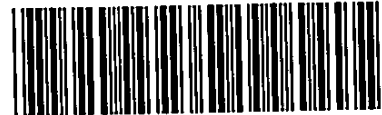


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MYGEEQ HOLDINGS LIMITED (THE "COMPANY")

FRIDAY



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21/10/2011

COMPANIES HOUSE

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**WRITTEN RESOLUTIONS OF THE COMPANY**

**PURSUANT TO SECTION 288 OF THE COMPANIES ACT 2006**

The directors of the Company propose that the following written resolutions be passed by the Company

**THAT:**

**ORDINARY RESOLUTION**

- 1 Subject to resolution 2 below relating to the adoption of new articles of association having been passed, the Company resolves to create 35,000 new redeemable preference of one pound (£1) each having the rights and being subject to the restrictions set out in the new articles of association of the Company to be adopted pursuant to resolution 2 below

**SPECIAL RESOLUTIONS**

- 2 The regulations contained in the document supplied to the members of the Company with this resolution be adopted as the articles of association of the Company in substitution for and to the entire exclusion of the existing articles of association
- 3 The directors be empowered to issue such redeemable preference shares as if article 8.5 of the Company's Articles of Association did not apply to the allotment of the 35,000 redeemable preference shares

Members of the Company who are eligible members because they are entitled to vote on the resolutions on the circulation date (that is the first date on which copies of the resolutions are sent to members, being 30 August 2011) should sign and date below to signify their agreement to the resolutions and return the signed document by hand or by post to 15 Bridge Road, Wellington, Telford, Shropshire TF1 1EB or send a copy by email to [stephen.walsh@3dexposure.com](mailto:stephen.walsh@3dexposure.com) or alternatively, members may signify their agreement to the resolutions by sending an email attaching or setting out the text of the resolution to [stephen.walsh@3dexposure.com](mailto:stephen.walsh@3dexposure.com) stating "I confirm my agreement to the resolutions" and confirming their identity as sender

These resolutions must be passed by the requisite majority by the end of the period of 28 days beginning with the circulation date otherwise it will lapse

Agreed

Signed

A handwritten signature in black ink, appearing to be 'M. H. H.', written over a horizontal line.

*(for and on behalf of, if a corporate shareholder)*

Name of registered holder . . .

Date . 31 August 2011 . . .

**MYGEEQ HOLDINGS LIMITED (THE "COMPANY")**

**WRITTEN RESOLUTIONS OF THE COMPANY**

**PURSUANT TO SECTION 288 OF THE COMPANIES ACT 2006**

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These resolutions must be passed by the requisite majority by the end of the period of 28 days beginning with the circulation date otherwise it will lapse



Agreed

Signed

A handwritten signature in black ink, consisting of a stylized, cursive 'S' followed by a horizontal line.

*(for and on behalf of, if a corporate shareholder)*

Name of registered holder . . .

Date 31 August 2011

MYGEEQ HOLDINGS LIMITED (THE "COMPANY")

WRITTEN RESOLUTION OF THE COMPANY

PURSUANT TO SECTION 288 OF THE COMPANIES ACT 2006

The directors of the Company propose that the following written resolution be passed by the Company as a special resolution

SPECIAL RESOLUTION

THAT.

950 of the issued ordinary shares of one pound (£1) each in the capital of the Company be converted into and redesignated as an 'A' ordinary share of one pound (£1) each having the rights and being subject to the restrictions set out in the articles of association of the Company and that 50 of the issued ordinary shares of one pound (£1) each in the capital of the Company be converted into and redesignated as a 'B' ordinary share of one pound (£1) each having the rights and being subject to the restrictions set out in the articles of association of the Company

Members of the Company who are eligible members because they are entitled to vote on the resolution on the circulation date (that is the first date on which copies of the resolution are sent to members, being 30 August 2011) should sign and date below to signify their agreement to the resolution and return the signed document by hand or by post to 15 Bridge Road, Wellington, Telford, Shropshire TF1 1EB or send a copy by email to [stephen.walsh@3dexposure.com](mailto:stephen.walsh@3dexposure.com) or alternatively, members may signify their agreement to the resolution by sending an email attaching or setting out the text of the resolution to [stephen.walsh@3dexposure.com](mailto:stephen.walsh@3dexposure.com) stating "I confirm my agreement to the resolution" and confirming their identity as sender

This resolution must be passed by the requisite majority by the end of the period of 28 days beginning with the circulation date otherwise it will lapse

Agreed

Signed

(for and on behalf of, if a corporate shareholder)

Name of registered holder

Date 31 August 2011



A18

27/10/2011  
COMPANIES HOUSE

MYGEEQ HOLDINGS LIMITED (THE "COMPANY")

WRITTEN RESOLUTION OF THE COMPANY  
PURSUANT TO SECTION 288 OF THE COMPANIES ACT 2006

The directors of the Company propose that the following written resolution be passed by the Company as a special resolution

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Members of the Company who are eligible members because they are entitled to vote on the resolution on the circulation date (that is the first date on which copies of the resolution are sent to members, being 30 August 2011) should sign and date below to signify their agreement to the resolution and return the signed document by hand or by post to 15 Bridge Road, Wellington, Telford, Shropshire TF1 1EB or send a copy by email to [stephen.walsh@3dexposure.com](mailto:stephen.walsh@3dexposure.com) or alternatively, members may signify their agreement to the resolution by sending an email attaching or setting out the text of the resolution to [stephen.walsh@3dexposure.com](mailto:stephen.walsh@3dexposure.com) stating "I confirm my agreement to the resolution" and confirming their identity as sender

This resolution must be passed by the requisite majority by the end of the period of 28 days beginning with the circulation date otherwise it will lapse

Agreed

Signed

(for and on behalf of, if a corporate shareholder)

Name of registered holder Stephen Walsh

Date 31 August 2011



COMPANIES HOUSE

The Companies Act 2006

Articles of Association of MyGeeq Holdings Limited

Private company limited by shares

(Incorporated on 3 September 2010)



20/10/2011  
COMPANIES HOUSE

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## The Companies Act 2006

### Articles of Association of MyGeeq Holdings Limited

Private company limited by shares

(Adopted by special resolution on August 2011)

#### 1 DEFINITIONS AND INTERPRETATION

- 1.1 In these Articles unless there is something in the subject or context inconsistent therewith

**"A Ordinary Shares"** means the A ordinary shares of £1.00 each in the capital of the Company,

**"Act"** means the Companies Act 2006 including any modification or re-enactment thereof for the time being in force,

**"acting in concert"** has the meaning set out in the City Code on Takeovers and Mergers,

**"Articles"** means these articles (as amended from time to time) and **"article"** means the appropriate section of the Articles,

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

**"B Ordinary Shares"** means the B ordinary shares of £1.00 each in the capital of the Company,

**"Board"** means the board of directors of the Company for the time being or, as the context may admit, any duly authorised committee thereof,

**"Cessation Date"** means the date upon which a person becomes a Departing Employee,

**"Come Along Notice"** has the meaning set out in article 11.2 (Tag Along and Come Along),

**"Commencement Date"** means the Completion Date or, in relation to any holder who is not an Original Shareholder, the date on which that holder acquired shares in the Company,

**"Company"** means MyGeeq Holdings Limited,

**"Completion"** means completion of the Subscription and Shareholders' Agreement,

**"Completion Date"** means the date of Completion,

**"Compulsory Transfer Notice"** has the meaning set out in article 13 1 (Compulsory Transfers),

**"connected"** in the context of determining whether one person is connected with another, shall be determined in accordance with the provisions of sections 1122 and 1123 of the Corporation Tax Act 2010,

**"corporation"** means any body corporate or association of persons whether or not a company within the meaning of the Act,

**"Departing Employee"** means

- (a) any individual who is an employee or director of one or more Group Companies (other than a New Wave Director) who ceases to be so and who does not begin or continue otherwise to provide services to any Group Company, or
- (b) any individual whose services are otherwise provided to any one or more Group Companies and cease to be so and who does not become or continue to be an employee or director of one or more Group Companies,

**"Departing Employee's Group"** means

- (a) a Departing Employee,
- (b) the trustees for the time being of a family trust of the Departing Employee,
- (c) any other person designated by the Board in writing for the purpose of article 13 1 (Compulsory Transfers) in relation to the Departing Employee as a condition of any issue of shares to them by the Company,
- (d) any person designated by the Board in writing for the purpose of article 13 1 (Compulsory Transfers) in relation to the Departing Employee as a condition of any transfer consent given pursuant to article 9 1 (Transfer of Shares), and
- (e) the nominees of any of the persons in the preceding four categories,

**"dividend"** includes any distribution whether in cash or in kind,

**"electronic communication"** has the same meaning as in the Electronic Communications Act 2000,

**"Employee Trust"** means any trust established by any Group Company for the benefit of employees of the Group, former employees of the Group and any members of the families of any such employees or former employees,

