**Investor Majority**" means the holder(s) of 51% or more of the A Shares for the time being in issue provided that, at the relevant time, the A Shares constitute at least 25% of the issued Shares;

"**Issue Price**" means the amount paid up or credited as paid up on the shares concerned (including any premium on issue);

"**Listing**" means either:

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

"**Loan**" means a loan of up to £650,000 by the Investor to the Company the terms and conditions of which are documented by the Loan Facility Agreement;

"**Loan Facility Agreement**" means the loan facility agreement entered into on or around the date of adoption of these Articles between the Company and the Investor;

"**London Stock Exchange**" means London Stock Exchange plc.;

"**Member**" means any registered holder of a Share for the time being;

"**Option Date**" means 13th November 2011;

"**Privileged Relation**" means any of the spouse, parents, siblings, children and grandchildren (including stepchildren and step grandchildren) of any Member;

"**Qualifying Trust**" means a trust which permits the settled property or the income therefrom to be applied only for the benefit of the settlor and/or a Privileged Relation of that settlor and under which no power of control is capable of being exercised over the votes of any shares which are the subject of the trust by any person other than the trustees or the settlor or the Privileged Relation of the settlor;

"**Recognised Investment Exchange**" has the meaning ascribed to it in section 285(1)(a) of the Financial Services and Markets Act 2000;

"**Sale**" means the making of one or more agreements (whether conditional or not) for the disposal, transfer, purchase, subscription or renunciation of any part of the share capital of the Company giving rise to a Change in Control and for the purposes of this definition "**disposal**" shall mean a sale, transfer, assignment or other disposition

whereby a person ceases to be the absolute beneficial owner of the share in question or of voting rights attached thereto or an agreement to enter into such disposal or the grant of a right to compel entry into such an agreement;

"**Shares**" means the A Shares, the B Shares and the C Share; and, "**Share**" means any one share of any such class;

"**Table A**" means Table A in the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 1985;

"**Third Party Purchaser**" has the meaning ascribed to it in the definition of "Change of Control" and where the relevant acquisition was effected by the renunciation of a renounceable letter of allotment, shall include the relevant renouncee; and

"**UKLA**" means the United Kingdom Listing Authority or any other competent authority for the time being for the purposes of Part VI of the Financial Services and Markets Act 2000;

"**Valuer**" means a firm of chartered accountants agreed between the Vendor and the Board and in default of agreement within 10 Business Days within the first name being proposed by either of them, as appointed by the President of the Institute of Chartered Accountants in England and Wales on the application of the Vendor or the Board; for the avoidance of doubt, the Valuer may be an accountant in the same firm as Auditors and may be involved in auditing the Company's accounts.

- 1.2 These Articles and the regulations of Table A (subject to any modifications set out in these Articles) shall constitute all the articles of association of the Company.
- 1.3 References in these Articles to "regulations" are to regulations in Table A.
- 1.4 In these Articles, words importing a gender include every gender and references to persons shall include bodies corporate, unincorporated associations and partnerships.
- 1.5 Words and expressions defined in or for the purposes of the Act or Table A shall, unless the context otherwise requires, have the same meaning in these Articles.
- 1.6 The headings in these Articles shall not affect their construction or interpretation.

2 Authorised Share Capital

- 2.1 The authorised share capital of the Company at the date of the adoption of these Articles is £171.00 divided into 51 A Shares and 119 B Shares and 1 C Share.

3 Rights attached to the Shares

- 3.1 Save as specified in these Articles, the A Shares and the B Shares shall rank *pari passu* in all respects. The C Share shall be subject to the following conditions: (a) no right to vote on any matter; (b) no capital value other than its par value; and (c) subject to the prior written consent of the Investor Majority the right to the first £45,000.00 of distributable profits available in respect of any one accounting period.

3.2 Dividends

The profits of the Company available for distribution shall be applied first (a) subject to the prior written consent of the Investor Majority in paying to the holder of the C Share up to the amount stated in article 3.1(c); and then second, (b), in paying to the holders of the A Shares and the B Shares (*pari passu* as if the same constituted one class of share) according to the nominal value of the Shares held by them respectively, such amount as the directors may determine (ignoring for this purpose any premium paid at the time of subscription for the relevant Shares), provided that the Directors may declare a higher rate of dividend in respect of one class of Shares than another class of Shares.

3.3 Capital

On a return of assets on liquidation, reduction of capital or otherwise (and subject to any outstanding balance of the Loan (together with accrued interest thereon) having been repaid by the Company to the Investor prior to such return of assets):

(a) the A Shareholders and the B Shareholders shall be entitled (*pari passu* as if the A Shares and the B Shares constituted one class of share and in proportion to the number of A Shares and B Shares held by each of them) to be paid out of the surplus assets of the Company remaining after the payment of its liabilities, an amount equal to the Issue Price of the A Shares and the B Shares held by each of them (ignoring for this purpose any premium) and the C Shareholder shall be entitled to be paid par value for its C Share;

(b) . thereafter, if following the satisfaction of any entitlement pursuant to (a) any surplus assets remain then the A Shareholders and the B Shareholders shall be entitled (*pari passu* as if the A Shares and the B Shares constituted one class of share and in proportion to the number of A Shares and B Shares held by each of them) to be paid such surplus assets.

