

THE COMPANIES ACTS 1985 -1989

COMPANY LIMITED BY SHARES

WRITTEN RESOLUTIONS

of

THOMSON & SHEPHERD INVESTORS LIMITED (the Company)

We, being the sole members of the Company entitled to receive notice and attend and vote at general meetings of the Company **UNANIMOUSLY PASS** the following resolutions of the Company pursuant to regulation 53 of Table A scheduled to the Companies (Tables A to F) Regulations 1985 (as amended), such regulations being incorporated into the Company's articles of association by article 1 of such articles of association:

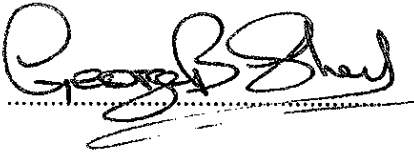
RESOLUTIONS

- 1 Each of the 24,002 issued ordinary shares of £1.00 in the share capital of the Company held equally between George Blake Shepherd and Deborah Zoe Thomson be re-designated as A ordinary shares of £1.00 each having the rights set out in the Articles of Association to be adopted pursuant to resolution 6 below.
- 2 998 authorised but unissued shares of £1.00 each in the capital of the Company be re-designated as A ordinary shares of £1.00 each having the rights set out in the Articles of Association to be adopted pursuant to resolution 6 below.
- 3 25,000 authorised but unissued shares of £1.00 each in the capital of the Company be re-designated as B ordinary shares of £1.00 each having the rights set out in the Articles of Association to be adopted pursuant to resolution 6 below.
- 4 To authorise the board generally and unconditionally to exercise all powers of the Company to allot, grant options over, offer or otherwise deal with or dispose of relevant securities (within the meaning of section 80 of the Companies Act 1985) up to an aggregate nominal amount of £50,000 provided that this authority shall expire on the fifth anniversary from the passing of this resolution.



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- 5 That subject to the passing of resolution 6 below, the allotment of 12,001 B Ordinary Shares to Gordon Alexander Wilson be and is hereby approved.
- 6 That the regulations contained in the document attached to this resolution and marked A be approved and adopted as the articles of association of the Company in substitution for and to the exclusion of all existing articles of association.



George Blake Shepherd

02-04-02

Date



Deborah Zoe Thomson

02-04-02

Date

Company No: SC 188650

The Companies Acts 1985 and 1989

COMPANY LIMITED BY SHARES

NEW

ARTICLES OF ASSOCIATION

OF

THOMSON & SHEPHERD INVESTORS LIMITED

(Adopted by Special Resolution passed on 2nd April, 2002)



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THE COMPANIES ACT 1985 AND 1989

PRIVATE COMPANY

LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

THOMSON & SHPEHERD INVESTORS LIMITED

(adopted by Special Resolution passed on 2nd April, 2002)

1 DEFINITIONS AND INTERPRETATION

1.1 In these Articles, unless the context otherwise requires:

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

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

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

Bad Leaver means a person (other than a Good Leaver) who for any reason and in any circumstances ceases to be either an employee or director and following which is a Relevant Member in respect of whom a Transfer Event occurs provided always that the Board may resolve that he shall nevertheless be treated as a Good Leaver;

Change of Control means the acquisition whether by purchase, transfer, renunciation or otherwise but excluding a transfer of Shares made in accordance with Article 4 (other than Article 4.3) by any person not an original party to the Subscription Agreement (a **Third Party Purchaser**) of any interest in any Shares if, upon completion of that acquisition, the Third Party Purchaser, together with persons acting in concert or connected with him (excluding any person who was an original party to the Shareholders Agreement), would hold more than 50 per cent of the voting rights attached to the issued Shares;

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

Deemed Transfer Notice has the meaning ascribed to it in Article 6.2;

Good Leaver refers to a Relevant Member who ceases to be a director or employee (other than a person who has been declared bankrupt) as a result of:

- (i) death, illness (including mental illness), permanent disability, permanent incapacity through ill health;
- (ii) dismissal from employment by a Group Company other than for reasons of gross misconduct or fraud; or
- (iii) notice being given by the Company or the Relevant Member in accordance with the Relevant Members' contract of employment or service agreement;

Group means the Company and all its subsidiaries and subsidiary undertakings for the time being and **member of the Group and Group Company** shall be construed accordingly;