**"Expert"** means the Auditors, or if the Auditors decline such appointment any said person accepting the appointment having been nominated by the President of the Institute of Chartered Accountants in England and Wales,

**"Fair Value"** in relation to shares means the value thereof determined in accordance with articles 13 4 and 13 5 (Compulsory Transfers),

**"Family Trust"** means a trust under which no immediate beneficial interest in the Shares in question is for the time being or may in the future be vested in any person other than a specified holder or a Privileged Relation of such holder and control over the voting rights conferred by such Shares is for the time being exercisable by or subject to the consent of any person other than the trustee or trustees of the relevant holder or a Privileged Relation of such holder,

**"FSMA"** means the Financial Services and Markets Act 2000,

**"Group"** means the Company and its group undertakings from time to time and all of them and each of them as the context admits and **"Group Company"** means any one of them,

**"group undertaking"** is to be construed in accordance with section 1161 of the Act,

**"holder"** in relation to shares in the capital of the Company, means the person(s) entered in the register of members of the Company as the holder of the shares,

**"IPO"** means

- (a) together the admission of any part of the share capital of the Company to the Official List of the Financial Services Authority becoming effective in accordance with paragraph 7 1 of the Listing Rules and their admission to trading on the London Stock Exchange's main market for listed securities becoming effective in accordance with paragraph 2 1 of the Admission and Disclosure Standards of the London Stock Exchange, or
- (b) the grant of permission for dealings therein on AIM (a market of the London Stock Exchange), or
- (c) their admission to listing on any recognised investment exchange (as that term is used in section 285 of FSMA),

**"Issue Price"** means in respect of a share in the capital of the Company, the aggregate of the amount paid up (or credited as paid up) in respect of the nominal value thereof and any share premium thereon,

**"Listing Rules"** means the listing rules made by the UK Listing Authority pursuant to Part VI of FSMA,

**"London Stock Exchange"** means the London Stock Exchange plc,

**"Model Articles"** means the model articles for private companies limited by shares contained in schedule 1 of The Companies (Model Articles) Regulations 2008 (SI 2008 No 3229) as amended prior to the date of adoption (including on incorporation) of these articles and **"Model Article"** is in reference to the appropriate section of the Model Articles,

**"New Wave"** shall have the same meaning as in the Subscription and Shareholders' Agreement,

**"New Wave Director"** shall have the meaning set out in the Subscription and Shareholders' Agreement,

**"New Wave Loan"** shall have the meaning set out in the Subscription and Shareholders' Agreement,

**"New Wave Shares"** means shares from time to time held by New Wave,

**"officer"** means and includes a director, manager or the secretary of the Company,

**"Ordinary Share Capital"** means the Ordinary Shares,

**"Ordinary Shares"** means the A Ordinary Shares and the B Ordinary Shares,

**"Original Shareholder"** means a holder who held shares in the Company as at the Completion Date,

**"Preference Shareholders"** means the holders of the Preference Shares and any further Preference Shares ranking pari passu and identically in all respects so as to form one class therewith,

**"Preference Shares"** means the redeemable preference shares of £1 each in the capital of the Company,

**"Privileged Relation"** means in relation to a holder, the spouse or widow or widower of the holder and the holder's children and grandchildren (including step and adopted children and their issue) and step and adopted children of the holder's children,

**"Purchaser(s)"** has the meaning set out in article 10 18 (Pre-emption rights on transfer of shares),

**"Redemption Date"** means any date when Preference Shares are redeemed in accordance with these Articles,

**"Relevant Securities"** has the meaning set out in article 9 5 (Transfer of Shares),

**"Sale"** means (a) the transfer (including any transfer within the meaning of article 9 3 (Transfer of Shares)) (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 have the legal or beneficial ownership over that number of shares in the capital of the Company which in aggregate would confer more than 50 per cent of the voting rights normally exercisable at general meetings of the Company provided that there shall be no Sale as a result of any transfer pursuant to article 12 (Permitted Transfers) (other than article 12 3) or to New Wave or to any person to whom New Wave could make a permitted transfer pursuant to article 12 (Permitted Transfers) and/or (b) any form of capital reorganisation or scheme of arrangement or the like under the Act or the Insolvency Act 1986 (as amended from time to time) or otherwise where any person (or persons connected with each other, or persons acting in concert with each other) would acquire directly or indirectly beneficial ownership of or over that number of shares in the Company which in aggregate would confer more than 50 per cent of the voting rights normally exercisable at general meetings of the Company,

**"share"** means a share in the capital of the Company,

**"Subscription and Shareholders' Agreement"** means the Subscription and Shareholders' Agreement of even date with the adoption of these Articles and made between the Company, the Managers (as defined therein) and New Wave (as defined therein),

**"Transfer Price"** has the meaning set out in article 10 2 (Pre-emption rights on transfer of shares), and

**"UK Listing Authority"** means the Financial Services Authority in its capacity as the competent authority for the purposes of Part VI of FSMA

1 2 Unless the context otherwise requires, words or expressions contained in these Articles  
bear the same meanings as in the Act as in force on the date of adoption of these Articles

1 3 In these Articles

- (a) headings are included for convenience only and shall not affect the construction of these Articles,
- (b) words denoting the singular include the plural and vice versa,
- (c) words denoting one gender include each gender and all genders,
- (d) references to persons are deemed to include references to natural persons, to firms, to partnerships, to companies, to corporations, to associations, to organisations and to trusts (in each case whether having separate legal personality)

1 4 The Model Articles shall apply to the Company save in so far as they are excluded or varied by these articles and such Model Articles (save as so excluded or varied) and these articles shall be the articles of association of the Company

## 2 **SHARE RIGHTS: INCOME**

2 1 The Preference Shares shall not confer on the Preference Shareholders any rights to participate in the profits of the Company

2 2 Except with the consent or sanction of the Preference Shareholders given in accordance with article 6 (Variation of Rights), the Ordinary Shareholders shall not be entitled to receive any dividend until the later of

- (a) all of the Preference Shares having been redeemed in accordance with article 3, and
- (b) the New Wave Loan having been repaid in full by the Company

2 3 No dividend shall be declared or paid in respect of each A Ordinary Share unless a dividend per share of an amount equal to twice the amount of the dividend per A Ordinary Share is declared or paid (as the case may be) on each B Ordinary Share at the same time

## 3 **SHARE RIGHTS: REDEMPTION**

3 1 The Company shall redeem all outstanding Preference Shares on the first business day following the fifth anniversary of the Completion Date

3 2 The Company may, at any time with the consent of the Preference Shareholders given in accordance with article 6 (Variation of Rights) redeem all or some of the Preference Shares then outstanding

3 3 Notwithstanding article 3 1 upon an IPO or a Sale all outstanding Preference Shares shall be redeemed unless the Preference Shareholders consent to such redemption not taking place (by way of a consent given in accordance with article 6 (Variation of Rights))

3 4 Redemption of the Preference Shares is subject to any restrictions on redemption imposed by law Where, because of such restrictions, the Company is unable to redeem Preference Shares otherwise required to be redeemed by these Articles, the Company shall redeem as many of the Preference Shares as, subject to such restrictions, it can and the balance when those restrictions cease to apply

- 3 5 There shall be paid on the redemption of each Preference Share an amount equal to the par value thereof
- 3 6 The Company shall (if practicable) give at least seven days' notice of any redemption to be made pursuant to articles 3 1 or 3 3
- 3 7 Upon delivery of a Preference Share certificate for redemption (or an indemnity in form reasonably satisfactory to the Board in respect of any lost certificate) the Company shall pay to such holder (or the first named holder in the register of members of the Company if more than one) the amount due to him in respect of such redemption and shall cancel the certificate Pending delivery of such certificate or indemnity in respect of any Preference Shares to be redeemed the Company shall on the Redemption Date pay the amount due in respect of the redemption of those Preference Shares into a separate bank account in the Company's name and if and when the holder shall deliver up his certificate or certificates for the relevant Preference Shares to the Company he shall thereupon be paid such amount, without interest If any certificate so delivered to the Company includes any Preference Shares which are not to be redeemed on that occasion a fresh certificate for such unredeemed Preference Shares shall be issued to the holder as soon as practicable and in any event within 14 days of redemption

#### **4 SHARE RIGHTS: CAPITAL**

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

- (a) first in paying to the Preference Shareholder capital paid up or credited as paid up on the Preference Shares (and on any further preference shares ranking *pari passu* therewith as regards priority in respect of capital) together also with any arrears in accordance with the rights of all such shares, and
- (b) second in distributing the balance to Ordinary Shareholders on account of capital paid up or credited as paid up on the Ordinary Shares and any surplus assets shall be divided amongst the holders of the Ordinary Shares in proportion to the number of Ordinary Shares held by them respectively