3.4 Voting

(a) Subject to Article 3.4(b) and to Article 10.3 the holder of an A Share or of a B Share shall be entitled to receive notice of and to attend and speak at any general meetings of the Company and such holder who (being an individual) is present in person or by proxy or (being a body corporate) is present by duly authorised representative or by proxy shall, on a show of hands, have one vote, and, on a poll, have one vote for each A Share or, as the case may be, B Share held by him.

(b) Provided that the A Shares constitute at least 25% of the issued Shares, the holders of the A Shares shall be entitled by notice in writing to the Company (an "Activation Notice") to exercise as a class, on a poll, three times the total number of votes attached to all shares of any other class in issue on any resolution at any general meeting of the Company if:

(i) the provider of any banking facilities provided to any member of the Group shall at any time have become entitled to declare the whole or any part of such facilities due and payable in advance of its stated maturity date as a result of any event of default in respect of or arising pursuant to any such banking facilities (however such event of default is described and whether or not such provider shall actually have made any such declaration as a consequence) and such provider shall not have formally waived such entitlement in writing to the satisfaction of an Investor Majority; or

- (ii) there shall at any time have occurred any breach or non observance by the Company or any of the members or Directors of the Company (excluding any Investor Director) of any of the provisions of these Articles (including the provisions of Table A incorporated in these Articles) or of the Loan Facility Agreement; or
- (iii) any amount due to be paid by any Group Company under the Loan Facility Agreement shall at any time not have been paid within 7 Business Days of the stated date (whether or not the payment of the same shall have been prevented or delayed by or would breach any inter-creditor or other arrangement for the time being between (with or without other parties) the Company and the provider of any banking facilities provided to any member of the Group).

The enhanced voting rights attached to the A Shares pursuant to this Article 3.4(b) shall be exercisable at any time after any Event of Default (subject to the Activation Notice having been served) and such rights shall continue only until the payment by the Company of all such amounts then overdue or until each such other breach shall have been waived in writing by an Investor Majority or otherwise shall have been rectified by the Company to the satisfaction, confirmed in writing, of an Investor Majority whereupon the voting rights attached to the A Shares shall be as provided for in Article 3.4(a) unless and until the rights under this Article 3.4(b) shall have been activated by a further notice.

4 Variation of Class Rights

- 4.1 Whenever the capital of the Company is divided into different classes of shares, the special rights attached to any class may not be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding up, without the consent in writing of the holders of three quarters of the issued shares of that class or without the sanction of an extraordinary resolution passed at a separate meeting of the holders of the issued shares of that class. To every such separate meeting, all the provisions of these Articles relating to general meetings of the Company shall apply with amendments necessary to give efficacy.
- 4.2 Without prejudice to the generality of their rights, the special rights attached to the A Shares shall each be deemed to be varied at any time by any of the following occurring without class consent:
 - (a) an increase, reduction or other alteration in the issued share capital of the Company or any other member of the Group or a variation in the rights attaching to any class thereof;
 - (b) the grant of an option to subscribe for shares in the Company or any other member of the Group or the issue of any securities or instruments convertible into shares in any such company;
 - (c) other than pursuant to the Banking Facilities, the creation by the Company or any other member of the Group of any mortgage, charge, pledge, lien, encumbrance or other security interest (excluding an interest arising by operation of law in the ordinary course of business or for the purposes of investing in real property or land in any jurisdiction pursuant to the business of the Company or any other member of the Group);
 - (d) the making of any material change (including cessation) in the nature of the business of the Group taken as a whole;

- (e) the alteration of the memorandum of association of the Company or these Articles or the passing of any special or extraordinary resolution of the Members;
- (f) the declaration or payment of any dividend or the making of any other distribution in respect of the profits, assets or reserves of the Company or any other member of the Group other than in accordance with these Articles;
- (g) the institution of any proceedings for, or the passing of any resolution for or in preparation for the winding up or administration of or the appointment of an administrator for the Company or any other member of the Group;
- (h) the appointment or removal of any director in his capacity as a director and/or employee of any member in the Group otherwise than under Article 17;
- (i) a Sale or Listing;
- (j) the Company or any other member of the Group incurring an obligation to do any of the foregoing; or
- (k) the registration or purported registration of any transfer of any Share or interest therein other than as expressly permitted by these Articles.

5 Issue of Shares – section 80 and section 89

- 5.1 Subject to the Act and to Article 4.2, all un-issued Shares in the Company shall be under the control of the directors and they may offer, allot, grant rights or warrants to subscribe for, grant options over, or otherwise deal with or dispose of un-issued shares in the Company to such persons and generally on such terms in such manner and at such times as they may determine.
- 5.2 Subject to Article 4.2, the directors of the Company are hereby authorised pursuant to section 80 of the Act generally to exercise each and every power of the Company to allot relevant securities (as defined in that section) up to a maximum amount in nominal value which when aggregated with the subscriber share(s) and the relevant securities already allotted on the adoption of these Articles is equal to the authorised share capital on such adoption.
- 5.3 Section 89(1) and Sections 90(1) to (6) of the Act shall not apply to the Company.
- 5.4 Notwithstanding the foregoing, the directors shall not, other than by unanimous decision of the Members, exercise their rights and powers under this Article 5 if the intention or effect, directly or indirectly, thereof is to change the then-current ratio of A Shares to the B Shares plus the C Share.

