

MIRRIAD LIMITED  
(registered number 5879899)

RESOLUTIONS FOR FILING AT COMPANIES HOUSE

The following resolutions were passed special resolutions at an EGM held on 21 September 2007

- 1 THAT 99,082,520 of the authorised but unissued ordinary shares of one penny each of the Company ("Ordinary Shares") be consolidated (on a ten for one basis) into 9,908,252 new cumulative convertible participating preferred ordinary shares of 10 pence each ("B Shares"), such Ordinary Shares and B Shares carrying the rights and obligations indicated in the new articles of association to be adopted pursuant to resolution 4, so that, on the date of these resolutions, the authorised share capital of the company comprises £1 million divided into 917,480 Ordinary Shares and 9,908,252 B Shares
- 2 THAT the directors be and they are generally and unconditionally authorised for the purposes of section 80 of the Companies Act 1985 (the "Act") to exercise all the powers of the company to allot relevant securities (within the meaning of that section) up to an aggregate nominal amount of authorised but unissued share capital of the Company provided that this authority is for a period expiring five years from the date of this resolution but the company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the directors may allot relevant securities in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired This authority is in substitution for all subsisting authorities, to the extent unused
- 3 THAT, subject to the passing of resolution 2, the directors be and they are empowered pursuant to section 95 of the Act to allot equity securities (within the meaning of section 94(2) of the Act) wholly for cash pursuant to the authority conferred by resolution 2 as if section 89(1) of the Act did not apply to any such allotment and shall expire five years from the date of this resolution save that the company may, before such expiry make an offer or agreement which would or might require equity securities to be allotted after such expiry and the directors may allot equity securities in pursuance of any such offer or agreement notwithstanding that the power conferred by this resolution has expired  
  
This power applies in relation to a sale of shares which is an allotment of equity securities by virtue of section 94(3A) of the Act as if in the first paragraph of this resolution the words "pursuant to the authority conferred by the previous resolution" were omitted.
- 4 THAT the Company adopt new articles of association in the form attached to the exclusion of any other articles of association.

Director

21 September 2007



# ARTICLES of ASSOCIATION

## MIRRIAD LIMITED

(Registered Number 05879899)

(ADOPTED . 21 SEPTEMBER ..... 2007)

## C O M M E R C I A L L L P

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A handwritten signature in black ink, consisting of a large, stylized 'M' or 'B' followed by a series of loops and a final flourish.

# ARTICLES OF ASSOCIATION

of

## MIRRIAD LIMITED

(Registered Number 05879899)

A PRIVATE LIMITED COMPANY

(ADOPTED 21 SEPTEMBER 2007)

### DEFINITIONS AND INTERPRETATION

1 In these Articles

1.1 The words and expressions below shall have the following meanings unless the context requires otherwise

"the Act"	means the Companies Acts 1985-2006 (as amended from time to time) whereby references to Sections of the Act shall refer to Sections of the Companies Act 1985,
"Acting in Concert"	shall have the meaning given to it in the City Code on Takeovers and Mergers from time to time,
"Additional Investors"	shall have meaning given to it in the Investment Agreement,
"Adoption Date"	means the date of adoption of these Articles,
"Anti-dilution Warrant Instrument"	shall have meaning given to it in the Investment Agreement,
"Approved Issue"	means the issue of (a) B Preferred Shares to the Investors pursuant to the Warrant Instrument, the Ratchet Warrant Instrument and the Anti-dilution Warrant Instrument, (b) Ordinary Shares to any employees, consultants or officers of the Company pursuant to the Options , and (c) up to 275,185 B Preferred Shares pursuant to the Subscription
"Articles"	means these articles of association constituted

by the following regulations together with any duly authorised amendments or alterations from time to time, and the term "Article" shall be a reference to a regulation contained in these Articles,

"Auditors"	means the auditors of the Company from time to time, unless auditors are not required pursuant to the Act and have not been appointed, in which case such reference shall instead mean the accountants of the Company from time to time,
"Authorised Amount"	means £1,000,000 divided into 917,480 Ordinary Shares and 9,908,252 B Preferred Shares,
"B Preferred Issue Price"	means the price at which each B Preferred Share is issued,
"B Preferred Shares"	means the cumulative convertible participating preferred ordinary shares of £0 10 each in the share capital of the Company having the rights set out in these Articles,
"B Preferred Shareholder"	means a registered holder of the B Preferred Shares,
"Bad Leaver"	<p>means the cessation of (i) employment with the Company or any Group Member of the Company or (ii) holding the office of Director or consultant of the Company or any Group Member of the Company, other than -</p> <ul style="list-style-type: none"><li>(a) by reason of wrongful dismissal of the employee,</li><li>(b) by reason of the employee leaving employment for reasons of ill health or disability as certified to the Board's reasonable satisfaction by an independent doctor or where the death or long term illness or disability of a spouse, parent, long term partner or child of the employee makes it reasonably necessary for the employee to provide care by himself or herself to that spouse, parent, partner or child,</li><li>(c) by reason of the unfair dismissal of the employee,</li><li>(d) by reason of the dismissal of the employee by reason of redundancy,</li><li>(e) by reason of the death of the employee, consultant or the Director (as the case may be),</li><li>(f) by reason of the retirement of the employee, Director or consultant at the</li></ul>

normal retirement of 65 years of age (or such other date as is mutually agreed between the Company or any Group Member of the Company and the Director/consultant/employee (as the case may be)),

- (g) by reason of the removal of a Director and employee as Director in circumstances where simultaneous dismissal as an employee would fall within the categories in paragraphs (a) or (c) above,
- (h) where such cessation occurs after the third anniversary of the date of commencement of employment or holding of office or of the date of adoption of these Articles (whichever is later) and such cessation is accepted by the Directors (provided the Seraphim Director votes in favour of such acceptance),

"Board"	means the board of Directors of the Company from time to time (including the Special Directors (if any)),
"Business Plan"	shall have the meaning given to it in the Investment Agreement,
"Company"	means Mirriad Limited, a private limited company incorporated under the Act, registered in England & Wales under number 05879899 and having its registered office at 22 Great James Street, London WC1N 3ES,
"Compulsory Transferor"	means a member required to transfer his shares in accordance with Article 13 1 and "Compulsory Transfer" shall be construed accordingly,
"Connected Persons"	shall have the meaning ascribed to it in Section 839 of the Income and Corporation Taxes Act 1988,
"Control Percentage"	means any percentage exceeding 50%,
"Conversion Rate"	means the number of Ordinary Shares into which each B Preferred Share is convertible in accordance with Article 8,
"Deferred Shares"	means the deferred shares of £0 01 each in the capital of the Company having the rights set out in these Articles and such shares will form part of the share capital of the Company in the event of the conversion of B Preferred Shares pursuant to Article 8,

"Deemed Transfer Notice"	shall have the meaning given to it in Articles 13 1,
"Director"	means a director of the Company or any alternate director duly appointed in accordance with these Articles, and "Directors" shall be construed accordingly,
"Disposal"	means the sale or transfer of the whole or substantially the whole of the undertaking or assets of the Company and its subsidiaries (in one transaction or as a series of transactions),
"Excluded Options"	means the grant of options over 39,062 Ordinary Shares to Mr Popkiewicz by the Company prior to the adoption of these Articles and pursuant to a resolution of the Board,
"Existing Fundholders"	shall have the meaning given to it in the Investment Agreement,
"Existing Fundholders Director"	shall have the meaning given to it in the Investment Agreement,
"Exit"	shall means a Sale, Listing or Disposal,
"Founders Director"	shall have the meaning given to it in the Investment Agreement,
"Group Member"	means any holding company, subsidiary company or wholly-owned subsidiary company as defined in terms of Section 736 of the Act or a parent company as defined in terms of Section 258 of the Act,
"Investment Agreement"	means the Investment Agreement amongst the Company, the Managers, the Investors and Seraphim (all as defined therein) dated on or around the date of adoption of these Articles,
"Investor Majority"	shall have the meaning given to it in the Investment Agreement,
"Investors"	shall have the meaning given to it in the Investment Agreement,
"Investors Directors" and "Investor Director"	shall have the meaning given to it in the Investment Agreement,
"Lead Investor"	shall have the meaning given to it in the Investment Agreement,
"Listing"	means the admission of any or all of the issued share capital of any Group Member of the