#### **5 SHARE RIGHTS: VOTING**

- 5 1 The Preference Shares shall not confer on the Preference Shareholders any rights to vote
- 5 2 Subject to article 5 3, on a resolution at a general meeting on a poll, every member (whether present in person, by proxy or by corporate representative) shall have one vote for every share of which he is the holder (except for a Preference Share) On a vote on a resolution at a general meeting on a show of hands each member (present in person, by proxy or by corporate representative) who would be entitled to vote on a poll at that meeting has one vote
- 5 3 Any shares held by a member of a Departing Employee's Group shall, irrespective of whether the Board has served a notice requiring such member to transfer their shares in accordance with article 13 (Compulsory Transfers), cease to confer upon that member the right to be entitled to attend or vote at any general meeting provided that this restriction shall cease in the event that the shares are no longer held by such member (or any other member of the Departing Employee's Group or, if earlier, upon a Sale or an IPO)

#### **6 VARIATION OF RIGHTS**

- 6 1 Whenever the share capital of the Company is divided into different classes of shares, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding-up) either

- (a) with the consent in writing of the holders of more than three-fourths in nominal value of the issued shares of that class, or
- (b) with the sanction of a special resolution passed at a separate general meeting of the holders of that class. To every such separate general meeting all the provisions of these Articles relating to general meetings of the Company (and to the proceedings at such general meetings) shall, mutatis mutandis, apply, except that
  - (i) the necessary quorum shall be two persons, present in person or by proxy or by duly authorised representative (if a corporation), who together hold or represent at least one-third in nominal value of the issued shares of the relevant class (unless all the shares of that class are registered in the name of a single holder, in which case the quorum shall be that holder, his proxy or his duly authorised representative (if a corporation)), but so that if, at any adjourned meeting of such holders, such a quorum is not present, then those holders who are present (in person or by proxy or by duly authorised representative (if a corporation)) shall be a quorum,
  - (ii) any holder of shares of the relevant class present in person or by proxy or by duly authorised representative (if a corporation) may demand a poll, and
  - (iii) the holders of shares of the relevant class shall, on a poll, have one vote in respect of every share of that class held by him

## **7 SALE OF THE SHARE CAPITAL OF THE COMPANY**

In the event of a Sale, then, notwithstanding anything to the contrary in the terms and conditions governing such Sale (unless all the selling holders immediately prior to such Sale have agreed to the contrary for the purposes of this article 7) the selling holders of shares in the Company (immediately prior to such Sale) shall procure that the consideration (whenever received and in whatever form) shall be held by a trustee nominated by the Board and shall be distributed amongst such selling holders as set out in article 4 as if the date of such Sale were the date of the return of capital for the purposes of article 4 and as if the consideration for such Sale represented all of the assets of the Company available for distribution to the holders of shares in the Company

## **8 ISSUE AND ALLOTMENT OF SHARES**

- 8 1 No shares may be issued without the prior consent of New Wave
- 8 2 No further shares ranking as to dividend or repayment of capital in priority to or *pari passu* with the Preference Shares shall be created or issued except with the consent or sanction of the Preference Shareholders
- 8 3 If the Company shall have issued and there shall be outstanding any further preference shares ranking *pari passu*, but not identically in all respects and so as to form one class with the Preference Shares in accordance with article 8 2, then such further preference shares shall be deemed to constitute a separate class of shares for the purposes of the Articles of the Company
- 8 4 The requirements of sections 561 and 562 of the Act (pre-emption) are excluded in relation to allotments of equity securities by the Company
- 8 5 All shares which the Company proposes to allot wholly for cash shall first be offered for subscription to all shareholders in the proportion that the number of Ordinary Shares for the time being held by each such person bears to the total number of the Ordinary Shares in issue. Such offer shall be made by notice in writing specifying the maximum number of shares to which the relevant holder is entitled and a time (being not less than five

Business Days) following which the offer (if not accepted) will be deemed to have been declined. The offer may be accepted in whole or in part.

- 8.6 After the expiration of such time, or upon receipt by the Company of an acceptance or refusal of every offer made pursuant to article 8.5, the Board shall offer any shares offered but not required to be allotted in accordance with article 8.5 for subscription to shareholders in such proportions as the Board may think most beneficial to the Company. Such offer shall specify a time (being not less than five Business Days) following which the offer (if not accepted) will be deemed to have been declined.
- 8.7 After the expiration of such time or on receipt by the Board of an acceptance or refusal of every offer made pursuant to article 8.6, the Board shall be entitled to dispose of any shares so offered, and which are not required to be allotted in accordance with this article, in such manner as the Board may think most beneficial to the Company.
- 8.8 If, owing to the inequality of the number of new shares to be issued and the number of shares held by holders entitled to receive the offer of new shares, any difficulties shall arise in the apportionment of any such new shares amongst the holders, such difficulties shall be determined by the Board.
- 8.9 The Board may determine that it shall be a term of an offer made pursuant to articles 8.5 and 8.6 that the acceptors shall also subscribe for the same proportion of other securities (debt or equity) to be issued by the Company or any other member of the Group as is equal to the proportion of the number of shares being offered for which they subscribe.

## **9 TRANSFER OF SHARES**

- 9.1 Except as provided in article 11 (Tag Along and Come Along) (and subject to the proviso in this article 9.1 set out below) or article 12 (Permitted Transfers) or as required by article 13 (Compulsory Transfers) and subject to the further provisions of this article 9 (Transfer of Shares), no shares shall be transferred (including to a transferee) without the prior consent of New Wave and shall otherwise be subject to the provisions of article 10 (Pre-emption Rights on Transfer of Shares). No Transfer or Triggering Transfer (as appropriate) pursuant to article 11 (Tag Along and Come Along) may proceed without the consent of New Wave if the terms of such transfer when taken in their entirety and including, for the avoidance of doubt and without limitation any one-off bonus payments or share option arrangements, provide a materially disproportionate economic benefit to the Calling Shareholders or proposed transferor (as appropriate) as compared to the economic terms being offered to the other shareholders.
- 9.2 The Board shall decline to register any transfer that is not made in accordance with the provisions of these Articles and shall register any transfer which is made in accordance with the provisions of these Articles. Model Article 26(5) shall be construed accordingly. Any transfer in breach of these Articles shall be void.
- 9.3 For the purposes of these Articles
- (a) a change in the constituent membership (including without limitation any change (howsoever implemented) in the legal or beneficial interest of any member) of a partnership which holds shares shall not constitute a transfer of those shares, and
  - (b) the following shall be deemed (but without limitation) to be a transfer by a holder of shares
    - (i) any direction (by way of renunciation or otherwise) by a holder entitled to an allotment or transfer of shares that a share be allotted or issued or transferred to some person other than himself, and



- (ii) subject to article 9 3(a) any sale or any other disposition (including by way of mortgage, charge or other security interest) of any legal or equitable interest in a share (including any voting right attached to it), (A) whether or not by the relevant holder, (B) whether or not for consideration, and (C) whether or not effected by an instrument in writing

9 4 To enable the Board to determine whether or not there has been any transfer of shares in breach of these Articles the Board may require any holder or the legal personal representatives of any deceased holder or any person named as transferee in any transfer lodged for registration or such other person as the Board may reasonably believe to have information relevant to such purpose, to furnish to the Company such information and evidence as the Board may think fit regarding any matter which they deem relevant to such purpose, including (but not limited to) the names, addresses and interests of all persons respectively having interests in the shares from time to time registered in the holder's name. Failing such information or evidence being furnished to enable the Board to determine to its reasonable satisfaction that no such breach has occurred, or that as a result of such information and evidence the Board is reasonably satisfied that such breach has occurred, the Board shall forthwith notify the holder of such shares in writing of that fact and, if the holder fails to remedy such breach within 20 days of receipt of such written notice, then

- (a) the relevant shares shall cease to confer upon the holder thereof (or any proxy thereof) any rights

- (i) to vote (whether on a show of hands or on a poll), or

- (ii) to receive dividends or other distributions (other than the amount paid up (or credited as paid up) in respect of the nominal value (and any share premium) of the relevant shares upon a return of capital) or, if less, the amount which is payable on the relevant shares under article 3,

otherwise attaching to such shares or to any further shares issued in right of such shares or in pursuance of an offer made to the relevant holder, and

- (b) the holder may be required (by notice in writing to such holder from the Board) at any time following such notice to transfer some or all of his shares to such person(s) at a price determined by the Board

The rights referred to in article 9 4(a) may be reinstated by the Board with the written consent of the holders of a majority of the Ordinary Shares or, if earlier, upon the completion of any transfer referred to in article 9 4(b)

9 5 If a holder defaults in transferring shares to be transferred pursuant to article 9 4 or any shares to be transferred pursuant to any other provisions of the articles (the "**Relevant Securities**")