6 Lien

- 6.1 All Shares to be sold in the enforcement of the Company's lien or rights of forfeiture shall be offered in accordance with Article 10 (Compulsory Transfers) as if a Deemed Transfer Notice were deemed given in respect of such Shares.

7 Transfer of Shares - General

- 7.1 The Board shall not register the transfer of any Share or any interest in any Share unless the transfer:

- (a) is permitted by Article 8 (Permitted Transfers); or
- (b) is made in accordance with Article 9 (Voluntary Transfers), Article 10 (Compulsory Transfers), Article 11 (Drag Along Option), or Article 12 (Tag Along Option);

and, in any such case, is not prohibited under Article 13 (Prohibited Transfers).

- 7.2
- (a) For the purpose of ensuring that a transfer of Shares is in accordance with these Articles or that no circumstances have arisen whereby a Member may be bound to give or be deemed to have given a Transfer Notice the Board may from time to time require any Member or any person named as transferee in any transfer lodged for registration to furnish to the Board such information and evidence as they reasonably deem relevant for such purpose.
 - (b) Failing such information or evidence being furnished to their reasonable satisfaction within a reasonable time after request under Article 7.2(a) the Board may (with the approval of an Investor Majority) in their absolute discretion refuse to register the transfer in question or (with the approval of an Investor Majority where no transfer is in question) require by notice in writing to the Member(s) concerned that a Transfer Notice be given in respect of the Shares concerned.
 - (c) If such information or evidence requested under Article 7.2(a) discloses to the reasonable satisfaction of the Board (with the approval of an Investor Majority) that circumstances have arisen whereby a Member may be bound to give or be deemed to have given a Transfer Notice the Board may (with the approval of an Investor Majority) by notice in writing to the Member(s) concerned require that a Transfer Notice be given in respect of the Shares concerned.

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

8 Permitted Transfers

8.1 Transfers within groups of companies

With the prior written consent of a B Shareholder Majority and an Investor Majority (such consent not to be withheld or delayed unreasonably):

- (a) Any Member which is a body corporate may at any time transfer any Shares held by it to a member of the same group.
- (b) Where Shares have been transferred under Article 8.1(a) (whether directly or by a series of such transfers) from a Member (the "**Transferor**") to a member of the same group as the Transferor (the "**Transferee**") and subsequent to such transfer the Transferee shall cease to be a member of the same group as the Transferor then the Transferee shall forthwith transfer all the Shares held by it to the Transferor, for such consideration as they agree and if they do not do so within 28 Business Days of the date upon which the Transferee ceased to be a member of the same group the directors may with the consent of an Investor Majority require the Transferee to serve a Transfer Notice in respect of such Shares.

8.2 Transfers to a Privileged Relation or a Qualifying Trust

With the prior written consent of a B Shareholder Majority and an Investor Majority (such consent not to be withheld or delayed unreasonably) any Member (being an individual) may at any time transfer all or any Shares held by him to a Privileged Relation or a Qualifying Trust of which he is the settlor without restriction as to price or otherwise.

8.3 Other Transfers

A Member may transfer Shares to any person at any time with the prior written consent of a B Shareholder Majority and an Investor Majority, either of whom may, prior to the Option Date, withhold such consent without giving any reason or give consent subject to conditions. After the Option Date, such consent may not be withheld, given subject to conditions or delayed, in any case, unreasonably.

8.4 Transfers of entire interest

A transfer of any Share pursuant to this Article 8 shall only be treated as a permitted transfer for the purposes of these Articles if it is a transfer of the entire legal and beneficial interest in such share, free from any lien, charge or other encumbrance.

9 Voluntary Transfers

9.1 Except as permitted under Article 8, any Member who wishes to transfer any Share (a "**Vendor**") shall before transferring or agreeing to transfer such Share or any interest in it, serve notice in writing (a "**Transfer Notice**") on the Company of his wish to make that transfer. Save as permitted by Article 8 and subject always to Article 11, Article 12 and Article 13 a Member who wishes to transfer an interest in a Share (but not the Share itself) may do so only with the prior approval of an Investor Majority provided that, notwithstanding any other provision of these Articles, at that time the A Shares constitute at least 50% of the issued Shares, and if that is not the case, then no such approval shall be required.

9.2 In the Transfer Notice the Vendor shall specify:

- (a) the number of Shares ("**Sale Shares**") which he wishes to transfer;
- (b) the identity of the person (if any) to whom the Vendor wishes to transfer the Sale Shares;
- (c) the price per share at which the Vendor wishes to transfer the Sale Shares ("**the Proposed Sale Price**");
- (d) any other terms relating to the transfer of the Sale Shares; and
- (e) whether the Transfer Notice is conditional upon all (and not part only) of the Sale Shares being sold pursuant to the following provisions of this Article 9 ("**a Total Transfer Condition**").