	Company to trading on a recognised investment exchange (as such term is defined by Section 285 of the Financial Services and Markets Act 2000) or such other share trading facility, exchange or market on which the shares are publicly traded as may be approved by the Investor Majority,
"Listing Value"	means the market capitalisation of the Company on a Listing prior to the costs associated with such Listing and prior to raising any new capital in connection with the Listing in circumstances which do not constitute a Qualifying Public Offering,
"Manager"	shall have the meaning given to it in the Investment Agreement,
"member"	means a person registered as a member in the register of members of the Company,
"Mr Bullock"	means Stephen Digby Bullock of Beenham House, Webs Lane, Beenham, Berkshire RG7 5LJ,
"Mr McLauchlan"	means Philip Fraser McLauchlan of 6 Meadway, Epsom, Surrey KT19 8JZ,
"Mr Popkiewicz"	means Mark Popkiewicz of The Old Parsonage, Hatchet Lane, Winkfield Road, Windsor, Berkshire SL4 2EG,
"Mr Smith"	means Bruce Gordon Smith of 11 Oxdowne Close, Cobham, Surrey KT11 2SZ,
"Option Shares"	means any Shares issued by the Company pursuant to the exercise of the Options (other than the exercise of the Excluded Options),
"Options"	shall have the meaning given to it in the Investment Agreement,
"Ordinary Shares"	means the ordinary shares of £0.01 each in the share capital of the Company having the rights set out in these Articles,
"Privileged Relation"	means the spouse, civil partner or widow of the relevant person and the relevant person's children and grandchildren (including step and adopted children and their issue) and step and adopted children of the relevant person's children ("family members"), any trust established for the benefit of the relevant person or his family members, or any charitable

	trust established by the relevant person and/or by his family members,
"Qualifying Majority"	means 75%,
"Qualifying Public Offering"	means a Listing where the aggregate proceeds are or exceed £11,700,000,
"Ratchet Warrant Instrument"	shall have the meaning given to it in the Investment Agreement,
"Sale"	means the transfer (whether through a single transaction or a series of transactions) of shares in the Company as a result of which any person (or persons connected with each other or persons acting in concert with each other) would hold or acquire beneficial ownership of or over that number of shares in the Company which in aggregate confers more than 50 per cent of the voting rights normally exercisable at general meetings of the Company,
"Seraphim"	means Seraphim Capital (General Partner) LLP incorporated under the Limited Liability Partnerships Act 2000 with registered number OC320522 and having its registered office at New City Court, 20 St Thomas Street, London SE1 9RS,
"Seraphim Capital"	means Seraphim Capital LP, a limited partnership formed under the Limited Partnership Act 1907 with registered number LP011423 and having its principal place of business at New City Court, 20 St Thomas Street, London SE1 9RS
"Share Pledge"	shall have the meaning given to it in the Investment Agreement,
"Shares"	means together the B Preferred Shares and the Ordinary Shares,
"Special Directors"	shall have the meaning given to it in the Investment Agreement,
"Subscription"	shall have the meaning given to it in the Investment Agreement,
"Table A"	means Table A of the Companies (Tables A to F) Regulations 1985, SI1985/805,
"Total Transfer Condition"	shall have the meaning given to it in Article 12.2,



"Valuer"	means the Auditors, unless they decline to act and in such an instance the valuer shall instead be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales, and
"Warrant Instrument"	shall have the meaning given to it in the Investment Agreement,
"Winding-up"	means the liquidation or winding-up of the Company or any return of value to the shareholders arising as a result of a buy-back of shares or reduction in share capital

- 1 2 Words importing the singular include the plural and vice versa
- 1 3 Words importing a particular gender include any gender
- 1 4 References to a "person" include any natural person, or any legal person, body or organisation, incorporated or unincorporated
- 1 5 The headings in these Articles are for convenience only and shall not affect the construction of these Articles
- 1 6 Words and expressions defined in the Act shall bear the same meanings in these Articles
- 1 7 Unless provision is made to the contrary, references to any statute or statutory provision includes a reference to
- 1 7 1 that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated whether before or after the date of adoption of these Articles, and
- 1 7 2 all statutory instruments or orders made pursuant to it,
- except to the extent that any such amendment re-enactment or consolidation would extend or increase the liability of any person under these Articles
- 1 8 References to the phrase "Privileged Relations" shall save for the references in Article 1 1, Article 11 4 4 and Article 12 respectively, be deemed to include the phrase "and/or Group Member of the Company"

#### **TABLE A**

- 2 The Regulations contained in Table A shall apply to the Company except in so far as they are excluded or varied by or are inconsistent with these Articles
- 3 Regulations 5, 8, 24, 26, 41, 50, 59, 64, 73 to 80 (inclusive), 88, 89, 90, 94 to 97 (inclusive) 101 and 118 shall not apply to the Company
- 4 The following amendments shall be made to the Regulations in so far as they apply to the Company

4 1 in Regulation 6, by the deletion of the phrase "sealed with the seal and shall" in the second sentence,

4 2 in Regulation 46, by the deletion of the second sentence which comprises the whole of the remainder of that Regulation and by the substitution, in its place, of the following sentence

"A poll may be demanded at any general meeting or at any meeting of a class of members by the chairman or by any member entitled to vote at that meeting, present in person, or by any member's proxy or attorney, or if a corporation, by its duly authorised representative",

4 3 in Regulation 65, by the insertion of the words "and the Founders Director (unless the alternate director proposed is either Mr Smith or Mr Bullock)" after the words "other than an alternate director"

4 4 in Regulation 112, by the deletion of the first sentence and by the substitution, in its place, of the following sentences

"Any notice required or permitted to be given by the Company to a member shall be sufficiently given to that member if sent in a legible form by facsimile transmission ("fax"), first class or express registered post ("post"), or airmail, or by personal delivery, including courier delivery, to the registered address of the member, or by electronic mail ("e-mail") to the e-mail address of the member notified to the Company For the avoidance of doubt and notwithstanding the foregoing, notice shall not be validly served if sent to Seraphim Capital by fax"

4 5 in Regulation 115, by the deletion of the second sentence and by the substitution, in its place, of the following sentences

"A notice shall be deemed to have been received (i) in the case of fax, when a successful transmission report is generated during that or the next Working Day, (ii) in the case of post, thirty-six hours from midnight (00 00 hrs) on the date of posting, postage prepaid, evidenced by the relevant proof of posting, (iii) in the case of airmail, on the seventh Working Day following mailing, if mailed by airmail, postage prepaid, evidenced by the relevant proof of posting, (iv) in the case of personal delivery, thirty minutes after the time of delivery, evidenced, where appropriate, by the courier's receipt duly counter-signed for or on behalf of the addressee and (v) in the case of e-mail, when a successful delivery receipt is generated during that or the next Working Day Where the deemed day of receipt of a notice is not a "Working Day" (which means any day from Monday to Friday inclusive which is not a local, public or statutory holiday) or where deemed receipt occurs at the place of delivery on a Working Day but after 1800hrs, that notice shall be deemed to have been received at 0930hrs on the next Working Day "

## **SHARE CAPITAL**

5 1 The authorised share capital of the Company as at the date of adoption of these Articles consists of the Authorised Amount

5 2 The Company may at its sole discretion recognise and record the holding of a share by a person on trust, or in the names of trustees, but unless specifically recognised

by the Company as such a holding, the Company shall not be bound by, or obliged to recognise, any interest in any share except for the absolute rights of the holder named in the register of members