Investor means the Investor, as defined in the Shareholders Agreement;

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

Member means any registered holder of Shares for the time being;

A Ordinary Shares means the A ordinary shares of £1.00 each in the capital of the Company;

B Ordinary Shares means the B ordinary shares of £1.00 each in the capital of the Company;

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

rights attached thereto or an agreement to enter into such disposal or the grant of a right to compel entry into such an agreement;

Shares means the A Ordinary Shares and the B Ordinary Shares;

Shareholders Agreement means the Agreement relating to the Company dated the same date as the adoption of these Articles and made between the Company (1), Gordon Alexander Wilson (2), George Blake Shepherd (3), and Deborah Zoe Thomson (4), as amended, waived, restated, modified or supplemented for the time being;

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

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

Valuers means the Auditors unless the Auditors give notice to the Company that they decline an instruction to report on Market Value when the Valuers shall be a firm of chartered accountants agreed between the Vendor (as defined in Article 5.1) and the Board or, in default of agreement within ten business days of the first name being proposed by either of them, as appointed by the President of the Institute of Chartered Accountants of Scotland on the application of the Vendor or the Board.

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

2 AUTHORISED SHARE CAPITAL

- 2.1 The authorised share capital of the Company at the date of the adoption of these Articles is £50,000 divided into 25,000 A Ordinary Shares and 25,000 B Ordinary Shares.
- 2.2 The A Ordinary Shares and the B Ordinary Shares shall rank equally in all respects but shall constitute a separate class of shares save that the A Ordinary Shares shall together have 50% voting rights and the B Ordinary Shares shall together have 50% voting rights.
- 2.3 Subject to the Act and to Article 2.6, all unissued Shares in the Company shall be under the control of the directors and they may offer, allot, grant rights or warrants to subscribe for, grant options over, or otherwise deal with or dispose of unissued shares in the Company to such persons and generally on such terms in such manner and at such times as they may determine.
- 2.4 Section 89(1) and Sections 90(1) to (6) of the Act shall not apply to the Company.
- 2.5 Subject to Article 2.6, the Directors of the Company are hereby authorised pursuant to section 80 of the Act generally to exercise each and every power of the Company to allot relevant securities (as defined in that section) up to a maximum amount in nominal value equal to the authorised share capital on adoption of these Articles, such authority to expire on the day immediately preceding the fifth anniversary of the adoption of these Articles.
- 2.6 All shares which are not comprised in the authorised share capital at the date of these articles and which the Directors propose to issue shall first be offered to the Members in proportion as nearly as may be to the number of existing Shares held by them respectively. The offer shall be made by notice specifying the number of shares offered, the class of shares and limiting a period (not being less than fourteen days) within which the offer, if not accepted, shall be deemed to be declined. After the expiration of that period, those shares so deemed to be declined shall be offered to the persons who have, within the said period, accepted all the shares offered to them, such further offer shall be made in like terms save that Members may take up more than their proportionate entitlement to the extent that any Members offered shares do not take up their proportionate entitlement (provided always that in the event of competition such excess /

excess shares will be distributed in accordance with the proportionate entitlements of the competing members) in the same manner and limited by a like period as the original offer. Any shares not accepted pursuant to such offer or further offer as aforesaid except by way of fractions and any shares released from the provisions of this article by any such special resolution as aforesaid shall be under the control of the Directors, who may allot, grant options and otherwise dispose of the same to such persons, on such terms as in such manner as they think fit, provided that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of on terms which are more favourable to the subscribers therefor than the terms on which they were offered to the Members. The foregoing provisions of this article 6.4 shall have effect subject to section 80 of the Act.

- 2.7 If the holders of B Ordinary Shares are allotted A Ordinary Shares pursuant to this article 2, the A Ordinary Shares so allotted shall be immediately re-designated as B Ordinary Shares.
- 2.8 If the holders of A Ordinary Shares are allotted B Ordinary Shares pursuant to this article 2, the B Ordinary Shares so allotted shall be immediately re-designated as A Ordinary Shares.