9.3 Each Transfer Notice shall:

- (a) relate to one class of Shares only;

- (b) constitute the Company as the agent of the Vendor for the sale of the Sale Shares on the terms of this Article 9;
 - (c) save as provided in Article 9.8, be irrevocable.
- 9.4 The Sale Shares shall be offered for purchase in accordance with this Article 9 at a price per Sale Share ("**the Sale Price**") agreed between the Vendor and the Board (with the approval of the Investor Director provided that, at that time, the A Shares constitute at least 25% of the issued Shares) or, in default of such agreement by the end of the 15th Business Day after the date of service of the Transfer Notice:
 - (a) if the Board or an Investor Majority (provided as aforesaid) so elects within that 15 Business Day period after the date of service of the Transfer Notice, the Sale Price shall be the price per share reported on by the Valuer as its written opinion of the open market value of each Sale Share ("**the Market Value**") as at the date of service of the Transfer Notice (in which case for the purposes of these Articles the Sale Price shall be deemed to have been determined on the date of the receipt by the Company of the Valuer's report); and
 - (b) otherwise the Sale Price shall be the Proposed Sale Price, in which case for the purpose of these Articles the Sale Price shall be deemed to have been agreed at the end of that 15th Business Day.
- 9.5 If instructed to report on their opinion of Market Value under Article 9.4(a) the Valuer shall:
 - (a) act as an expert and not as an arbiter and its written determination shall be final and binding on the Members; and
 - (b) proceed on the basis that the open market value of each Sale Share shall be the sum which a willing purchaser would agree with a willing vendor to be the purchase price for all the class of Shares of which the Sale Shares form part, divided by the number of issued Shares then comprised in that class.
- 9.6 The Company will use its reasonable endeavours to procure that the Valuer deliver its written opinion of the Market Value to the Board and to the Vendor within 28 Business Days of being requested to do so.
- 9.7 The Valuer's fees for reporting on its opinion of the Market Value shall be borne as to one half by the Vendor and as to the other half by the Company unless the Vendor revokes the Transfer Notice pursuant to Article 9.8 when the Vendor shall pay all the Valuer's fees.
- 9.8 If the Market Value is reported on by the Valuer under Article 9.4(a) to be less than the Proposed Sale Price, the Vendor may revoke the Transfer Notice by written notice given to the Board within the period of 5 Business Days after the date the Board serves on the Vendor the Valuer's written opinion of the Market Value.
- 9.9 The Board shall at least 10 Business Days after and no more than 20 Business Days after the Sale Price has been agreed or determined give an Offer Notice to all Members of the Company (other than the Vendor) offering the Sale Shares for sale pro rata as nearly as may be to the respective number of Shares then held by such Members.
- 9.10 An Offer Notice shall:

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

and shall expire 21 Business Days after its service.

9.11 After the expiry date of the Offer Notice the Board shall, allocate the Sale Shares in accordance with the applications received save that:

- (a) if there are applications for more than the number of Sale Shares available, they shall be allocated to those applicants in proportion (as nearly as possible but without allocating to any Member more Sale Shares than the maximum number applied for by him) to the number of Shares of the class which entitles them to receive such offer then held by them respectively;
- (b) if it is not possible to allocate any of the Sale Shares without involving fractions, they shall be allocated amongst the applicants in such manner as the Board shall think fit;
- (c) if the Transfer Notice contained a valid Total Transfer Condition, no allocation of Sale Shares shall be made unless all the Sale Shares are allocated.

9.12 The Board shall, within 5 Business Days after the expiry date of the Offer Notice, give notice in writing ("**an Allocation Notice**") to the Vendor and to each person to whom Sale Shares have been allocated (each a "**Purchaser**") specifying the name and address of each Purchaser, the number and class of Sale Shares agreed to be purchased by him and the aggregate price payable for them.

9.13 Completion of a sale and purchase of Sale Shares pursuant to an Allocation Notice shall take place at the registered office of the Company (or at such other place as may be agreed by the Vendor and each Purchaser) at the time specified in the Allocation Notice when the Vendor shall, upon payment to him by a Purchaser of the Sale Price in respect of the Sale Shares allocated to that Purchaser, transfer those Sale Shares and deliver the relative share certificate(s) to that Purchaser.

9.14 The Vendor may, during the period of 120 Business Days commencing 20 Business Days after the expiry date of the Offer Notice, sell all or any of those Sale Shares for which an Allocation Notice has not been given, by way of bona fide sale to the proposed transferee (if any) named in the Transfer Notice or, if none was so named, to any transferee at any price per Sale Share which is not less than the Sale Price, without any deduction, rebate or allowance to the proposed transferee, provided that:

- (a) the Vendor may not transfer such Sale Shares and Board shall not register any transfer to a transferee who is not at that date a Member unless such transferee is first approved in writing by an Investor Majority; and
- (b) if the Transfer Notice contained a Total Transfer Condition, the Vendor shall not be entitled, save with the written consent of the Investor Majority and the Board, to sell only some of the Sale Shares under this Article 9.14.