- 5 3 Subject to the Investment Agreement and Articles 5 4 and 5 5, any original Shares of the Company for the time being unissued and any new Shares from time to time to be created shall be offered to members in strict proportion to the number of Shares held by them at that time. The offer shall be made by notice to each member specifying the number of Shares offered in the subscription price and stating a period (not being less than 21 days) within which the offer if not accepted by notice to the Company shall be deemed to be declined. Following the expiry of such period or receipt of notice of the acceptance or refusal of every offer made hereunder the Directors may dispose of any Shares not accepted by the members in such manner as they think most beneficial to the Company provided that such Shares shall not be disposed of on terms which are more favourable to the allottee than the terms on which they were offered to the members hereunder. The provisions of this Article 5 3 shall not apply to an Approved Issue. For the avoidance of doubt, on an offer round of Shares pursuant to this Article 5 3, no account shall be taken of the Deferred Shares held by any members of the Company.
- 5 4 Article 5 3 shall not apply to any Shares which the Board declares (having first obtained the prior written consent of 95% of the B Preferred Shareholders), shall not be subject to the provisions of Article 5 3.
- 5 5 Pursuant to Section 91 (Exclusion of ss 89, 90 by private company) of the Act, Sub-Section (1) of Section 89 (Offers to shareholders to be on a pre-emptive basis) and Sub-Sections (1) to (6) inclusive of Section 90 (Communication of pre-emption offers to shareholders) of the Act shall be excluded from applying to the Company.

## **DIVIDENDS**

- 6 1 Each B Preferred Shareholder shall be entitled to receive a fixed cumulative dividend on each B Preferred Share at a rate of 6.5% per annum (net of any tax payable by the Company) of the B Preferred Issue Price (the "**Preferred Dividend**"), such Preferred Dividend to be paid out of profits available for distribution. The Preferred Dividend is payable to the B Preferred Shareholders in priority to any distribution to the holders of any other class of share.
- 6 2 Following the payment of the Preferred Dividend, any remaining profits which the Company may determine to distribute shall be distributed amongst the holders of the Ordinary Shares and the B Preferred Shares (as if the same were one class of share).
- 6 3 Every dividend payable on the Shares shall be distributed pro rata to the appropriate shareholders according to the number of Shares held by them respectively and shall accrue on a daily basis. All dividends shall be paid in cash.
- 6 4 The Preferred Dividend shall be payable to the holders of B Preferred Shares within three calendar months after the end of the relevant financial period to which it relates. The Board shall be entitled to roll up the Preferred Dividend.
- 6 5 The Preferred Dividend shall be deemed to accrue from day to day, beginning on the date of issue of the B Preferred Shares.

- 6 6 If the Company is unable to pay in full on the due date any Preferred Dividend by reason of having insufficient available profits for distribution (in terms of Part VIII of the Act) then, subject to Article 6 4, it will on that date pay it to the extent that it is lawfully able to do so
- 6 7 Where the Company is in arrears with the payment of the Preferred Dividend, the first available profits arising thereafter shall be applied, in priority to all other dividend payments or other distributions, in or towards paying off all arrears of the Preferred Dividend
- 6 8 The Company shall procure (so far as it is able) that each of its subsidiaries which has available profits shall from time to time declare and pay to the Company (or, as the case may be, to its immediate holding company or parent undertaking) such dividends as are necessary to permit lawful and prompt payment by the Company of the Preferred Dividend
- 6 9 Every Preferred Dividend which shall become payable by the Company on any due date (the "**dividend date**") in respect of the B Preferred Shares shall on that dividend date ipso facto and without any resolution of the directors or of the Company in general meeting, and notwithstanding anything to the contrary contained in Regulations 102 to 105 (inclusive) of Table A, become due and payable on the relevant dividend dates
- 6 10 The Deferred Shares will not entitle the Deferred Shareholders to receive any dividend or other distribution or otherwise participate in the profits of the Company in any manner (except as provided for in Article 7 1(d))

## **CAPITAL**

- 7 1 On a return of assets on a winding up, reduction of capital or otherwise (other than a purchase of Shares or Deferred Shares by the Company in accordance with these Articles or the Act), the Company's assets available for distribution among the members shall be applied following the discharge of all liabilities in the following order
- (a) firstly, in paying to each B Preferred Shareholder (i) the aggregate of the nominal amount of the B Preferred Shares held by them and any premium paid on subscription for each such share, (ii) the Preferred Dividend (to the extent that the same has accrued but has not been paid), and (iii) (where the relevant proceeds are less than £11,700,000) a sum equivalent to 50% of the subscription price (including any premium) of each B Preferred Share,
  - (b) secondly (and subject to the relevant proceeds being £11,700,000 or more), in paying pro rata amongst the holders of Ordinary Shares the aggregate of the amount paid to the holders of the B Preferred Shares pursuant to Article 7 1(a)(i) together with any dividend relating to such shares (to the extent that the same has accrued but has not been paid),
  - (c) thirdly (and subject to Article 7 1(d)), in paying the balance pro rata amongst the holders of the Ordinary Shares and the B Preferred Shares (as if the same were one class of share),
  - (d) fourthly, once the holders of the Ordinary Shares have received £10,000,000 per Ordinary Share pursuant to Article 7 1(c), the holders of the Deferred

Shares shall be entitled to the nominal amount of the Deferred Shares held by them, and

- (e) finally, the balance shall be paid pro rata amongst the holders of the Ordinary Shares and the B Preferred Shares (as if the same were one class of share)

7 2 In the event of a Sale the total of all and any cash (or other consideration) received in respect of the shares that are the subject of the Sale or otherwise in respect of a Disposal, shall be reallocated between the holders of the Ordinary Shares, the B Preferred Shares and the Deferred Shares so as to ensure the aggregate sale proceeds are distributed in the manner envisaged by Article 7 1

7 3 In the event of a Listing at a Listing Value of less than £11,700,000 the B Preferred Shareholders shall be entitled to convert their B Preferred Shares into Ordinary Shares in accordance with Clause 8 subject to such adjustment as is required to allocate the Listing Value amongst the holders of the Ordinary Shares, the B Preferred Shares and the Deferred Shares in accordance with Article 7 1 and the shareholders of the Company shall be bound to pass all resolutions necessary to give effect to such reorganisation

7 4 The B Preferred Shares may only be issued fully paid or credited as fully paid

#### **CONVERSION OF B PREFERRED SHARES**

8 1 Each B Preferred Shareholder may at any time and in the manner specified in this Article 8 convert the whole or any part of his holding of B Preferred Shares (not involving a fraction of a B Preferred Share) into fully-paid-up Ordinary Shares at the Conversion Rate Subject to the provisions of this Article 8, the initial Conversion Rate shall be one, such that each B Preferred Share is convertible into one Ordinary Share and nine Deferred Shares

8 2

8 2 1 The right to convert in accordance with 8 1 is exercisable at any time by a B Preferred Shareholder by such person delivering the share certificate and a written notice (a "**Conversion Notice**") to the Company at its registered office address with any evidence the Board may reasonably require to prove the title of the person exercising the right to convert The date on which the Conversion Notice is delivered to the Company is a "**Conversion Date**"

8 2 2 If a conversion of B Preferred Shares is to be made pursuant to any Listing, the conversion of any B Preferred Shares may, at the election of the holder of such B Preferred Shares, be conditional on the consummation of such Listing, in which case such conversion shall be deemed to be effective upon the consummation of such Listing

8 2 3 In the event of a Listing at a Listing Value of less than £11,700,000, each holder of B Preferred Shares shall be treated as having exercised the right to convert their B Preferred Shares upon the date of such Listing becoming effective (the "**Non-Qualifying Effective Date**") and the provisions of this Article 8 relating to conversion shall mutatis mutandis apply in the event of such conversion as if the date of such Listing were a Conversion Date

8 2 4 Subject to Article 8 16, on the Conversion Date the Company shall pay a dividend to the holders of the B Preferred Shares of a sum equivalent to any arrears or accruals

of the dividends on the B Preferred Shares calculated on a daily basis to the Conversion Date

8.3 In the event of

- (a) a Qualifying Public Offering, or
- (b) a written request of the holders of not less than 80% of the B Preferred Shares then in issue being given to the Board,

all of the B Preferred Shares shall automatically be converted into Ordinary Shares. In circumstances where this Article 8.3 applies, each holder of B Preferred Shares shall be treated as having exercised the right to convert in respect of the whole of his holding of B Preferred Shares upon the date of such Qualifying Public Offering becoming effective (the "**Qualifying Effective Date**") or on the date of such notice (as applicable), and the provisions of this Article 8 relating to conversion shall *mutatis mutandis* apply in the event of a conversion under this Article 8.3 as if the date of such Qualifying Public Offering were a Conversion Date.