3 TRANSFER OF SHARES - GENERAL

- 3.1 The Board shall not register the transfer of any Share or any interest in any Share unless the transfer:
 - 3.1.1 is permitted by Article 4 (Permitted Transfers); or
 - 3.1.2 is made in accordance with Article 5 (Voluntary Transfer), Article 6 (Compulsory Transfer), or Article 7 (Tag Along);
- 3.2
 - 3.2.1 for the purpose of ensuring that a transfer of Shares is in accordance with these Articles or that no circumstances have arisen whereby a Member may be bound to give or be deemed to have given a Transfer Notice the Board may from time to time require any Member or any person named as transferee in any transfer lodged for registration to furnish to the Board such information and evidence as they reasonably deem relevant for such purpose.

- 3.2.2 if such information or evidence requested under Article 3.2.1 discloses to the reasonable satisfaction of the Board that circumstances have arisen whereby a Member may be bound to give or be deemed to have given a Transfer Notice the Board may by notice in writing to the Member(s) concerned require that a Transfer Notice be given in respect of the Shares concerned.
- 3.3 An obligation to transfer a Share under these Articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free from any lien, charge or other encumbrance.
- 3.4 If pursuant to the provisions of Articles 4, 5, or 6 the holders of B Ordinary Shares acquire any A Ordinary Shares, upon completion of such transfer such A Ordinary Shares shall immediately be re-designated as B Ordinary Shares. The provisions of this clause shall apply mutatis mutandis to a transfer of B Ordinary Shares to an A Shareholder.

4 PERMITTED TRANSFERS

4.1 Definitions

For the purposes of Article 4, Article 5 and Article 6:

- 4.1.1 **Family Member** means, in relation to a Member, any of his spouse (or widow or widower), children and grandchildren (including step and adopted children and grandchildren);
- 4.1.2 **Family Trust** means, in relation to a Member, a trust which does not permit any of the settled property or the income from it to be applied otherwise than for the benefit of that Member or any of his Family Members or any charity and under which no power of control over the voting powers conferred by any Ordinary Shares the subject of the trust is capable of being exercised by, or being subject to the consent of, any person other than the trustees or such Member or any of his Family Members;
- 4.1.3 **permitted transfer** means any transfer of Shares permitted under Article 4.2 to 4.4 inclusive.
- 4.2 Transfers to relations and trustees

- 4.2.1 Subject to Articles 4.2.2 to 4.2.4 inclusive any Member who is an individual may at any time during his lifetime transfer Shares to a person or persons shown to the reasonable satisfaction of the Board to be:
- (a) a Family Member of his; or
 - (b) trustees to be held under a Family Trust for that Member.
- 4.2.2 Where Shares are held by trustees under a Family Trust:
- (a) those Shares may, on any change of trustees, be transferred by those trustees to any new trustee of that Family Trust;
 - (b) those Shares may at any time be transferred by those trustees to the settlor of that trust or any other person to whom that settlor could have transferred them under Article 4.2.1 if he had remained the holder of them; and
 - (c) if and whenever any of those Shares cease to be held under a Family Trust (other than by virtue of a transfer made under Article 4.2.2(b), the trustees shall forthwith give a Transfer Notice (as defined in Article 5.1) in respect of all the Shares then held by those trustees and in any event within 28 days of the Shares ceasing to be so held.
- 4.2.3 if any person has acquired Shares as a Family Member of a Member by way of one or more permitted transfers and that person ceases to be a Family Member of that Member, that person shall forthwith transfer all the Shares then held by that person back to that Member, for such consideration as they agree, within 28 days of the cessation or, in default of such agreement, at the Market Value (calculated in accordance with Article 5.5).
- 4.2.4 if the personal representatives of a deceased Member are permitted under these Articles to become registered as the holders of any of the deceased Member's Shares and elect to do so, such Shares may at any time be transferred by those personal representatives under this Article 4.2 to any person to whom the deceased Member could have transferred such Shares under this Article 4 if he had remained the holder of them. No other transfer of such Shares by personal representatives shall be permitted under this Article 4.

4.3 A Member may transfer Shares to any person at any time with the prior written consent of the holders of all the equity share capital of the Company for the time being.

4.4 *Transfers of entire interest*

A transfer of any Share pursuant to this Article 4 shall only be treated as a permitted transfer for the purposes of these Articles if it is a transfer of the entire legal and beneficial interest in such share, free from any lien, charge or other encumbrance (save for any interest of beneficiaries under the relevant Family Trust, where applicable).