- (a) the chairman for the time being of the Company, or failing him one of the directors of the Company or some other person duly nominated by a resolution of the Board for that purpose, shall be deemed to be the duly appointed agent of the holder with full power to execute, complete and deliver in the name and on behalf of the holder all documents necessary to give effect to the transfer of the Relevant Securities to the relevant transferee,

- (b) the Board may receive and give a good discharge for the purchase money on behalf of the holder and (subject to the transfer being duly stamped) enter the name of the transferee in the register of members or other appropriate register as the holder by transfer of the Relevant Securities,

- (c) the Board shall forthwith pay the purchase money into a separate bank account in the Company's name and if and when the holder shall deliver up his certificate or certificates for the Relevant Securities to the Company (or an indemnity in a form reasonably satisfactory to the Board in respect of any lost certificate) he shall thereupon be paid the purchase money, without interest and less any sums owed to the Company by the holder pursuant to these Articles or otherwise, and
- (d) if such certificate shall comprise any shares which the holder has not become bound to transfer as aforesaid the Company shall issue to him a balance certificate for such shares

The appointment referred to in article 9 5(a) shall be irrevocable and is given by way of security for the performance of the obligations of the holder under these Articles

9 6 Any B Ordinary Shares which become the subject of a transfer pursuant to article 10 (Pre-emption Rights on Transfer of Shares), article 11 (Tag Along and Come Along) and article 13 (Compulsory Transfers) shall be immediately redesignated as A Ordinary Shares

#### 10 **PRE-EMPTION RIGHTS ON TRANSFER OF SHARES**

10 1 Any holder in the Company who wishes to transfer shares (the "**Transferor**") otherwise than in accordance with articles 11 (Tag Along and Come Along) or 12 (Permitted Transfers) or as required by article 13 (Compulsory Transfers) shall be subject to the following provisions and article 9 (Transfer of Shares)

- (a) before transferring or agreeing to transfer any share or any interest therein (including for this purpose the assignment of any beneficial interest in, or the creation of any charge or security interest over, such share and the renunciation or assignment of any right to receive or subscribe for such share) the Transferor shall give notice in writing (a "**Transfer Notice**") to the Board that he wishes to transfer such share
- (b) The Transfer Notice shall specify
  - (i) the number of shares which the Transferor wishes to transfer (each a "**Transfer Share**") (which may be all or some of the shares held by the Transferor),
  - (ii) the identity of such third party to whom the Transferor wishes to transfer the Transfer Shares,
  - (iii) the price at which the Transferor wishes to sell the Transfer Shares, and
  - (iv) whether or not the Transferor wishes to impose a condition that, unless all the Transfer Shares are sold pursuant to the following provisions of this article 10, then none shall be sold (the "**Total Transfer Condition**") In the absence of any such statement, the Transfer Notice shall be deemed not to contain a Total Transfer Condition
- (c) The Transfer Notice shall constitute the Company as the agent of the Transferor for the sale of the Transfer Shares (together with all rights attaching thereto at the date of the Transfer Notice or at any time thereafter) upon the following terms:
  - (i) the price for the Transfer Shares is the Transfer Price, and
  - (ii) the Transfer Shares are to be sold free from all liens, charges and encumbrances together with all rights attaching to them

- (d) Should the Transfer Notice contain a Total Transfer Condition the condition shall apply to all the Transfer Shares in the notice
  - (e) Within twenty eight days of the receipt by the Board of any Transfer Notice, the Board shall send a copy of that Transfer Notice to all the holders other than the Transferor
- 10 2 The Transfer Price shall be the price agreed in writing between the Transferor and the Board or, in the absence of such agreement (whether by disagreement, absence, death or otherwise) by the Expert The "**Transfer Price**", which expression, where used in respect of more than one Transfer Share, shall mean the price in respect of one only of the Transfer Shares multiplied by the number of Transfer Shares in question agreed or determined in accordance with the following provisions of this article 10
- 10 3 The Expert shall act as an expert and not as an arbitrator, and his certificate (the "**Certificate**") shall be final and binding on all holders
- 10 4 The Expert shall certify the Transfer Price, which shall be the open market value of the Transfer Shares as at the date of the Transfer Notice on the following assumptions and bases
- (a) the Transfer Shares shall be valued as on an arm's length sale between a willing seller and a willing buyer,
  - (b) it shall be assumed, if the Company is then carrying on business as a going concern, that it will continue to do so,
  - (c) it shall be assumed that the Transfer Shares are capable of being transferred without restriction, and
  - (d) it shall be assumed that no diminution in value applies to the Transfer Shares by virtue of the fact they represent a minority interest
- 10 5 If any difficulty shall arise in applying any of the assumptions or bases in article 10 4, it shall be resolved by the Expert in such manner as he may in his absolute discretion think fit
- 10 6 The Board shall procure that the Expert shall have access to the Company's premises and books and accounting records for the purposes of determining the Transfer Price
- 10 7 If the determination of the Transfer Price is referred to the Expert, the date upon which the Board receives the Certificate shall be the "**Determination Date**" If the Transfer Price is determined by agreement with the Board (in accordance with article 10 2), then the Determination Date shall be the date upon which such agreement is made
- 10 8 Where the Expert has determined the Transfer Price, the Board shall within seven days of the Determination Date send to the Transferor a copy of the Certificate
- 10 9 The Transferor shall be entitled (except as otherwise herein provided) to revoke the Transfer Notice on giving notice in writing to the Directors within the period of fourteen days after receipt by him of the Certificate ("**Withdrawal Period**")
- 10 10 The costs and expenses of the Expert in determining the Transfer Price shall be borne by the Transferor and the Purchasers in such proportions as the Expert may determine unless either the Transferor shall revoke the Transfer Notice as permitted by these Articles or none of the Transfer Shares are purchased by the holders pursuant to the following provisions of this article 10, in which event the Transferor shall pay all of such costs and expenses

- 10 11 Within seven days after the Determination Date, the Transfer Shares shall be offered for purchase at the Transfer Price by the Board in accordance with the following provisions
- (a) the Board shall by notice in writing (the "**Offer**") offer the Transfer Shares to those holders who at the date of the Offer are registered as the holders (but not to the Transferor), and any of the Transfer Shares not accepted by such holders shall, in the case of competition, be sold to the acceptors in proportion (as nearly as may be without involving fractions or selling to any member a greater number of Transfer Shares than the maximum number applied for by him) to the number of shares then registered in their respective names,
  - (b) the Offer shall specify
    - (i) the number of shares offered,
    - (ii) the Price,
    - (iii) whether the Transfer Notice contains a Total Transfer Condition,
    - (iv) the period limit for the acceptance of the Offer (the "**Offer Period**") which shall be not less than twenty-one and not more than thirty-five days, and
    - (v) the manner in which the Offer may be accepted in accordance with article 10 12
- 10 12 Acceptance of the Offer shall be by notice in writing by the member to the Board and must specify the maximum number of shares which that member wishes to accept (which may be for all the Transfer Shares or some smaller number) A valid acceptance of the Offer may not be withdrawn, and a member who validly accepts the Offer shall be obliged to purchase any Transfer Shares allocated to him in accordance with these Articles
- 10 13 If any of the Transfer Shares shall not be capable of being allocated as aforesaid without involving fractions, then the Board shall allocate the Transfer Shares in the integer of the numbers so determined and thereafter they will allocate any remaining shares as the Board shall think fit
- 10 14 If by the foregoing procedure the Board shall not have received acceptances from holders in respect of all of the Transfer Shares within the Offer Period, it shall forthwith give notice in writing of that fact to all the holders, and thereupon the holder(s) of at least three quarters in nominal value of the issued and paid up shares of the Company (excluding all shares held by the Transferor) shall be entitled within fourteen days of the date of service of that notice to nominate by written notice to the Board signed by each such holder, and which may consist of several notices in the like form, (the "**Nomination**") any person or persons, whether or not a holder, who has or have expressed in writing his or their willingness to purchase at the Transfer Price all or any of those Transfer Shares in respect of which acceptances have not been received and the Board and the person or persons so nominated shall be deemed to have made and to have accepted an offer for the said Transfer Shares respectively
- 10 15 If any such nominated purchaser shall fail to complete any such purchase in accordance with this article 10, the holders other than those who did not sign the Nomination shall be jointly and severally liable to complete such purchase in place of that nominated purchaser
- 10 16 If the Transfer Notice contained a Total Transfer Condition, then no offer of Transfer Shares made by the Board pursuant to this article 10 shall be capable of acceptance until there are acceptances in respect of all of the Transfer Shares from the holders or any of them or any person or persons nominated pursuant to article 10 14