- 9.15 If a Vendor fails for any reason (including death) to transfer any Sale Shares when required pursuant to this Article 9, the Board may authorise any director of the Company (who shall be deemed to be irrevocably appointed as the attorney of the Vendor for the purpose) to execute each necessary transfer of such Sale Shares and deliver it on the Vendor's behalf. The Company may receive the purchase money for such Sale Shares from the Purchaser and shall upon receipt (subject, if necessary, to the transfer being duly stamped) register the Purchaser as the holder of such Sale Shares. The Company shall hold such purchase money in a separate bank account on trust for the Vendor but shall not be bound to earn or pay interest on any money so held. The Company's receipt for such purchase money shall be a good discharge to the Purchaser who shall not be bound to see to the application of it, and after the name of the Purchaser has been entered in the register of Members in purported exercise of the power conferred by this Article 9.14 the validity of the proceedings shall not be questioned by any person.

10 Compulsory Transfers

- 10.1 In this Article 10, a "**Transfer Event**" occurs, in relation to any Member:

Bankruptcy, death etc of individual

- (a) if that Member being an individual:
 - (i) shall have a bankruptcy order made against him or shall be declared bankrupt by any court of competent jurisdiction; or
 - (ii) shall make an offer to make any arrangement or composition with his creditors generally; or
 - (iii) shall die; or
 - (iv) shall suffer from mental disorder and be admitted to hospital or shall become subject to any court order referred to in regulation 81(c) of Table A;

and in any such case and within the following six months the Member or Members (other than the Member who is the subject of the event and any other Member who has acquired Shares from him under a permitted transfer (whether directly or by means of a series of two or more permitted transfers)) as at the date of the occurrence of such event shall notify the Company that such event is a Transfer Event in relation to that Member for the purposes of this Article;

Corporate dissolution or insolvency etc

- (b) if that Member being a body corporate:
 - (i) shall have a receiver, manager or administrative receiver appointed over all or any part of its undertaking or assets;
 - (ii) shall appoint or suffer the appointment of an administrator appointed in relation to it; or
 - (iii) shall enter into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or
 - (iv) shall have any equivalent action in respect of it taken in any jurisdiction outside England and Wales;

and within the following six months the Investor Majority shall notify the Company that such event is a Transfer Event in relation to that Member for the purposes of this Article;

Ceasing to be director or employee in Group

(c) subject to Article 10.7, if a Member who is at any time a director or employee of a member of the Group:

- (i) ceases to hold such office or employment and, in relation to such cessation, is not a Good Leaver; or
- (ii) if the member of the Group of which such Member is a director or employee shall cease for any reason (other than the default of another Member) to be a member of the Group and the Member does not remain or thereupon immediately become a director or employee of another company which is still a member of the Group,

and within that following six months an Investor Majority shall notify the Company that such event is a Transfer Event in relation to that Member for the purposes of this Article;

Unauthorised attempted transfer

(d) if a Member shall attempt to deal with or dispose of any Share or any interest in it otherwise than in accordance with these Articles and whether or not for value and within the following six months the Investor Majority shall notify the Company that such event is a Transfer Event in relation to that Member for the purposes of this Article; or

Failure to serve Transfer Notice under specified provisions

(e) if a Member shall for any reason not give a Transfer Notice in respect of any Shares or shall transfer any Shares (as the case may be) otherwise than as required by any express provision of these Articles and within the following six months the Investor Majority shall notify the Company that such event is a Transfer Event in relation to that Member for the purposes of this Article.

Consequences of Transfer Event determination

Upon the making of a notification or resolution under Article 10.1 that the same is a Transfer Event (as the case may be) the Member in respect of whom it is a Transfer Event (a "**Relevant Member**") and any other Member who has acquired Shares from him under a permitted transfer (directly or by means of a series of two or more permitted transfers) shall be deemed to have immediately given a Transfer Notice in respect of all the Shares then held by such Member(s) (a "**Deemed Transfer Notice**"). A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice. For the purpose of this Article 10.2, any Shares received by way of rights or on a capitalisation at any time by any person to whom Shares may have been transferred (directly or by means of a series of two or more permitted transfers) shall also be treated as included within the Deemed Transfer Notice.

Disenfranchisement

- 10.2 Notwithstanding any other provision of these Articles, if an Investor Majority so resolves in relation to any Shares, any Member holding Shares in respect of which a Deemed Transfer Notice is deemed given shall not be entitled to exercise any voting rights at general meetings of the Company in respect of those Shares (and of any Shares received thereafter by way of rights issue or on a capitalisation in respect of those Shares) on and from the date of the relevant Deemed Transfer Notice (or if later the date upon which he receives the Shares) until the entry in the register of members of the Company of another person as the holder of those Shares.