8.4 The Ordinary Shares to which a B Preferred Shareholder is entitled on conversion in accordance with this Article 8 (the "**New Ordinary Shares**")

- (a) shall be credited as fully paid,
- (b) will carry the right to receive all dividends and other distributions declared, made or paid on the ordinary share capital of the Company in respect of which the record date falls after the applicable Conversion Date, and
- (c) shall rank *pari passu* in all respects and form one class with the Ordinary Shares then in issue.

8.5 The allotment of New Ordinary Shares shall be made within two weeks of the relevant Conversion Date provided that in the case of a conversion upon a Listing the allotment shall be made on the Non-Qualifying Effective Date or the Qualifying Effective Date (as the case may be). A certificate for the relevant New Ordinary Shares shall be sent within two weeks of the relevant Conversion Date to each B Preferred Shareholder without charge, with a new certificate for any balance of unconverted B Preferred Shares comprised in the surrendered certificate and, if appropriate, a cheque in respect of a fractional entitlement. In the meantime, the converting shareholders shall be deemed to be the registered holders of the relevant number of Ordinary Shares from the relevant Conversion Date.

8.6 In the event of a Listing at a Listing Value of less than £11,700,000, then in order to give effect to the provisions of Article 7.3 the Board (with the prior written approval of a majority of the Special Directors) shall determine the manner in which relevant shares (the "**Relevant B Preferred Shares**") are to be converted, subject to the provisions of the Articles and the Act, including, without limitation, in the manner set out in the following provisions of this Article.

- (a) the Directors may decide that conversion shall be effected by means of a consolidation of the Relevant B Preferred Shares and a sub-division and redesignation of them as Ordinary Shares in accordance with the following provisions of this Article 8.6,

- (b) on the Conversion Date the Relevant B Preferred Shares may (under the authority given by the resolution passed to create the B Preferred Shares) be consolidated into one share and then sub divided into Ordinary Shares and non voting Deferred Shares, and
  - (c) the consolidation and sub division shall be effected so that each holder of Relevant B Preferred Shares shall, following the consolidation and sub division, hold such number of Ordinary Shares into which his Relevant B Preferred Shares are required to be converted under Article 8 1 above, rounded down to the nearest whole Ordinary Share, and such number of Deferred Shares as represents the balance of the nominal amount of his consolidated share, after deducting the nominal amount of the Ordinary Shares resulting from the conversion of his Relevant B Preferred Shares
- 8 7 If any B Preferred Shareholders become entitled to fractions of an Ordinary Share as a result of conversion (the "**fractional holders**") the Board may deal with the fractions as it thinks fit on behalf of the fractional holders In particular, the Board may aggregate and sell the fractions to a person (including, subject to the provisions of the Act, the Company) for the best price reasonably obtainable and distribute the net proceeds of sale in due proportions amongst the fractional holders
- 8 8 If while any B Preferred Shares remain capable of being converted into Ordinary Shares and there is a consolidation or sub-division (or both) of Ordinary Shares, the number of Ordinary Shares to be issued on any subsequent conversion of B Preferred Shares shall be reduced or increased (as appropriate) proportionately by a corresponding adjustment of the Conversion Rate and any such reduction or increase shall become effective immediately after the relevant consolidation or sub-division takes place
- 8 9 If while any B Preferred Shares remain capable of being converted into Ordinary Shares, the Company shall make any capital distribution to the holders of Ordinary Shares (notwithstanding that such capital distribution must be made in accordance with these Articles), then the Conversion Rate shall be adjusted by increasing the number of Ordinary Shares to result from any subsequent conversion of the B Preferred Shares by such amount determined to be appropriate by the Auditors (acting as experts and not as arbitrators) whose determination shall be conclusive and binding on all concerned For the purposes of this Article 8 9 "capital distribution" means
- (a) any dividend or other distribution of capital profits (whether realised or not) or capital reserves or any dividend or other distribution of profits or reserves arising after the date of the passing of the resolution creating the B Preferred Shares from a distribution of capital profits (whether realised or not) or capital reserves by a subsidiary, except, in either case, by means of a capitalisation issue made in the form of fully paid Ordinary Shares in relation to which an adjustment pursuant to Article 8 is made, or
  - (b) a repayment of capital or purchase of the Company's own Ordinary Shares (other than a redemption or purchase of redeemable shares in accordance with the terms of issue thereof and other than the redemption or purchase of Deferred Shares)

For the purpose of this Article 8 9, insofar as the relevant audited accounts do not distinguish between capital and revenue profits or reserves, the Company shall be

entitled to rely upon a written estimate by the Auditors as to the extent to which any part of any profit or reserve should be regarded as of a capital nature

- 8 10 If while any B Preferred Shares remain capable of being converted into Ordinary Shares, there is an allotment of Ordinary Shares (which shall only be allotted fully paid) pursuant to a capitalisation of profits or reserves (including share premium account and capital redemption reserve) or otherwise, to holders of Ordinary Shares, the number of Ordinary Shares to be issued on conversion of B Preferred Shares after that allotment shall be increased by a corresponding adjustment of the Conversion Rate to reflect the percentage increase in the Ordinary Shares in issue
- 8 11 Within 14 days after the happening of any of the events mentioned in Articles 8 8, 8 9 and 8 10 above, the Company shall notify the holders of the B Preferred Shares then in issue, setting forth brief particulars of the event or events giving rise to such adjustment, the adjusted Conversion Rate and the effective date thereof and shall make available for their inspection (at such place as shall be specified in such notice) a copy of any report of the Auditors. In the absence of manifest error, the adjustment to the Conversion Rate as specified in such notice shall be conclusive and binding on all concerned
- 8 12 If an order is made or resolution is passed for the winding up of the Company, the Company shall give written notice to all holders of B Preferred Shares and the holders of B Preferred Shares shall be entitled, upon giving written notice to the Company within 28 days after service of such notice, to elect to be treated as if immediately before the granting of such an order or the passing of such a resolution they had served a Conversion Notice in respect of all or part only of their B Preferred Shares. In such event, any holders of B Preferred Shares who have so elected shall in lieu of the payments which would otherwise be due to them in respect of their B Preferred Shares be entitled to participate in the assets available in the winding up as if they were the holders of the Ordinary Shares to which they would have become entitled by virtue of such conversion at the applicable Conversion Rate and as if the date of the granting of such order or the date of the passing of such resolution was the relevant Conversion Date
- 8 13 If a doubt or dispute arises concerning an adjustment of the Conversion Rate in accordance with this Article 8 the Board shall refer the matter to the Auditors (who shall act as experts and not as arbitrators) and their certificate as to the amount of the adjustment shall, in the absence of manifest error, be conclusive and binding on all concerned
- 8 14 Neither the Company nor the holders of any class of shares shall, by amendment of these Articles or through any reorganisation, transfer of assets, dissolution, grant or issue of securities, consolidation of Ordinary Shares or otherwise, avoid or make impossible the operation of any provision for the benefit of the B Preferred Shares hereunder or in any manner prevent or restrict the holders of the B Preferred Shares from converting in whole or part their B Preferred Shares into Ordinary Shares in accordance with these Articles, but the Company shall at all times in good faith procure that all of the provisions of these Articles relating to the B Preferred Shares are carried out so that the holders of the B Preferred Shares are at all times entitled to the benefits conferred by these Articles and in the taking of all such action as may be necessary or appropriate in order to protect the conversion and other rights of the holders of the B Preferred Shares against impairment
- 8 15 Notwithstanding any of the foregoing, no act or thing will be done by the Company so that, on any conversion of the B Preferred Shares, Ordinary Shares would fall to be



issued at a discount to their par value and the Company will procure that the rights attaching to the B Preferred Shares are implemented in full