- 10 17 If by the foregoing procedure set out in this article 10 the Board shall not receive acceptances in respect of all the Transfer Shares in relation to which a Total Transfer Condition applied, they shall forthwith give notice in writing of that fact to the Transferor (a "**Release Notice**")
- 10 18 Within the period of three months after the date of the Release Notice but not after the said period, the Transferor may sell all, but not some only, of the Transfer Shares to the person named in the Transfer Notice, at any price which is not less than the Transfer Price (after deducting, where appropriate, an amount equal to any net dividend or other distribution declared, made or paid after the date of the Transfer Notice in respect of the Transfer Shares and which has been or is to be retained by the Transferor) The Board shall accordingly, but subject to article 9, be obliged to register any transfer of the Transfer Shares lodged for registration within the period of three months after the date of the Release Notice, provided that the price in respect thereof shall be not less than as aforesaid
- 10 19 If any holder(s) or person or persons nominated pursuant to article 10 14 (each a "**Purchaser**") shall in accordance with these articles agree to purchase all of the Transfer Shares, the Board shall forthwith give notice in writing (a "**Purchase Notice**") to the Transferor, and the Purchaser and the Transferor shall thereupon become bound upon payment of the Transfer Price to the Transferor (whose receipt shall be a good discharge to the Purchaser, the Company and the Board, none of whom shall be bound to see to the application thereof) to transfer to each Purchaser those Transfer Shares accepted by him
- 10 20 The Purchase Notice shall state the name and address of each Purchaser, the number of Transfer Shares agreed to be purchased by him and the time and place appointed by the Directors for the completion of the purchase being not less than fourteen days nor more than twenty-eight days after the date of the said notice and not being at a place outside England
- 10 21 If the Transfer Notice did not contain a Total Transfer Condition, and if by the foregoing procedure set out in this article 10 the Board shall have received acceptances in accordance with these Articles in respect of part only of the Transfer Shares, they shall forthwith send to the Transferor notice thereof, and the following provisions shall apply
- (a) the Transferor shall thereupon become bound upon payment of the Transfer Price to transfer to each acceptor those Transfer Shares accepted by him, and
  - (b) the Transferor may, subject as hereinafter provided, within a period of three months after the date of the Board's notice, (referred to in this article 10 21) sell to the person named in the Transfer Notice all or any of those Transfer Shares which have not been accepted by any person at any price which is not less than the Transfer Price (after deducting, where appropriate, an amount equal to any net dividend or other distribution declared, paid or made after the date of the Transfer Notice in respect of the Transfer Shares and which has been or is to be retained by the Transferor) The board shall accordingly, but subject to article 9, be obliged to register any transfer of the Transfer Shares lodged for registration within the period of three months after the date of the Board's notice (referred to in this article 10 21) provided that the price in respect thereof shall be not less than as aforesaid
- 10 22 If the Transferor, having become bound to transfer any Transfer Shares pursuant to this article 10, makes default in transferring them, the Board may appoint and authorise some person, who shall be deemed to be the attorney of the Transferor for the purpose, to execute the necessary instrument of transfer in respect of such Transfer Shares and, in the absence of the relevant share certificate, any indemnity in respect thereof requested by the Board and may deliver it or them on his behalf, and the Company may receive the purchase money and shall thereupon (subject to such instrument being duly stamped)

cause the transferee to be registered as the holder of such Transfer Shares and shall hold the purchase money on behalf of the Transferor. The Company shall not be bound to earn or pay interest on any money so held. The receipt of the Company for such purchase money shall be a good discharge to the transferee, who shall not be bound to see to the application thereof, and, after the name of the transferee has been entered in the register of members in purported exercise of this power, the validity of the proceedings shall not be questioned by any person.

- 10 23 Without prejudice to article 9, the Board may require to be satisfied that any shares being transferred by the Transferor pursuant to articles 10 17 or 10 21(b) are being transferred in pursuance of a bona fide sale for the consideration stated in the transfer and, if not so satisfied, notwithstanding any other provision of these articles, may refuse to register the transfer.

## 11 TAG ALONG AND COME ALONG

- 11 1 Subject to article 11 2, if the effect of any transfer of any shares (the "**Transfer**") would if made result in there being a Sale, the transfer shall not be made unless the proposed transferee has unconditionally offered to purchase all of the other issued ordinary share capital (and any shares to be issued pursuant to the exercise of any options or other rights to subscribe) on the same terms and conditions as those of the Transfer. The offer shall remain open for acceptance for not less than 21 days. No offer shall be required pursuant to this article 11 1 if a Come Along Notice has been served under article 11 2.

- 11 2 If the effect of any bona fide transfer of any shares (the "**Triggering Transfer**") would result in there being a Sale, the holder thereof (or, if there is more than one holder thereof, any of them) (the "**Calling Shareholders**") shall have the right to require all the other holders of shares (other than shares held by any holder who is connected with or acting in concert with the proposed transferee of the shares proposed to be the subject of the Transfer) or any options or other rights to subscribe (the "**Called Shareholders**") to transfer to the proposed transferee (the "**Transferee**") all (but not some only) of their shares (including any acquired by them after service of the Come Along Notice, including but not limited to shares issued on exercise of any options or other rights to subscribe) other than any shares which are to be redeemed on the date of the Sale. The transfer shall be on the same terms and conditions (which may include any number of conditions precedent) and the same consideration per share (or per share of each class, where relevant) (which need not be cash consideration) as shall have been agreed between the Calling Shareholders and the Transferee in respect of the shares proposed to be transferred to the Transferee by the Calling Shareholders. The right of the Calling Shareholders shall be exercised by the Calling Shareholders giving written notice to the Called Shareholders to that effect (the "**Come Along Notice**") accompanied by copies of all documents required to be executed by the Called Shareholders to give effect to the required transfer. The Come Along Notice shall set out a date by which the Called Shareholders must transfer their shares to the Transferee, which date shall not be before one day following the later of (i) the date of service of the Come Along Notice, (ii) the date on which all the conditions precedent set out or referred to in the Come Along Notice are satisfied or waived and (iii) the date on which the shares to be transferred are allotted by the Company. Called Shareholders shall not be obliged to transfer any shares to the transferee unless prior to or simultaneously with such transfer the Calling Shareholders have transferred or transfer shares to the Transferee so as to give rise to a Sale.

- 11 3 If a Called Shareholder makes default in transferring its shares pursuant to article 11 2 the provisions of article 9 4 (Transfer of Shares) (reference therein to the holder, Relevant Securities, transferee and documents being construed in accordance with the provisions of this article 10 and as if references to the "purchase money" were to the consideration (whether cash or otherwise) payable by the Transferee and the reference to a "separate bank account" included reference to a separate nominee security account) shall apply to the transfer of such shares mutatis mutandis.

## 12 PERMITTED TRANSFERS

- 12 1 Shares may be transferred by a body corporate (the "**Original Holder**") to a subsidiary or holding company of the Original Holder or another subsidiary of such holding company provided that if the transferee ceases to be in such relationship with the Original Holder the shares in question shall be transferred to the Original Holder
- 12 2 A holder may transfer shares to a nominee or trustee for that holder including trustees of a Family Trust and any nominee or trustee may transfer shares to any other nominee or trustee or to the beneficiary provided that no beneficial interest in the shares passes by reason of any such transfer
- 12 3 Any holder may transfer shares the transfer of which would have the effect described in article 11 (Tag Along and Come Along) provided either an offer has been made and completed in accordance with article 11 1 or a Come Along Notice has been served in accordance with article 11 2 and subject always to the provisions of article 9 1 Any holder of shares may transfer shares pursuant to the acceptance of such an offer or pursuant to a Come Along Notice
- 12 4 An Employee Trust may transfer shares in accordance with the rules of that Employee Trust

## 13 COMPULSORY TRANSFERS

- 13 1 The Board shall be entitled (and shall, if so requested by New Wave) at any time following a Cessation Date to serve a written notice (the "**Compulsory Transfer Notice**") on all or any members of the Departing Employee's Group who hold shares The Compulsory Transfer Notice may require the relevant member(s), within ten days of the Compulsory Transfer Notice, to transfer such number and class of shares held by them to such person(s) and at such prices (subject to the price being not less than that provided for in article 13 2) in each case as are specified in the Compulsory Transfer Notice If the relevant member(s) of the Departing Employee's Group make(s) default in transferring the shares required to be transferred, the provisions of article 9 4 (Transfer of Shares) shall apply (references therein to the holder, Relevant Securities, transferee and documents being construed in accordance with the provisions of this article 13)
- 13 2 The price at which such shares may be required to be transferred pursuant to article 13 1 shall be determined by the Board and shall be no lower than
- (a) if the Cessation Date is on or prior to the first anniversary of the Commencement Date then, regardless of the reason for the Departing Employee becoming a Departing Employee (the "**Departure Reason**") the lower of Cost and Fair Value,
  - (b) if the Cessation Date is after the fifth anniversary of the Commencement Date then, regardless of the Departure Reason Fair Value, or
  - (c) if the Cessation Date is after the first anniversary but on or before the fifth anniversary of the Commencement Date
    - (i) if the Departure Reason is a Good Reason Fair Value,
    - (ii) if the Departure Reason is a Bad Reason the lower of (i) Cost and (ii) Fair Value,
- 13 3 In article 13 2
- (a) "**Good Reason**" shall mean any of the following reasons
    - (i) the death of the Departing Employee,