Offer for sale

- 10.3 The Shares the subject of any Deemed Transfer Notice shall be offered for sale in accordance with Article 9 as if they were Sale Shares in respect of which a Transfer Notice had been given and treating as the Vendor the person who is deemed to have given the Deemed Transfer Notice save that:
- (a) subject to Article 10.5, the Sale Price shall be a price per Sale Share agreed between the Vendor and the Board with the consent of an Investor Majority or, in default of agreement within 15 Business Days after the making of the notification or resolution under Article 10.1 that the same is a Transfer Event, the Market Value;
 - (b) a Deemed Transfer Notice shall be deemed not to contain a Total Transfer Condition and shall not be revocable whether under Article 9.8 or otherwise;
 - (c) the Vendor may retain any Sale Shares for which Purchasers are not found; and
 - (d) Article 10.5 shall apply.

Special provision on ex director/employee

- 10.4 The Sale Price for any Sale Shares which are the subject of a Deemed Transfer Notice given as a consequence of a Transfer Event falling within Article 10.1(c) shall:
- (a) in the case where the Relevant Member is not an Early Leaver, be their Market Value; and,
 - (b) in the case where the Relevant Member is an Early Leaver as a result of gross misconduct or fraud, be the lower of:
 - (i) their Issue Price; and
 - (ii) their Market Value; and,
 - (c) in all other cases where the Relevant Member is an Early Leaver, be their Market Value less twenty (20) percent.

Dispute not to delay sale

10.5 A dispute as to whether Article 10.4(a) or Article 10.4(b) or Article 10.4(c) applies to any Sale Shares shall not affect the validity of a Deemed Transfer Notice but (if the Issue Price is lower than the Market Value) any person who acquires Sale Shares ("**the Purchaser**") pursuant to a Deemed Transfer Notice while such a dispute is continuing shall pay to the Vendor their Market Value discounted in accordance with Article 10.5(c) (assuming, if not the case, that the Relevant Member is an Early Leaver) and shall pay the amount of such discount to the Company. The Company shall hold that discount in a separate interest-bearing bank deposit account as trustee to pay it, and interest earned thereon, upon final determination of the dispute:

- (a) to the Purchaser(s) in the case of an Early Leaver; and
- (b) to the Vendor in any other case.

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

Date of end of employment

10.6 For the purpose of Article 10.1(c) and Article 19.2, the date upon which a Member ceases to hold office as an employee as described therein shall:

- (a) where the employer terminates or purports to terminate a contract of employment by giving notice to the employee of the termination of the employment, whether or not the same constitutes a wrongful or unfair dismissal, be the later of the date of that notice and the date (if any) for the termination expressly stated in such notice (whether or not a payment is made by the employer in lieu of all or part of the notice period required to be given by the employer in respect of such termination);
- (b) where the employee terminates or purports to terminate a contract of employment by giving notice to the employer of the termination of the employment (whether or not he is lawfully able so to do), be the later of the date of that notice and the date (if any) for the termination expressly stated in such notice;
- (c) where an employer or employee wrongfully repudiates the contract of employment and the other respectively accepts that the contract of employment has been terminated, be the date of such acceptance by the employee or employer respectively;
- (d) where a contract of employment is terminated under the doctrine of frustration, be the date of the frustrating event; and
- (e) where a contract of employment is terminated for any reason other than in the circumstances set out in the definition of Good Leaver, be the date on which the person actually ceases to be employed by the employer.

Once a Deemed Transfer Notice shall be given under these Articles in respect of any Share then no permitted transfer under Article 8 may be made in respect of such Share

unless and until an Offer Notice shall have been served in respect of such Share and the period of allocation permitted under Article 9 shall have expired without such allocation.

11 Drag Along Option

- 11.1 If, following the Option Date the holders of 51% or more of the issued Shares (excluding for this purpose the C Share) (together "**the Selling Shareholders**") wish to transfer all their Shares (the "**Relevant Shares**"), the Selling Shareholders shall have the option ("**the Drag Along Option**") to require all the other holders of Shares to transfer all their shares to the Third Party Purchaser or as the Third Party Purchaser shall direct in accordance with this Article 11.
- 11.2 The Selling Shareholders may exercise the Drag Along Option by giving notice to that effect ("**a Drag Along Notice**") to all other Members ("**the Called Shareholders**") at any time before the registration of the transfer of the Shares held by the Selling Shareholders. A Drag Along Notice shall specify that the Called Shareholders are required to transfer all their Shares ("**the Called Shares**") pursuant to Article 11.1 to the Third Party Purchaser, the price at which the Called Shares are to be transferred (determined in accordance with Article 11.4) the proposed date of transfer (if known) and the identity of the Third Party Purchaser. A Drag Along Notice shall be deemed served upon the envelope containing it being served in accordance with Article 21 shall in the context of a Drag Along Notice be amended accordingly and regulations 112 to 115 of Table A shall otherwise apply to the service of a Drag Along Notice as if it were a notice to be given under these Articles by the Company.
- 11.3 A Drag Along Notice may be revoked at any time prior to completion of the sale of the Called Shares and any such revocation notice shall be served as in Article 11.2.
- 11.4 The Called Shareholders shall be obliged to sell the Called Shares at the price specified in the Drag Along Notice which shall attribute an equal value per Share to each Share comprised within the equity share capital (including the Relevant Shares) plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the Selling Shareholders which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable to the Selling Shareholders for the Relevant Shares provided always that an equal value shall be attributed to each Share comprised within the equity share capital (including the Relevant Shares).
- 11.5 Completion of the sale of the Called Shares shall take place on the same date as the date of actual completion of the sale of the Selling Shareholders' Shares unless all of the Called Shareholders and the Selling Shareholders agree otherwise.
- 11.6 Each Called Shareholder shall on service of the Drag Along Notice be deemed to have irrevocably appointed each of the Selling Shareholders severally to be his attorney to execute any stock transfer in respect of the Called Shares registered in the name of such Called Shareholders and to do such other things as may be necessary or desirable to accept, transfer and complete the sale of the Called Shares pursuant to this Article 11. The rights of pre-emption and other restrictions contained in these Articles shall not apply on any sale and transfer of Shares by the Selling Shareholders or the Called Shareholders to the Third Party Purchaser named in a Drag Along Notice in connection with the transfer contemplated by Article 11.1 and the Drag Along Notice.