5 VOLUNTARY TRANSFERS

5.1 Except as permitted under Article 4 (Permitted Transfers), any Member who wishes to transfer any Share (a **Vendor**) shall before transferring or agreeing to transfer such Share or any interest in it, serve notice in writing (a **Transfer Notice**) on the Company of his wish to make that transfer.

5.2 In the Transfer Notice the Vendor shall specify:

5.2.1 the number of Shares (**Sale Shares**) which he wishes to transfer;

5.2.2 the identity of the person (if any) to whom the Vendor wishes to transfer the Sale Shares;

5.2.3 the price per share at which the Vendor wishes to transfer the Sale Shares (the **Proposed Sale Price**);

5.2.4 any other terms relating to the transfer of the Sale Shares; and

5.2.5 whether the Transfer Notice is conditional upon all (and not part only) of the Sale Shares being sold pursuant to the following provisions of this Article 5 (a **Total Transfer Condition**).

5.3 Each Transfer Notice shall:

5.3.1 relate to one class of Shares only;

5.3.2 constitute the Company as the agent of the Vendor for the sale of the Sale Shares on the terms of this Article 5;

5.3.3 save as provided in Article 5.8, be irrevocable.

- 5.4 The Sale Shares shall be offered for purchase in accordance with this Article 5 at a price per Sale Share (the **Sale Price**) agreed between the Vendor and the Board or in default of such agreement by the end of the 15th business day after the date of service of the Transfer Notice:
- 5.4.1 if the Board so elects within that 15 business day period days after the date of service of the Transfer Notice, the price per share reported on by the Valuers as their written opinion of the open market value of each Sale Share (the **Market Value**) as at the date of service of the Transfer Notice (in which case for the purposes of these Articles the Sale Price shall be deemed to have been determined on the date of the receipt by the Company of the Valuer's report); and
- 5.4.2 otherwise shall be the Proposed Sale Price, in which case for the purpose of these Articles the Sale Price shall be deemed to have been agreed at the end of that 15th business day.
- 5.5 If instructed to report on their opinion of Market Value under Article 5.4.2 the Valuers shall:
- 5.5.1 act as expert and not as arbitrator and their written determination shall be final and binding on the Members; and
- 5.5.2 proceed on the basis that the open market value of each Sale Share shall be the sum which a willing purchaser would agree with a willing vendor to be the purchase price for all the Shares of which the Sale Shares form part, divided by the number of issued Shares and shall not take into account whether the Sale Shares comprise a minority or majority interest in the Company.
- 5.6 The Company will use its reasonable endeavours to procure that the Valuers deliver their written opinion of the Market Value to the Board and to the Vendor within 28 days of being requested to do so.
- 5.7 The Valuers' fees for reporting on their opinion of the Market Value shall be borne as the Valuers shall specify in their valuation or otherwise (in the absence of any specification by the Valuer) as to one half by the Vendor and as to the other half by the Company/

Company unless the Vendor revokes the Transfer Notice pursuant to Article 5.8 when the Vendor shall pay all the Valuers' fees.

- 5.8 If the Market Value is reported on by the Valuers under Article 5.4.2 to be less than the Proposed Sale Price, the Vendor may revoke the Transfer Notice by written notice given to the Board within the period (the **Withdrawal Period**) of five business days after the date the Board serves on the Vendor the Valuers' written opinion of the Market Value.
- 5.9 The Company shall as soon as practicable following receipt of a Transfer Notice or, where later, upon the determination of the Market Value or, where later upon the expiry of the period for revocation referred to in Article 5.8 give notice in writing to each of the members of the Company informing them that the Sale Shares are available and of the Transfer Price and shall invite each member to state in writing within forty-two days from the date of the said notice (which date shall be specified therein) whether he is willing to purchase any and, if so, how many of the Sale Shares.
- 5.10 The Sale Shares shall be offered to each class of shareholder on terms that in the event of competition the Sale Shares offered shall be sold to the members accepting the offer in proportion (as nearly as may be) to their existing holdings of Shares (the **Proportionate Entitlement**). It shall be open to each such member to specify if he is willing to purchase Shares in excess of his proportionate entitlement (**Excess Shares**) and if the member does so specify he shall state the number of Excess Shares.
- 5.11 After the expiry of the offer to be made pursuant to Article 5.9 above or sooner if all the Sale Shares offered shall have been accepted in the manner provided in Article 5.10 above, the Board shall, in respect of the offer allocate the Sale Shares in the following manner:
- 5.11.1 if the total number of Sale Shares applied for is equal to or less than the available number of Sale Shares the Company shall allocate the number applied for in accordance with the applications; or
- 5.11.2 if the total number of Sale Shares applied for is more than the available number of Sale Shares, each member shall be allocated his Proportionate Entitlement or such lesser number of Sale Shares for which he may have applied and applications for Excess Shares shall be allocated in accordance with such applications or, in the event of competition, (as nearly as may be) to each member applying for Excess Shares in the proportion which Shares held