- (ii) the ill health or permanent disability of the Departing Employee rendering him incapable of continued full-time employment in his current position (or a comparable position at the location he is employed or otherwise provides his services at the Cessation Date) with the Group,
    - (iii) because the Departing Employee is employed by a subsidiary of the Company, or business of the Company or subsidiary of the Company, which is sold or otherwise disposed of,
    - (iv) the Departing Employee being made redundant by a Group Company, or
    - (v) the service contract of the Departing Employee (or other arrangement pursuant to which his services are provided to a Group Company) being terminated by that Group Company in breach of the terms thereof,
  - (b) **"Bad Reason"** shall mean
    - (i) voluntary resignation by the Departing Employee for a reason other than a Good Reason, or
    - (ii) any other reason which is not a Good Reason, and
  - (c) **"Cost"** shall mean the amount paid (by way of purchase or subscription price) for the shares in question by the first member (in point of time) of the Departing Employee's Group who held such shares
- 13 4 In determining the Fair Value of the shares the subject of the Compulsory Transfer Notice the Company may propose to the Departing Employee a price which if accepted by the Departing Employee shall be deemed to be the Fair Value. In the absence of agreement Fair Value shall be determined in accordance with article 13 5
- 13 5 Subject to article 13 4, Fair Value of the Ordinary Shares the subject of the Compulsory Transfer Notice (the **"Transferred Shares"**) shall be the market value of the Transferred Shares as between a willing buyer and a willing seller as certified by the Auditors acting as experts and not arbitrators and whose determination shall be final and binding on the parties concerned. In arriving at the Fair Value of the Transferred Shares, the Auditors shall be instructed to
- (a) determine the **"Enterprise Value"** which shall mean the price obtainable on a sale of all of the issued shares of the Company of whatever class between a willing buyer and a willing seller (on the assumption that the entire issued share capital of the Company is being sold for cash) free of any outstanding indebtedness that is outstanding as at the Cessation Date save that the auditors shall exclude any premium that might arise as a result of the sale of control of the Company,
  - (b) deduct from the Enterprise Value an amount equal to that which would be required as at the Cessation Date to refinance all amounts outstanding under any financing arrangements or shareholder debt instruments (including all arrears and accruals of interest, fees and other costs, and expenses payable), and
  - (c) use the resultant figure as the valuation of all of the issued ordinary share capital from which they determine the market value of the Transferred Shares as between a willing buyer and a willing seller
- 13 6 The costs and expenses of the Auditors shall be borne by the Company who shall be reimbursed by the Departing Employee unless the value determined by the Auditors is 5 per cent or more higher than that proposed by the Company, in which case such costs and expenses shall be borne by the Company



14      **DECISION-MAKING BY DIRECTORS**

- 14 1      In Model Article 8(2) (copies of unanimous decisions in writing) the words "copies of which have been signed by each eligible director" shall be replaced by the words "where each eligible director has signed one or more copies of it"
- 14 2      In Model Article 8(3) (unanimous decisions) the words "and whose vote would have been counted" shall be added after the words "who would have been entitled to vote on the matter"
- 14 3      Model Article 9(2) (content of notices of directors' meeting) shall not apply to the Company
- 14 4      In Model Article 9(4) (waiver of notice entitlement) the words "not more than 7 days" shall be replaced by the words "either before, on or"
- 14 5      A director may vote, at any meeting of the directors or of any committee of the directors, on any resolution, and may otherwise take, or take part in, any decision, notwithstanding that it in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest or duty whatsoever (whether or not it may conflict with the interests of the Company), and if he shall vote on any such resolution (or take, or take part in, any such decision) his vote shall be counted, and in relation to any such resolution as aforesaid he shall (whether or not he shall vote on the same) be taken into account in calculating the quorum present at the meeting This is subject to section 175 of the Act and to the other provisions of these Articles
- 14 6      Model Article 14 (conflicts of interests) shall not apply to the Company

15      **DIRECTORS' INTERESTS**

- 15 1      Provided that he has disclosed to the directors the nature and extent of any interest of his in accordance with and to the extent required by the Act or the interest is deemed disclosed by article 15 2, a director notwithstanding his office
- (a)      may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested,
  - (b)      may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is interested or any Group Company or any body corporate in which any Group Company is interested,
  - (c)      may act, by himself or through a firm in which he is interested, in a professional capacity for the Company or any Group Company or any body corporate in which any Group Company is interested (otherwise than as auditor),
  - (d)      may hold any other place of profit with the Company (otherwise than as auditor) in conjunction with his office as the directors may determine,
- and
- (i)      he shall not, by reason of his office or the fiduciary relationship thereby established, be accountable to the Company for any remuneration or other benefit which he or any other person derives from any such office or employment or from any such transaction or arrangement or from acting in a professional capacity or from any interest in any such undertaking or body corporate,

- (ii) no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or remuneration or other benefit, and
- (iii) receipt of any such remuneration or other benefit shall not constitute a breach of his duty under section 176 of the Act

15 2 For the purposes of this article 15 a director shall be deemed to have disclosed the nature and extent of an interest which consists of him being a director, officer or employee of any Group Company

15 3 For the purposes of this article 15 a conflict of interest includes a conflict of interest and a conflict of duties

## 16 **DIRECTORS' CONFLICTS**

16 1 For the purposes of section 175 of the Act, the directors may authorise any matter proposed to them which would, if not so authorised, constitute or give rise to an infringement of duty by a director under that section

16 2 Any authorisation of a matter pursuant to article 16 1 shall extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised

16 3 Any authorisation of a matter under article 16 1 shall be subject to such conditions or limitations as the directors may specify, whether at the time such authorisation is given or subsequently, and may be terminated or varied by the directors at any time. A director shall comply with any obligations imposed on him by the directors pursuant to any such authorisation

16 4 A director shall not, by reason of his office or the fiduciary relationship thereby established, be accountable to the Company for any remuneration or other benefit which derives from any matter authorised by the directors under article 16 1 and any transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such remuneration or other benefit or on the ground of the director having any interest as referred to in the said section 175

16 5 A director shall be under no duty to the Company with respect to any information which he obtains or has obtained otherwise than as a director or officer or employee of the Company and in respect of which he owes a duty of confidentiality to another person. However, to the extent that his connection with that other person conflicts, or possibly may conflict, with the interests of the Company, this article 16 5 applies only if the existence of that connection has been authorised by the directors under article 16 1 above. In particular, the director shall not be in breach of the general duties he owes to the Company by virtue of sections 171 to 177 of the Act because he fails

- (a) to disclose any such information to the directors or to any director or other officer or employee of the Company, and/or

- (b) to use any such information in performing his duties as a director or officer or employee of the Company

16 6 Where the existence of a director's connection with another person has been authorised by the directors under article 16 1 and his connection with that person conflicts, or possibly may conflict, with the interests of the Company, the director shall not be in breach of the general duties he owes to the Company by virtue of sections 171 to 177 of the Act because he

- (a) absents himself from meetings of the directors or any committee thereof at which any matter relating to the conflict of interest or possible conflict of interest will or

may be discussed or from the discussion of any such matter at a meeting or otherwise, and/or

- (b) makes arrangements not to receive documents and information relating to any matter which gives rise to the conflict of interest or possible conflict of interest sent or supplied by the Company and/or for such documents and information to be received and read by a professional adviser,

for so long as he reasonably believes such conflict of interest (or possible conflict of interest) subsists

16 7 The provisions of articles 16 5 and 16 6 are without prejudice to any equitable principle or rule of law which may excuse the director from

- (a) disclosing information, in circumstances where disclosure would otherwise be required under these articles or otherwise,
- (b) attending meetings or discussions or receiving documents and information as referred to in article 16 6 in circumstances where such attendance or receiving such documents and information would otherwise be required under these articles

## 17 APPOINTMENT AND REMOVAL OF DIRECTORS

17 1 For so long as New Wave holds 20 per cent of the issued Shares in the Company it shall have the right from time to time to appoint two persons to be non-executive directors of the Company or for so long as New Wave holds 10 per cent of the issued Shares in the Company it shall have the right from time to time to appoint one person to be a non-executive director of the Company (the "**New Wave Directors**" and each individually, a "**New Wave Director**") and to remove from office any person so appointed and to appoint another person in his place New Wave shall also be entitled to require that each of the New Wave Directors be appointed as a non-executive director of each subsidiary of the Company and to be appointed to (a) any committee or sub-committee of or established by the Board (or any committee thereof) and (b) any committee or sub-committee of or established by the board of directors of any subsidiary Any New Wave Director must be a member of New Wave

17 2 Any appointment or removal pursuant to article 17 1 shall be in writing served on the Company and signed by New Wave and shall take effect at the time it is served on the Company Such appointment or removal (which may consist of several documents) may be signed by or on behalf of New Wave by any New Wave member, by its duly appointed attorney or by its duly authorised representative.