- 8 16 Immediately prior to an Exit, the Company shall issue to the B Preferred Shareholders by way of capitalisation of the Company's share premium account, or such other available reserve of the Company as shall not require any subscription monies to be paid by B Preferred Shareholders, such number of additional B Preferred Shares in the capital of the Company fully paid at par in respect of all accrued but unpaid dividends
- 8 17 The number of Deferred Shares held by each holder thereof shall be adjusted in such manner as the Board may, with the prior written agreement of the Auditors that in their opinion the adjustments proposed are fair and reasonable, deem to be appropriate having regard to the provisions of Article 8 7 Notice of any such adjustment shall be given to the holders of Deferred Shares by the Board

#### **REDEMPTION OF THE DEFERRED SHARES**

- 9 Each holder of Deferred Shares hereby confers irrevocable authority on the Board at any time after conversion
- (a) to appoint a person to execute on behalf of each holder of Deferred Shares an instrument of transfer for or an agreement to transfer (or both) all or some of the Deferred Shares, without making a payment to such holders, to such person as the Board may decide, as custodian, and
- (b) to purchase all or some of the Deferred Shares from the holders of the Deferred Shares (subject to the provisions of the Act) for a price of £1 00 for all Deferred Shares purchased without obtaining the sanction of such holder

Pending the transfer or purchase of any Deferred Shares in accordance with (a) and (b) above, the Company may retain the certificates for the Deferred Shares The Company may at its option (exercisable by resolutions of the Board) at any time redeem all or any of the Deferred Shares then in issue for £1 00 for all the Deferred Shares redeemed on giving each holder of Deferred Shares not less than four weeks' prior notice, stating a time and place for redemption, so that such registered holders shall be deemed to surrender to the Company the certificates for the Deferred Shares (save to the extent that any such certificates are held by the Company) in order that the same may be cancelled and the Company shall pay the redemption monies to one of such registered holders to be selected by lot

#### **LIEN**

- 10 The Company shall have a first and paramount lien on every share for all monies, whether presently payable or not, called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares registered in the name of any person, whether solely or jointly with others, for all monies owing to the Company from that person, or that person's estate, either alone or jointly with any other person, whether as a member, or not, and whether such monies are presently payable or not The Directors may at any time declare any share to be wholly or partly exempt from the provisions of this Article

## **TRANSFER OF SHARES**

11

- 11 1 Save in respect of a transfer complying with one or more of the conditions specified in Article 11 4, no transfer of any share shall be registered unless it is first approved by the Directors
- 11 2 Except a transfer complying with one or more of the conditions specified in Article 11 4, the Directors may, in their absolute discretion and without assigning any reason therefor, refuse to register any transfer of any share
  - 11 2 1 whether or not it is a fully paid share, and/or
  - 11 2 2 upon which the Company has a lien
- 11 3 Subject only to
  - 11 3 1 Articles 11 2, 14 and 16, and
  - 11 3 2 the presentation of such evidence as the Directors may reasonably require to show the right of a transferor to make the transfer,a transfer complying with one or more of the conditions specified in Article 11 4 shall be registered by the Directors
- 11 4 The following are the conditions specified in Articles 11 1, 11 2 and 11 3
  - 11 4 1 a transfer of a share made with the prior written consent of the Investor Majority for the time being, other than the transferor,
  - 11 4 2 a transfer of a share pursuant to Article 12,
  - 11 4 3 a transfer of a share pursuant to Article 13,
  - 11 4 4 a transfer or transmission of a share by any Investor to a Privileged Relation,
  - 11 4 5 the following provisions shall apply to Seraphim Capital and the Existing Fundholders
    - 11 4 5 1 Seraphim Capital may at any time transfer any shares held by it to (a) any of the partners of Seraphim Capital, (b) any Privileged Relation or Group Member of such partner(s), (c) any of the investor groups of which such partner forms part, or (d) any secondary fund to which the underlying investments of Seraphim Capital may be transferred, and a transfer or transmission of any shares by such partners may be made in favour of another partner of Seraphim Capital, and
    - 11 4 5 2 each of the Existing Fundholders may at any time transfer any shares held by it to (a) any of the shareholders of such Existing Fund, (b) any Privileged Relation or Group Member of such shareholder, or (c) any secondary fund to which the underlying investments of such Existing Fund may be transferred, and a transfer or transmission of any shares by such shareholders

may be made in favour of another shareholder of such Existing Fund,

11 4 6 a transfer or transmission of a share by any Investor, which is a company to a Group Member of that company, subject to the obligation on any such corporate transferee to retransfer any such share to the original transferor in the event that the corporate transferee ceases to be a Group Member,

11 4 7 a transfer or transmission of a share by Mr Bullock or Mr Smith (other than pursuant to Article 11 4 4), subject to the prior written consent of the Board (such consent shall not to be unreasonably withheld or delayed), and

11 4 8 a transfer of Shares by Mr Popkiewicz to the Investors pursuant to the Share Pledge

12 12 1 Except in the case of a transfer expressly authorised by Article 11 4, no person shall be entitled to dispose of any interest in any shares without first offering such shares for transfer to the other members who hold shares in the Company. The offer shall be made by the proposing transferor(s) (the "Transferor") by notice in writing to the Company (a "Transfer Notice") and may be in respect of all or some only of the shares held by the Transferor (the "Offer Shares"). For the avoidance of doubt, on such an offer to other members pursuant to this Article 12 no account shall be taken of the Deferred Shares held by any member.

12 2 The Transfer Notice shall specify the Offer Shares and the price at which they are offered for sale (the "Suggested Price") and shall constitute the Directors as the agents of the Transferor and his Privileged Relations (if appropriate) for the sale of the Offer Shares (a) to other members who hold shares in the Company and, failing which, (b) to the Company, in accordance with Article 12 14. A Transfer Notice, other than a Deemed Transfer Notice, may contain a provision that unless all the Offer Shares are sold under this Article, none shall be sold (a "Total Transfer Condition"). A Transfer Notice may not be revoked unless (i) it contains a Total Transfer Condition or (ii) all the members of the Company agree in writing that it may be revoked or (iii) it is permitted in terms of Article 12 6.

12 3 Within 7 days after a Transfer Notice is received by the Company, the Directors shall give notice to all the members who hold shares in the Company (other than the Transferor) of the number and description of the Offer Shares, the name of the proposed transferee and the Suggested Price, inviting each such holder to notify the Company within 21 days (a) if he requires the Offer Shares to be valued (such notification being a "Valuation Notice") and (b) if he does not so require whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Suggested Price. In the case of a "Deemed Transfer" under Article 13 1 the valuation provisions of Articles 13 3 shall apply.