- 11.7 Any Transfer Notice or Deemed Transfer Notice served in respect of any Share which has not been allocated in accordance with Article 9 shall automatically be revoked by the service of a Drag Along Notice.
- 11.8 Upon any person, following the issue of a Drag Along Notice, becoming a member of the Company pursuant to the exercise of pre-existing option to acquire shares in the Company (a "**New Member**"), a Drag Along Notice, on the same terms as the previous Drag Along Notice, shall be deemed to have been served upon the New Member who shall thereupon be bound to sell and transfer all such shares acquired by him to the Third Party Purchaser or as the Third Party Purchaser may direct and the provisions of this Article shall apply *mutatis mutandis* to the New Member save that completion of the sale of such shares shall take place forthwith upon the Drag Along Notice being deemed served on the New Member or, if later, upon the date of completion under the previous Drag Along Notice.

12 Tag Along Option

- 12.1 Subject to Article 11 but notwithstanding any other provision in these Articles no sale or other disposition of any Share (the "**Specified Shares**") shall have any effect if it would result in a Change of Control unless before the transfer is lodged for registration the Third Party Purchaser has made a *bona fide* offer in accordance with these Articles to purchase at the specified price (defined in Article 12.3) all the Shares held by Members who are not acting in concert or otherwise connected with the Third Party Purchaser (the "**Uncommitted Shares**").
- 12.2 An offer made under Article 12.1 shall be in writing, given in accordance with Article 21, open for acceptance for at least 15 Business Days, and shall be deemed to be rejected by any Member who has not accepted it in accordance with its terms within the time period prescribed for acceptance and the consideration there-under shall be settled in full on completion of the purchase and within 30 Business Days of the date of the offer.
- 12.3 For the purposes of Article 12.1:
- (a) the expressions "**transfer**", "**transferor**" and "**transferee**" include respectively the renunciation of a renounceable letter of allotment, and any renouncer and renounee of such letter of allotment; and
 - (b) the expression "**specified price**" means in the case of Uncommitted Shares, the higher of a price per share at least calculated by reference to the highest price paid or payable by the Third Party Purchaser or persons acting in concert with him or connected with him for any shares within the last six months (including to avoid doubt the Specified Shares) plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified Shares which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable for the Specified Shares; and
 - (c) If any part of the specified price is payable otherwise than in cash any Member may require as a condition of his acceptance of the Offer, to receive in cash on transfer all or any of the price offered for his Uncommitted Shares.
 - (d) If the specified price or its cash equivalent cannot be agreed within 15 Business Days after the proposed sale or transfer referred to in Article 12.1 between the Third Party Purchaser and the Members holding 51 per cent of the class of

Shares concerned (excluding the Third Party Purchaser and persons acting in concert or otherwise connected with him), it may be referred to the Valuer by any Member and, pending its determination, the sale or transfer referred to in Article 12.1 shall have no effect.

13 Prohibited Transfers

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

14 General Meetings

- 14.1 Regulation 37 of Table A shall be amended by the insertion of the words "or the Investor Director acting alone" after the second word of that regulation.

15 Proceedings at General Meetings

- 15.1 Any member having the right to vote at the meeting may demand a poll at a general meeting and regulation 46 of Table A shall be modified accordingly.
- 15.2 The Chairman (as hereinafter defined) shall be entitled to exercise a second or casting vote at any general meeting or class meeting.
- 15.3 Regulation 62 of Table A shall be modified by the deletion in paragraph (a) of the words "deposited at" and by the substitution for them of the words "left at or sent by post or by facsimile transmission to" and by the insertion at the end of the regulation after the word "invalid" of the words "unless a majority of the Board (an Investor Director being part of that majority) resolve otherwise".
- 15.4 Regulation 54 of Table A shall not apply.

16 Number of Directors and appointment of Chairman

- 16.1 The number of Directors shall be determined by the Company in general meeting but unless and until so determined the maximum number of directors (other than alternate directors) shall be five. Regulation 64 of Table A shall not apply.
- 16.2 The chairman (the "**Chairman**") of the Board shall be a Director appointed by the B Shareholder Majority, unless either:
- (a) The B Shareholder Majority has previously agreed otherwise in writing; or
 - (b) There is no Director appointed by the B Shareholder Majority in office at that time.
- 16.3 The B Shareholder Majority may at any time and on more than one occasion appoint any person to be Chairman and at any time and on more than one occasion remove such person as Chairman.
- 16.4 An Investor Majority may after consultation with the Board appoint any person to be a non-executive director of the Company and may at any time following a like consultation remove and replace any such person as a non-executive director.