17 3 If, at any time, the New Wave Directors have not been appointed under this article 17 then references in this agreement and the Articles to the requirements to obtain the consent or approval or comply with the directors or requests of, or provide documents, notices or other information to, the New Wave Directors shall be replaced by a requirement to obtain such consents or approvals, or comply with the directors or requests of, or provide such documents, notices or other information to New Wave

17 4 For so long as New Wave holds any Shares it shall, subject to the consent of the Board (such consent not to be unreasonably withheld or delayed), have the right on either of the New Wave Directors ceasing to be a director of the Company to appoint an observer (the "**New Wave Observer**") and to remove any person so appointed and appoint another person in his place The New Wave Observer shall have the right to attend in person or by teleconference all meetings of the Board and of the board of each subsidiary of the Company The New Wave Observer shall be given all information which a director would be entitled to receive and to receive that information (including notice of meetings) at the same time as is provided to such directors The New Wave Observer shall be entitled to

attend and speak at any such meetings but shall not be entitled to vote thereat, nor shall a New Wave Observer be regarded as an officer of the Company or any member of the Group

17 5 Model Article 18 shall be amended by the addition of the following events causing a person to cease being a director

- (a) being a director designated a New Wave Director, a notice being served by holders entitled to give such notice on the Company removing him from the office,
- (b) in the case of an executive director only, his ceasing, for whatever reason, to be employed by or provide services to the Company or any subsidiary of the Company, or
- (c) being a director of the Company, other than one designated as a New Wave Director, his being removed by a notice in writing to the Company signed by or on behalf of holders accounting for more than 50 per cent of the Ordinary Shares and such removal shall take effect upon the notice being received at the registered office of the Company or upon presentation at a board meeting or general meeting of the Company or upon such later date as may be specified in the notice

## 18 **ALTERNATE DIRECTORS**

18 1 Any director (the "**appointor**") may appoint as an alternate any other director, or any other person (who, except in the case of a New Wave Director, must be approved by resolution or other decision of the directors) to

- (a) exercise that director's powers, and
- (b) carry out that director's responsibilities,

in relation to the taking of decisions by the directors in the absence of the alternate's appointor

18 2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the directors

18 3 The notice must

- (a) identify the proposed alternate, and
- (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice

18 4 An alternate director has the same rights, in relation to any directors' meeting, and all meetings of committees of directors of which the appointor is a member, or directors' written resolution, or other decision of the directors reached in accordance with Model Article 8, as the alternate's appointor For the purposes of Model Article 8(1) and 8(2) (Unanimous decisions) if an alternate director indicates that he shares the common view, his appointor need not also indicate that he shares the common view and if a resolution is signed by an alternate director (or to which an alternate director has indicated his agreement in writing), it need not also be signed or so agreed to by his appointor

18 5 Except as the articles specify otherwise, alternate directors

- (a) are deemed for all purposes to be directors,
- (b) are liable for their own acts and omissions,

- (c) are subject to the same restrictions as their appointors, and
  - (d) are not deemed to be agents of or for their appointors
- 18 6 A person who is an alternate director but not a director
- (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating), and
  - (b) may sign (or otherwise indicate his agreement in writing to) a written resolution (but only if that person's appointor has not signed or otherwise indicated his agreement in writing to such written resolution)
- No alternate may be counted as more than one director for such purposes
- 18 7 A director who is an alternate director has an additional vote on behalf of each appointor who is
- (a) not participating in a directors' meeting; and
  - (b) would have been entitled to vote if they were participating in it
- 18 8 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company
- 18 9 Model Article 20 (Directors' expenses) is modified by the addition of the words "(including alternate directors)" before the words "properly incur"
- 18 10 An alternate director's appointment as an alternate terminates
- (a) when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate,
  - (b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director,
  - (c) on the death of the alternate's appointor, or
  - (d) when the alternate's appointor's appointment as a director terminates

19 **SECRETARY**

It shall not be necessary for the Company to have a secretary

20 **INDEMNITY AND BENEFITS**

- 20 1 Subject to the provisions of the Companies Acts (but so that this article does not extend to any matter insofar as it would cause this article or any part of it to be void under the Companies Acts) but without prejudice to any indemnity to which the person concerned may otherwise be entitled, every person who is or was at any time a director of the Company or any Group Company shall be indemnified out of the assets of the Company against all costs, charges, expenses, losses or liabilities (together "**Liabilities**") which he may sustain or incur in or about the actual or purported execution and/or discharge of his duties (including those duties, powers and discretions in relation to any Group Company or any company that is a trustee of an occupational pension scheme (as defined in section 235(6) of the Act)) and/or the actual or purported exercise of his powers or discretions and/or otherwise in relation thereto or in connection therewith, including (without

prejudice to the generality of the foregoing) any Liability suffered or incurred by him in disputing, defending, investigating or providing evidence in connection with any actual or threatened or alleged claims, demands, investigations, or proceedings, whether civil, criminal, or regulatory or in connection with any application under section 661(3), section 661(4) or section 1157 of the Act

20 2 The Company may also provide funds to any director of the Company or of any Group Company to meet, or do anything to enable a director of the Company or any Group Company to avoid incurring, expenditure to the extent permitted by the Companies Acts

20 3 Without prejudice to any other provisions of these articles, the directors shall exercise all the powers of the Company to purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors of the Company, or of any other Group Company or any other body which is or was otherwise associated with the Company or any Group Company or any other body in which the Company or any such Group Company has or had any interest, whether direct or indirect, or of any predecessor in business of any of the foregoing, (together with Group Companies, "**Associated Companies**") or who are or were at any time trustees of (or directors of trustees of) any pension, superannuation or similar fund, trust or scheme or any employees' share scheme or other scheme or arrangement in which any employees of the Company or of any such other body are interested, including (without prejudice to the generality of the foregoing) insurance against any costs, charges, expenses, losses or liabilities suffered or incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or the actual or purported exercise of their powers and discretions and/or otherwise in relation to or in connection with their duties, powers or offices in relation to the Company or any such other body, fund, trust, scheme or arrangement

20 4 The Directors may exercise all the powers of the Company to give or award pensions, annuities, gratuities or other retirement, superannuation, death or disability allowances or benefits (whether or not similar to the foregoing) to (or to any person in respect of) any persons who are or have at any time been directors of the Company or of any Associated Company, and to the spouses, civil partners, former spouses and former civil partners, children and other relatives and dependants of any such persons and may establish, maintain, support, subscribe to and contribute to all kinds of schemes, trusts and funds (whether contributory or non-contributory) for the benefit of such persons as are hereinbefore referred to or any of them or any class of them, and so that any director or former director shall be entitled to receive and retain for his own benefit any such pension, annuity, gratuity, allowance or other benefit (whether under any such trust, fund or scheme or otherwise)

20 5 Without prejudice to any other provisions of these articles, the directors may exercise all the powers of the Company to establish, maintain, and contribute to any scheme for encouraging or facilitating the holding of shares in the Company or in any Associated Company by or for the benefit of current or former directors of the Company or any such body corporate or the spouses, civil partners, former spouses, former partners, families, connections or dependants of any such persons and, in connection with any such scheme, to establish, maintain and contribute to a trust for the purpose of acquiring and holding shares in the Company or any such body corporate and to lend money to the trustees of any such trust or to any individual referred to above

20 6 Model Articles 52 (indemnity) and 53 (insurance) shall not apply to the Company

## 21 **LIEN ON SHARES**

21 1 The Company has a first and paramount lien on all shares (whether or not such shares are fully paid) standing registered in the name of any person indebted or under any liability to the Company, whether he is the sole registered holder thereof or is one of two or more

joint holders, for all moneys payable by him or his state to the Company (whether or not such moneys are presently due and payable)

21 2 The Company's lien over shares

- (a) takes priority over any third party's interest in such shares, and
- (b) extends to any dividend or other money payable by the Company in respect of such shares and (if the Company's lien is enforced and such shares are sold by the Company) the proceeds of sale of such shares

21 3 The directors may at any time decide that a share which is or would otherwise be subject to the Company's lien shall not be subject to it, either wholly or in part

- (a) Subject to the provisions of this article 21, if -
  - (i) a notice of the Company's intention to enforce the lien ("**lien enforcement notice**") has been sent in respect of the shares, and
  - (ii) the person to whom the lien enforcement notice was sent has failed to comply with it

the Company may sell those shares in such manner as the directors decide

- (b) A lien enforcement notice -
  - (i) may only be sent in respect of shares if a sum is payable to the Company by the sole registered holder or one of two or more joint registered holders of such shares and the due date for payment of such sum has passed,
  - (ii) must specify the shares concerned,
  - (iii) must include a demand for payment of the sum payable within 14 days,
  - (iv) must be addressed either to the holder of such shares or to a person entitled to such shares by reason of the holder's death, bankruptcy or otherwise, and
  - (v) must state the Company's intention to sell the shares if the notice is not complied with