12 4 If on or before the expiry of the 21 day period referred to in Article 12 3 the Directors shall receive a Valuation Notice requesting a valuation then the Directors shall instruct the Valuer to determine the fair value of the Offer Shares in accordance with Article 12 5, acting as an expert and not as an

arbiter, and to produce a certificate stating such value (a "Certificate of Fair Value") within 14 days of being instructed to do so

- 12.5 The fair value of the Offer Shares ("the Fair Value") shall be calculated on the basis of the value of the whole Company on a going concern basis as between a willing seller and a willing buyer, with no reduction or other account being taken of the proportion which the Offer Shares bear to the total number of shares in issue, or shares of the same class as the Offer Shares in issue or any restrictions on the ability to transfer the Offer Shares. Account will, however, be taken of the class of shares of the Offer Shares and where any Offer Shares are Deferred Shares they shall be deemed to be valued at such proportionate value where the whole class of Deferred Shares in issue is valued at a Fair Value in aggregate of £1.00. In the case of a Deemed Transfer Notice arising under Article 13.1.1(c), account shall be taken in assessing the Fair Value of the effect of the relevant person ceasing to be an employee, director or consultant. The Fair Value of each Offer Share shall be calculated by dividing the Fair Value of all the Offer Shares by the total number of the Offer Shares.
- 12.6 Within 7 days of receipt by the Directors of the Certificate of Fair Value, the Directors shall send a copy thereof to the Transferor, declaring that (i) the Transferor (provided the Transferor is not a Compulsory Transferor) shall be entitled to revoke the Transfer Notice by notice in writing to the Directors within 7 days from the date of service upon the Transferor of such copy, and (ii) where the Transferor is a Compulsory Transferor, the Compulsory Transferor shall be entitled within 7 days from the date of service upon the Compulsory Transferor of such copy to notify the Company that the Compulsory Transferor objects to the calculation of the Fair Value where it has been calculated by the Auditors acting as the "Valuer", whereupon the Company shall immediately refer the matter to the President for the time being of the Institute of Chartered Accountants in England and Wales with a request to nominate forthwith an independent valuer to calculate the Fair Value (in accordance with Article 12.5) within 14 days of being instructed to do so and the decision of such independently nominated valuer shall be final and binding on all parties concerned and the costs of the said valuer shall be borne by the Compulsory Transferor alone.
- 12.7 The cost of obtaining a Certificate of Fair Value shall be borne by the Company, unless (i) the Transferor revokes the Transfer Notice in accordance with Article 12.6 in which case the Transferor shall bear such cost or (ii) the Compulsory Transferor notifies the Company that the Compulsory Transferor objects to the calculation of the Fair Value in accordance with Article 12.6 in which case the Compulsory Transferor shall bear such cost.
- 12.8 If the Transfer Notice is not revoked by the Transferor in accordance with Article 12.6, and in the case of a Compulsory Transferor, as soon as reasonably practicable following any decision by an independently nominated valuer appointed in accordance with Article 12.6, the Directors shall give notice to all the members who hold shares in the Company (other than the Transferor and, in the case of a Compulsory Transfer, the Privileged Relations of the Transferor) of (a) the Fair Value as calculated by such independently nominated valuer pursuant to Article 12.6, or (b) in the event that such valuation is not required pursuant to Article 12.6, the lower of (i) the Suggested Price and (ii) the Fair Value as determined by the Valuer (the "Purchase Price"), and in each case the number and description of the Offer

Shares, inviting each such member to notify the Company within 14 days whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Purchase Price

- 12 9 On the expiry of the 21 day period referred to in Article 12 3 or if a Certificate of Fair Value has been obtained the expiry of the 14 day period referred to in Article 12 8, the Directors shall allocate the Offer Shares to those members who have applied to purchase the Offer Shares, and in the event that the number of Offer Shares applied for exceeds the number of Offer Shares available such allocation shall be made in accordance with Article 12 10 If the Transfer Notice contains a Total Transfer Condition, no allocation of the Offer Shares shall be made under this Article or Article 12 10 unless as a result of such allocation combined with the purchase of Offer Shares by the Company pursuant to Article 12 14 1 (if any), all the Offer Shares will be sold
- 12 10 If the aggregate number of Offer Shares for which members have applied exceeds the number of Offer Shares available, priority shall be given to those members holding shares of the same class as the Offer Shares, and the allocation shall be made so far as practicable in proportion to the nominal amount of the share capital of that class held by each of those members but shall not in the case of any member exceed the number of Offer Shares for which he has applied Thereafter, any Offer Shares remaining unallocated shall be allocated amongst members who hold other classes of shares so far as practicable in proportion to the nominal amount of share capital of the Company held by each of those members but shall not in the case of any member exceed the number of Offer Shares for which he has applied
- 12 11 On the allocation being made, the Directors shall give details of the allocation in writing to the Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor and to each member who has stated his willingness to purchase On the seventh day after such details are given, the members to whom the allocation has been made shall be bound to pay the Purchase Price for, and to accept a transfer of, the Offer Shares allocated to them respectively and the Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor shall be bound, on payment of the Purchase Price, to transfer the Offer Shares to the respective purchasers
- 12 12 If in any case a Transferor and, in relation to a Compulsory Transfer, the Privileged Relations of the Transferor after having become bound to transfer any shares to a purchaser, shall default in transferring the Offer Shares, the Directors may authorise any Director to execute on behalf of and as attorney for the Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor any necessary transfers and may receive the Purchase Price and shall thereupon cause the name of the purchaser to be entered in the register as the holder of the Offer Shares and hold the Purchase Price in trust for the Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor The receipt of the Directors for the Purchase Price shall be a good discharge to the purchaser and after the name of the purchaser has been entered in the register of members of the Company the validity of the transfer to the purchaser may not be questioned by the Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor

12 13 Where more than one member has stated his willingness to purchase Offer Shares and through no default of the Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor such purchase is not duly completed, the Directors shall forthwith notify all the other members who have stated their willingness to purchase Offer Shares and specifying the price of the Offer Shares and if, within seven days of such notice being given, those other members shall not between them duly complete the purchase of the Offer Shares in respect of which there has been default in completion, the provisions of Article 12 14 shall apply

12 14

12 14 1 Following the expiry of (i) the 21 day period referred to in Article 12 3 or (ii) if a Certificate of Fair Value has been obtained, the 14 day period referred to in Article 12 8 (in either case the "Relevant Expiry Date") if any of the Offer Shares have not been allocated under Article 12 9 or 12 10, the Directors may within 7 days of the Relevant Expiry Date determine that the Company shall, if it is permitted to do so under the Act, purchase some or all of the Offer Shares itself at the Purchase Price

12 14 2 The Directors shall have a period of 60 days from the date of any such determination to (i) obtain from the Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor any necessary consents and authorities including any required under the Act for any such purchase by the Company and (ii) to complete any such purchase

12 14 3 In the event that a Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor either (i) refuses to sign any document necessary to enable the purchase of some or all of the Offer Shares by the Company or (ii) fails to respond to the Directors within 14 days of any such request (in accordance with Article 12 4 2), the Directors may authorise any Director to execute on behalf of and as attorney for the Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor any such document and may receive the Purchase Price and hold the Purchase Price in trust for the Transferor and, in relation to a Compulsory Transfer, the Privileged Relations of the Transferor, provided that if the Transfer Notice contains a Total Transfer Condition, the Directors may only so authorise any Director if all the Offer Shares will as a result be sold

12 14 4 The receipt by the Directors of the Purchase Price shall be a good discharge to the Company and after the Offer Shares purchased by the Company have been cancelled, the Transferor and, in relation to a Compulsory Transfer, the Privileged Relations of the Transferor may not question the validity of the purchase

12 15 If either (i) the Directors do not by the close of business on the last day of the 7 day period referred to in Article 12 14 1, make a determination that the Company shall, if it is permitted to do so under the Act, purchase some or all of the Offer Shares at the Purchase Price (the "Determination"), or (ii) the Company shall not where the Directors have made such Determination, complete a purchase of the Offer Shares by the close of business on the last

day of the 60 day period referred to in Article 12 4 2 (the "Buy-Back Expiry Date"), then the Transferor and in relation to a Compulsory Transfer, the Privileged Relations of the Transferor may at any time within a period of 30 days from the occurrence of the relevant Buy-Back Expiry Date, transfer the Offer Shares not allocated to other members of the Company to any third party at the Suggested Price provided that if the Transfer Notice contains a Total Transfer Condition, the Transferor shall be only entitled to transfer all of the Offer Shares

- 12 16 The holders of any shares which are the subject of a Deemed Transfer Notice or Compulsory Transfer shall be entitled to receive notice of and to attend general meetings of the Company but shall have no right to (i) vote thereat in respect of the Offer Shares which are the subject of a Deemed Transfer Notice or Compulsory Transfer until such time as those Offer Shares are transferred to another person in accordance with the provisions of this Article 12 11 or 12 12 or (ii) participate in any other offer-round of shares pursuant to a compulsory transfer of shares under Article 12 8 applying to any other shareholder