- 16.5 The Chairman shall not have a second or casting vote. Regulation 88 of Table A shall not apply.

17 Investor Director

- 17.1 The holder of an Investor Majority may at any time and on more than one occasion appoint any person to be a director ("**Investor Director**") and at any time and on more than one occasion remove such person from office.
- 17.2 There shall not be more than two (2) Investor Directors in office at any time. Unless there are no directors appointed by the B Shareholder Majority, the number of Investor Directors shall never be more than the number of directors appointed by the B Shareholder Majority (who shall be obliged to appoint at least one (1) director) and vice versa.
- 17.3 Any appointment or removal of a director (including an Investor Director) shall be in writing served on the Company signed by the appointer and shall take effect at the time it is served on the Company or (if later) the date expressly stated therein, whichever is earlier. Any such appointment or removal by a corporation may be signed on its behalf by its duly authorised representative.
- 17.4 Upon written request by an Investor Majority the Company shall procure that any Investor Director is forthwith appointed as a director of any other member of the Group indicated in such request.
- 17.5 Regulation 81(e) of Table A shall not apply to an Investor Director.
- 17.6 Where any decision is to be made by any member of the Group against any Member holding B Shares or any director or person connected with any such Member or director, any such decision shall be within the exclusive power of the Investor Director(s) who shall have (without limitation) exclusive authority in relation to the conduct of any proceedings of whatever nature arising in connection with any such Member and no other director shall have power to settle or compromise any such claim.
- 17.7 At any time and from time to time after any Event of Default shall have occurred, an Investor Majority may by notice to the Company appoint any person named therein and willing to act to be a director of the Company and/or may remove any director from office notwithstanding how or when he was appointed or anything else in these Articles or in any agreement between the Company and him. A notice under this Article 17.7 shall be in writing and shall take effect on deposit at the office or at such later time as may be specified in the same. A director so removed may not be reappointed to any office or employment under the Company without the approval of an Investor Majority.

18 Alternate Directors

- 18.1 The words "approved by resolution of the directors and" in regulation 65 of Table A shall not apply to an appointment of an alternate director by an Investor Director.
- 18.2 Regulation 66 of Table A shall be amended by the insertion between the words "shall" and "be" of the words "(subject to his giving the Company an address within the United Kingdom at which notice may be served upon him)".
- 18.3 A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.

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

19 Retirement of Directors

- 19.1 Directors shall not be required to retire by rotation.

- 19.2 The office of a director (other than an Investor Director) shall be vacated if both:

- (a) (being an executive director of the Company or any other member of the Group) he ceases to hold office as an employee within the meaning of Article 10.7 of the Company or any such member of the Group without being appointed or continuing to be an employee of another member of the Group; and
- (b) either a majority of the Board (including the Investor Director) or an Investor Majority so requires.

Regulation 81 of Table A shall be extended accordingly.

20 Proceedings of Directors

- 20.1 The quorum for the transaction of business of the Board shall be two directors, one of whom shall be an Investor Director and one of whom shall be a director appointed by the B Shareholder Majority unless either:

- (a) an Investor Director or an Investor Majority has previously agreed otherwise in writing; or
- (b) there is no Investor Director or B Shareholder Majority director (as the case may be) in office at that time.

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

- 20.3 Save with the consent of the Investor Director the Board shall not delegate any of its powers to a committee.

- 20.4 A director who to his knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract (within the meaning of section 317 of the Act) with the Company shall declare the nature of his interest at a meeting of the Board or of any committee of the Board in accordance with that section. Subject where applicable to such disclosure a director may vote at any such meeting on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the Company. Regulations 94 and 95 of Table A shall not apply.

21 Notices

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

22 Indemnity

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

23 Share Certificates etc.

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

24 Subsidiary undertakings

- 24.1 The Board shall exercise all voting and other rights or powers of control exercisable by the Company in relation to itself and its subsidiary undertaking so as to secure (but as regards its subsidiary undertakings only in so far as by the exercise of such rights or powers of control the Board can secure) that:
- (a) no shares or other securities are issued or allotted by any such subsidiary and no rights are granted which might require the issue of any such shares or securities otherwise than to the Company or to one of its wholly-owned subsidiaries; and
 - (b) neither the Company nor any of its subsidiaries transfers or disposes of any shares or securities of any subsidiary of the Company or any interest therein or any rights attached thereto otherwise than to the Company or one of its wholly-owned subsidiaries,

without in either case the previous consent in writing of an Investor Majority.

- 24.2 The Board shall exercise all voting and other rights or powers of control exercisable by the Company in relation to its subsidiary undertakings so as to secure that all distributable reserves available for distribution to the Company (or to any intermediate subsidiary undertaking) are duly paid and any other necessary formalities duly met so as to permit the Company lawfully to pay all dividends and other distributions payable under these Articles.