- (c) If shares are sold under this article 21 -
  - (i) the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser, and
  - (ii) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale
- (d) The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied -
  - (i) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice, and
  - (ii) second, in payment to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the company for cancellation or a suitable indemnity has been given for

any lost certificates, and subject to a lien equivalent to the company's lien over the shares before the sale for any money payable in respect of the shares after the date of the lien enforcement notice

- (e) A statutory declaration by a director or the secretary that the declarant is a director or the secretary and that a share has been sold to satisfy the Company's lien on a specified date -
  - (i) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
  - (ii) subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the share

## 22 CALLS ON SHARES AND FORFEITURE

- 22 1 (a) Subject to the Articles and the terms on which shares are allotted, the directors may send a notice (a "**call notice**") to a member requiring the member to pay the Company a specified sum of money (a "**call**") which is payable in respect of shares which that member holds at the date when the directors decide to send the call notice
- (b) A call notice -
  - (i) may not require a member to pay a call which exceeds the total sum unpaid on that member's shares (whether as to the share's nominal value or any amount payable to the Company by way of premium),
  - (ii) must state when and how any call to which it relates is to be paid, and
  - (iii) may permit or require the call to be paid by instalments
- (c) A member must comply with the requirements of a call notice, but no member is obliged to pay any call before 14 days have passed since the call notice was sent
- (d) Before the Company has received any call due under a call notice the directors may -
  - (i) revoke it wholly or in part, or
  - (ii) specify a later time for payment than is specified in the call notice,by a further notice in writing to the member in respect of whose shares the call was made
- 22 2 (a) Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which the call is required to be paid
- (b) Joint holders of a share are jointly and severally liable to pay all calls in respect of that share
- (c) Subject to the terms on which shares are allotted, the directors may, when issuing shares, make arrangements for a difference between the holders in the amounts and times of payment of calls on their shares
- 22 3 (a) A call notice need not be issued in respect of sums which are specified, in the terms on which a share is allotted, as being payable to the Company in respect of that share (whether in respect of nominal value or premium) -



- (i) on allotment,
  - (ii) on the occurrence of a particular event, or
  - (iii) on a date fixed by or in accordance with the terms of issue
- (b) But if the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture
- 22 4 (a) If a person is liable to pay a call and fails to do so by the call payment date -
- (i) the directors may send a notice of forfeiture (a "**forfeiture notice**") to that person, and
  - (ii) until the call is paid, that person must pay the Company interest on the call from the call payment date at the relevant rate
- (b) For the purposes of this article 22 -
- (i) the "**call payment date**" is the date on which the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "call payment date" is that later date, and
  - (ii) the "**relevant rate**" is the rate fixed by the terms on which the share in respect of which the call is due was allotted or, if no such rate was fixed when the share was allotted, five percent per annum
- (c) The relevant rate must not exceed by more than five percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998
- (d) The directors may waive any obligation to pay interest on a call wholly or in part
- 22 5 A forfeiture notice.-
- (a) may be sent in respect of any share in respect of which a call has not been paid as required by a call notice,
  - (b) must be sent to the holder of that share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise,
  - (c) must require payment of a call and any accrued interest by a date which is not less than 14 days after the date of the forfeiture notice;
  - (d) must state how the payment is to be made, and
  - (e) must state that if the forfeiture notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited
- 22 6 If a forfeiture notice is not complied with before the date by which payment of the call is required in the forfeiture notice, the directors may decide that any share in respect of which it was given is forfeited and the forfeiture is to include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture
- 22 7 (a) Subject to the following provisions of this article 22 7, the forfeiture of a share extinguishes -

- (i) all interests in that share, and all claims and demands against the Company in respect of it, and
    - (ii) all other rights and liabilities incidental to the share as between the person in whose name the share is registered and the Company
  - (b) Any share which is forfeited -
    - (i) is deemed to have been forfeited when the directors decide that it is forfeited,
    - (ii) is deemed to be the property of the Company, and
    - (iii) may be sold, re-allotted or otherwise disposed of as the directors think fit
  - (c) If a person's shares have been forfeited -
    - (i) the Company must send that person notice that forfeiture has occurred and record it in the register of members,
    - (ii) that person ceases to be a member in respect of those shares,
    - (iii) that person must surrender the certificate for the shares forfeited to the Company for cancellation,
    - (iv) that person remains liable to the Company for all sums due and payable by that person at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture), and
    - (v) the directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal
  - (d) At any time before the Company disposes of a forfeited share, the directors may decide to cancel the forfeiture on such terms as they think fit
- 22 8
- (a) If a forfeited share is to be disposed of by being transferred, the Company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer
  - (b) A statutory declaration by a director or the secretary that the declarant is a director or the secretary and that a share has been forfeited on a specified date -
    - (i) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
    - (ii) subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the share
  - (c) A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share
  - (d) If the company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the Company the proceeds of such sale, net of any commission, and excluding any amount which -
    - (i) was, or would have become, payable, and

- (ii) had not, when that share was forfeited, been paid by that person in respect of that share,

but no interest is payable to such a person in respect of such proceeds and the Company is not required to account for any money earned on them

- 22 9 (a) A member may surrender any share -
- (i) in respect of which the directors may issue a forfeiture notice,
  - (ii) which the directors may forfeit, or
  - (iii) which has been forfeited
- (b) The directors may accept the surrender of any such share
- (c) The effect of surrender on a share is the same as the effect of forfeiture on that share
- (d) A share which has been surrendered may be dealt with in the same way as a share which has been forfeited

## 23 **CONSOLIDATION OF SHARES**

- 23 1 (a) This article 23 applies in circumstances where
- (i) there has been a consolidation of shares, and
  - (ii) as a result, members are entitled to fractions of shares
- (b) The directors may
- (i) sell the shares representing the fractions to any person including the Company for the best price reasonably obtainable, and
  - (ii) authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser
- (c) Where any holder's entitlement to a portion of the proceeds of sale amounts to less than a minimum figure determined by the directors, that member's portion may be distributed to an organisation which is a charity for the purposes of the law of England and Wales, Scotland or Northern Ireland
- (d) A person to whom shares are transferred is not obliged to ensure that any purchase money is received by the person entitled to the relevant fractions
- (e) The transferee's title to the shares is not affected by any irregularity in or invalidity of the process leading to their sale

## 24 **COMMISSIONS**

- 24 1 The Company may pay any person a commission in consideration for that person
- (a) subscribing, or agreeing to subscribe, for shares, or
  - (b) procuring, or agreeing to procure, subscriptions for shares
- 24 2 Any such commission may be paid

(a) in cash, or in fully paid or partly paid shares or other securities, or partly in one way and partly in the other, and

(b) in respect of a conditional or an absolute subscription

**25 DIVIDENDS**

25 1 Model Article 30(2) (dividend not to exceed the amount recommended by the directors) shall not apply

25 2 In Model Article 34 (non-cash distributions) the words "on the recommendation" shall be replaced by the words "or by a resolution or other decision of"

**26 DEEMED DELIVERY OF DOCUMENTS AND INFORMATION**

26 1 Any notice, document or other information sent or supplied by the Company

(a) sent by post (whether in hard copy or electronic form) to an address in the United Kingdom (provided that the Company is able to show that it (or the envelope) was properly addressed, prepaid and posted) shall be deemed to have been received by the intended recipient on the day following that on which it (or an envelope containing it) was put in the post if first class post was used or 48 hours after it was posted if first class post was not used,

(b) sent or supplied by electronic means, (provided that the Company is able to show that it was properly addressed) shall be deemed to have been received by the intended recipient on the day on which it was sent or supplied,

(c) sent or supplied by means of a website, shall be deemed to have been received by the intended recipient

(i) when the material was first made available on the website, or

(ii) if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website,

(d) left at a shareholder's registered address or such other postal address as notified by the shareholder to the Company for the purpose of receiving company communications, shall be deemed to have been received on the day it was left

26 2 The provisions of articles 26 1(a) 26 1(b), 26 1(c), and 26 1(d) shall apply to the service of a Come Along Notice (but with references therein to the "Company" being treated as references to the Calling Shareholders)

26 3 For the purposes of this article, no account shall be taken of any part of a day that is not a working day

26 4 A shareholder whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notice may be given to him, or an address to which notices may be sent by electronic means, shall be entitled to have notices, documents or other information sent to him at that address, but otherwise no such shareholder shall be entitled to receive any notice, document or other information from the Company