### **EMPLOYEE ETC SHAREHOLDERS**

13

- 13 1 Where any of the following events occurs in relation to a member, the member in question shall be deemed to have immediately given a Transfer Notice (a "Deemed Transfer Notice") in respect of all the shares as then registered in the name of such member and all of the shares as then beneficially owned or controlled by that member and his Privileged Relations and the provisions of Article 12 regarding Deemed Transfer Notices shall apply -

13 1 1 In relation to a member being an individual -

- (a) such member is adjudicated bankrupt, or
- (b) such member is suffering from a mental disorder as referred to in paragraph (c) of Regulation 81 of Table A, or
- (c) such member ceases to be a Director and/or employee and/or consultant of the Company or of any Group Member of the Company where such member does not remain acting in any other of such capacities in relation to the Company or any such Group Member (as an employee, Director or consultant),

13 1 2 In relation to a member being a body corporate -

- (a) a receiver, manager or administrative receiver is appointed in respect of such member or over all or any part of its undertaking or its assets, or
- (b) such member enters into liquidation (other than a voluntary liquidation for the purposes of a bona fide scheme of solvent amalgamation or reconstruction), or
- (c) such member ceases to be controlled (as defined by Section 416 of the Income and Corporation Taxes Act 1988) by the person(s) who controlled such member on the date on which it became the member of the Company or the date of adoption of these Articles (whichever is later)

- 13 2 The Suggested Price applicable to the transfers under Article 13 1 shall be calculated as follows -
- 13 2 1 where the event giving rise to the Deemed Transfer Notice is the event referred to in Article 13 1 1(c) and such member is a Bad Leaver, the Suggested Price shall be the subscription price paid for such shares (provided that the Fair Value is in excess of such subscription price) otherwise the Fair Value, and
- 13 2 2 in all other circumstances, the Suggested Price shall be greater of (i) the subscription price paid for such shares, and (ii) the Fair Value
- 13 3 The Directors shall immediately instruct the Valuer to determine the Fair Value in accordance with Articles 12 4 and 12 5, to produce a Certificate of Fair Value and Articles 12 6 to 12 14 and Article 12 16 shall then apply
- 13 4 The price to be received for the sale of the shares by the Compulsory Transferor and the Privileged Relations of the Compulsory Transferor in accordance with the provisions of this Article 13 shall be allocated to the Compulsory Transferor and his Privileged Relations in proportion to the number of shares held by the Compulsory Transferor and his Privileged Relations
- 13 5 Any obligation to transfer a share under the provisions of this Article 13 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
- 13 6 In the event that a member is a Bad Leaver then he shall not be entitled to payment of any sums pursuant to this Article 13 until an Exit has occurred
- 13 7 Articles 13 1 to 13 6 shall not apply to (a) Seraphim Capital, the Lead Investor, the Additional Investors, the Existing Fundholders or to any Investors Directors (or any transferee of such persons under Articles 11 4 1, 11 4 4, 11 4 5 or 11 4 6), (b) Mr Bullock or Mr Smith (or any transferee of such persons under Articles 11 4 1, 11 4 4 or 11 4 7), or (c) Mr Popkiewicz or Mr McLauchlan (or any transferee of such persons under Articles 11 4 1, 11 4 4 or 11 4 8) in respect of any shares (other than Option Shares) held by Mr Popkiewicz or Mr McLauchlan respectively (or their permitted transferees) in the Company
- 13 8 The provisions of this Article 13 may be waived in whole or in part in any particular case with the prior written consent of the Board (provided a majority of the Special Directors vote in favour of the waiver of such provisions)

#### **LIMITATION ON CHANGE OF CONTROL – TAG ALONG RIGHTS**

- 14 Notwithstanding any other Article, no sale or transfer (other than a sale or transfer permitted by Articles 11 4 1, 11 4 3, 11 4 4, 11 4 5, 11 4 6, 11 4 7 or 11 4 8) of any shares (the "Specified Shares") to any person not being a member of the Company as at the date of adoption of these Articles which would
- 14 1 result if made and registered in that person taken together with any persons Acting in Concert with that person obtaining a Control Percentage of the total voting rights conferred by all the shares in the capital of the Company for the



time being in issue and conferring the right to attend and vote at all general meetings,

shall be made or registered unless before the transfer is lodged for registration the proposed transferee or his nominees (i) makes an offer (stipulated to be open for acceptance for at least 21 days) to such other members (the "Uncommitted Members") to purchase all the other shares at the Specified Price (as defined in Article 15) and (ii) in respect of any such Uncommitted Members who accept the said offer, the Specified Price is paid to each of them in full at completion of the transfer by the proposed transferee or his nominee. So far as is reasonably practicable the Company shall use reasonable endeavours to ensure that the Uncommitted Members are provided with sufficient information as may be necessary for them to form a reasonable view as to the nature of the proposed transaction including the identity of the proposed transferee, number of shares, price, completion date and any other material terms. Any Uncommitted Member who fails to accept any such offer within the period limited for acceptance shall be deemed to have rejected it.

- 15 In Article 14, the expression "the Specified Price" shall in relation to the Deferred Shares mean £1.00 for all the Deferred Shares in aggregate as a class or if applicable a proportion of the sum of £1.00 based on the number of Deferred Shares held by the relevant holder(s) of the Deferred Shares. In all other cases, in Article 14, the expression "the Specified Price" shall mean a price per share (cash or otherwise) being not less than the Fair Value (as defined in Article 12.5) and at least pari passu to the value of the consideration offered by the proposed transferee or transferees or any third party (as the case may be) or his or their nominees for the Specified Shares to the holder(s) thereof (and/or any member of the same group (as defined below) of the holder(s) thereof) received or receivable by the holder(s) of the Specified Shares or any Group Member of the said holder(s) which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the consideration for the Specified Shares including, without limitation, any increase in salary, any bonus or termination payment. The Specified Price in respect of a particular share shall take into account any differences in class rights between it and any other share including, without limitation, any Specified Share. In the event of a disagreement the calculation of the Specified Price shall be referred to an expert (acting as an expert and not as an arbiter and whose decision shall be final and binding) nominated by and acting at the expense of all the members of the Company (in proportion to their respective shareholdings) or (in the event of disagreement as to nomination) appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales, provided that such expert may only be the Auditors, or a partner, director, consultant, or employee of the Auditors, unless either (i) the Auditors, or a partner, director, consultant, or employee of the Auditors (as the case may be) declines to act or (ii) the Investor Majority so agree in writing.

#### **SALE BY QUALIFYING MAJORITY- DRAG ALONG RIGHTS**

16

- 16.1 Notwithstanding any other Article, where any person or persons (an "Offeror") makes a Qualifying Offer (as hereinafter defined) and this is to be accepted by the Majority Members (as hereinafter defined), the Majority Members may by notice in writing (a "Drag Along Notice") to the other members of the Company (the "Minority Members") require the Minority Members to (i) forthwith accept such Qualifying Offer and (ii) transfer all of their shares free

from all charges, liens, encumbrances and other third party rights to the Offeror at the same time as the Majority Members transfer all of their own shares to the Offeror

- 16.2 A Drag Along Notice is irrevocable but the Drag Along Notice and all obligations thereunder shall lapse if for any reason the sale of the shares of the Majority Members pursuant to Article 16.1 does not complete within 60 days after the date of the Drag Along Notice. The Majority Members may serve further Drag Along Notices following the lapse of any particular Drag Along Notice
- 16.3 In the event that any Minority Member fails to accept such Qualifying Offer or having accepted such Qualifying Offer fails to execute and deliver any of the documents required to effect any transfer of shares pursuant thereto, such Minority Member shall be deemed to have irrevocably appointed any of the Directors to be his agents and attorneys for the purposes of accepting such Qualifying Offer and/or transferring all of that Minority Member's shares (as the case may be) and executing and delivering any such documents. The provisions of Article 12.12 shall have effect as if such Minority Member was the Transferor and the Offeror was the purchaser

For the purposes of this Article 16 -

"Majority Members" means members holding shares conferring equal to or in aggregate more than the Qualifying Majority of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue and conferring the right to attend and vote at all General Meetings and such group of members must include an Investor Majority,

"Qualifying Offer" means an offer which

- (i) is made on identical terms to all members specifying the identity of the proposed transferee, the proposed completion date and any other material terms, and
- (ii) specifies a price which is not less than the Fair Value of each share, and
- (iii) is certified as complying with conditions (i) and (ii) above by an expert (acting as an expert and not as an arbiter and whose decision shall be final and binding) nominated by and acting at the expense of all the members of the Company (in proportion to their respective shareholdings) or (in the event of disagreement as to nomination) appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales, provided that such expert may only be the Auditors, or a partner, director, consultant, or employee of the Auditors, unless either (i) the Auditors, or a partner, director, consultant, or employee of the Auditors (as the case may be) declines to act or (ii) the Investor Majority so agree in writing

In determining whether an offer satisfies condition (i) above such expert shall take into account

- (a) any differences in class rights between shares, and

- (b) any consideration (in cash or otherwise) received or receivable by any member 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 that member including, without limitation, any increase in salary, any bonus or termination payment

16.4 Where this Article 16 is applied, the price payable for the Deferred Shares in aggregate as a class shall not exceed £1 which shall be payable to the holders of the Deferred Shares in proportion to the number of Deferred Shares that each of them hold

### **PROCEEDINGS AT GENERAL MEETINGS**

- 17 The members (other than the holders of the Deferred Shares) shall be entitled to receive notice of and attend general meetings of the Company. If a quorum is not present within half an hour of the time appointed for a general meeting, the meeting, if convened on the requisition of members (other than the holders of the Deferred Shares), shall be dissolved and in any other case it shall stand adjourned to such day and at such time and place as the Directors determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.
- 18 Two persons entitled to vote upon the business to be transacted (each being a member or a proxy for a member or a corporate representative of a member) shall be a quorum, except in the case where the Company has only a single member when the quorum shall be one.
- 19 On a show of hands or on a poll, votes may be given either personally or by proxy, or if a corporation, by its duly authorised representative. For the avoidance of doubt, no voting rights shall attach to the Deferred Shares.

### **NUMBER OF DIRECTORS**

- 20 Unless otherwise determined by ordinary resolution of the Company, the number of Directors shall not be subject to any maximum and the minimum number of directors shall be two.
- 21 A Director shall not be required to hold any share in the Company in order to qualify for office as a Director. A Director, whether or not the Director holds any share in the Company, shall be entitled to attend and speak at any general meeting, or any meeting of any class, of the members of the Company.

### **ALTERNATE DIRECTORS**

- 22 Where an alternate Director is also a Director, or acts as an alternate Director for more than one Director, such alternate Director shall have one vote for every Director represented by that Director in addition to that Director's own vote.
- 23 Where two or more Directors are required to constitute a quorum, an alternate Director, notwithstanding that that Director may be the alternate Director for a number of Directors, shall not, alone, constitute a quorum, and shall only act in conjunction with, at least, one Director or another alternate Director.

## **APPOINTMENT AND RETIREMENT OF DIRECTORS**

24. The Directors shall not be subject to retirement by rotation and any reference in the Regulations to such retirement shall be construed accordingly
25. The Company may by ordinary resolution appoint a person who is willing to act as a Director, either to fill a vacancy or as an additional Director (but not to fill the vacancy of any Investor Director)
26. The Directors may appoint any person who is willing to act as a Director, either to fill a casual vacancy or as an additional Director (but not to fill the vacancy of any Investor Director)
27. There shall be no age limit for Directors of the Company

## **PROCEEDINGS OF DIRECTORS**

28. A sole Director shall have and may exercise all the powers of, and the full authority conferred on, the Directors in terms of these Articles, and all references to the Directors in the Articles and Regulations shall be construed accordingly
29. The quorum for the transaction of business of the Directors shall be two Directors, including any two of the three Special Directors (if appointed) except when the Director in question, in respect of his attendance or that of his alternate, has waived such requirement. In the absence of any two persons holding the office of Special Director, the quorum shall be two (including the Special Director (if appointed)), except in the case of a sole Director, when the quorum shall be one. A person who holds office only as an alternate Director shall, if the appointing Director is not present, be counted in the quorum
30. Any Director, including an alternate Director, may participate in a meeting of the Directors or a committee of Directors by means of a conference telephone or other conference communication facility by which all persons participating in the meeting can hear and speak with each other. Participation in a meeting in this manner shall be deemed to constitute the presence of a Director in person at such meeting, entitling him to be counted in the quorum and to vote accordingly. A telephone conference meeting shall be deemed to be held at the place where the largest number of Directors is present, or, where there is no such gathering, where the chairman is present
31. Subject to such disclosure as is required by the Regulations, or the Act, a Director shall be entitled to vote at, and be counted in the quorum of, a meeting of Directors or of a committee of Directors on any resolution concerning a matter in which the Director has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the Company
32. Any Director who is absent from the United Kingdom shall be entitled to receive notice of a meeting, provided that the Director has given the Company an address outside the United Kingdom. Regulation 88 shall be modified accordingly
33. Upon the request of the Investors, the Company shall procure that the Special Directors are forthwith appointed as directors of any other Group Member of the Company as indicated in such request

- 34 The chairman of the Board shall not be entitled to a second and casting vote

### **THE SEAL**

- 35 The Company shall not have a seal

### **INDEMNITY**

- 36 Without prejudice to any indemnity to which any person referred to in this Article 36 may otherwise be entitled, every present and former Director, alternate Director, secretary or other officer of the Company (excluding any present or former Auditors) (an "Indemnified Person") shall be indemnified by the Company against all liabilities, costs, charges and expenses incurred by him in the execution and discharge of his duties to the Company and any Associated Company, including any liability incurred by any Indemnified Person in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to be done or omitted by him as an officer or employee of the Company or an Associated Company provided that such indemnity shall not extend to any liability arising out of the fraud or dishonesty of the relevant Indemnified Person (or the obtaining of any personal profit or advantage to which the relevant Indemnified Person was not entitled) and no Indemnified Person shall be entitled to be indemnified for

- 36 1 any liability incurred by him to the Company or any Associated Company of the Company as above defined,
- 36 2 any fine imposed in any criminal proceedings,
- 36 3 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,
- 36 4 any amount for which he has become liable in defending any criminal proceedings in which he is convicted and such conviction has become final,
- 36 5 any amount for which he has become liable in defending any civil proceedings brought by the Company or any Associated Company in which a final judgment has been given against him,
- 36 6 any amount for which he has become liable in connection with any application under Sections 144(3) or (4) or 727 of the Act in which the court refuses to grant him relief and such refusal has become final, and
- 36 7 any liability incurred by a Director or other officer of the Company pursuant to the Investment Agreement, any future investment or subscription agreement or pursuant to any other claim made by the Investors from time to time

For the purposes of this Article 36, "Associated Company" shall have the same meaning as in Section 309A of the Act

## **INSURANCE**

37. The Company shall have power to purchase and maintain for (i) any Indemnified Person (as defined in Article 36), (ii) any director, secretary or other officer or employee of an Associated Company and (iii) any persons who are or were at any time trustees of any pension fund or employees' share scheme in which employees of any Associated Company are interested, insurance against any liability incurred by him in connection with any negligence, default, breach of duty or breach of trust (actual or purported) by him in relation to the Company or any Associated Company or any such pension fund or employees' share scheme or otherwise in connection with his duties, powers or office

For the purposes of this Article 37, "Associated Company" shall have the same meaning as in Section 309A of the Act

## **GOVERNING LAW**

38. These Articles shall be governed by, and construed in accordance with, English Law and the Company, its officers and its members, from time to time, prorogate the exclusive jurisdiction of the English Courts