by such member bears to the total number of Shares held by all such members applying for Excess Shares provided that such member shall not be allocated more Excess Shares than he shall have stated himself willing to take,

and in either case the Company shall forthwith give notice of each such allocation (an **Allocation Notice**) to the Vendor and each of the persons to whom Sale Shares have been allocated (a **Member Applicant**) and shall specify in the Allocation Notice the place and time (being not later than fourteen days after the date of the Allocation Notice) at which the sale of the Sale Shares shall be completed.

5.12 Subject to article 5.13 below, upon such allocations being made as aforesaid, the Vendor shall be bound, on payment of the Transfer Price, to transfer the Sale Shares comprised in the Allocation Notices to the Member Applicants named therein at the time and place therein specified. If he makes default in so doing the Chairman for the time being of the Company or failing him one of the Directors or some other person duly nominated by a resolution of the Board for that purpose, shall forthwith be deemed to be the duly appointed attorney of the Vendor with full power to execute complete and deliver in the name and on behalf of the Vendor a transfer of the relevant Sale Shares to the Member Applicant and any Director may receive and give a good discharge for the purchase money on behalf of the Vendor and (subject to the transfer being duly stamped) enter the name of the Member Applicant in the register of members as the holder or holders by transfer of the Shares so purchased by him or them. The Board shall forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such money on trust (but without interest) for the Vendor until he shall deliver up his certificate or certificates for the relevant Shares (or an indemnity in a form reasonably satisfactory to the Board in respect of any lost certificate) to the Company when he shall thereupon be paid the purchase money.

5.13 If the Vendor shall have included in the Transfer Notice a provision that unless all the Sale Shares are sold none shall be sold and if the total number of Shares applied for by Member Applicants is less than the number of Sale Shares then the Allocation Notice shall refer to such provision and shall contain a further invitation open for 28 days to those persons to whom Sale Shares have been allocated to apply for further Sale Shares *and completion of the sales in accordance with the preceding paragraphs of this article shall be conditional upon such provision as aforesaid being complied with in full.*

5.14 In the event of all the Sale Shares not being sold under the preceding paragraphs of this article the Vendor may at any time within three calendar months after receiving

confirmation from the Company that the pre-emption provisions herein contained have been exhausted transfer any Sale Shares not sold to any person or persons at any price not less than the Transfer Price provided that:

5.14.1 if the Vendor stipulated in the Transfer Notice that unless all the Sale Shares were sold none should be sold, the Vendor shall not be entitled, save with the written consent of all the other members of the Company, to sell hereunder only some of the Sale Shares comprised in the Transfer Notice to such person or persons; and

5.14.2 any such sale shall be a bona fide sale and the Board may require to be satisfied in such manner as it may reasonably require that the Sale Shares are being sold in pursuance of a bona fide sale for not less than the Transfer Price without any deduction, rebate or allowance whatsoever to the purchaser and if not so satisfied may refuse to register the instrument of transfer.

6 COMPULSORY TRANSFERS

6.1 In this Article 6, a **Transfer Event** occurs, in relation to any Member:

Bankruptcy, death etc of individual

6.1.1 if that Member being an individual:

- (a) shall be declared bankrupt by any court of competent jurisdiction; or
- (b) shall make an offer to make any arrangement or composition with his creditors generally;
- (c) shall die; or
- (d) shall suffer from mental disorder and be admitted to hospital or shall become subject to any court order referred to in regulation 81(c) of Table A;

and in any such case and within the following six months the Board shall resolve that such event is a Transfer Event in relation to that Member for the purposes of this Article;

Ceasing to be director or employee in Group

6.1.2 subject to Article 6.4 if a Member who is at any time a director or employee of a member of the Group then:

- (a) if he shall cease to hold such office or employment (other than by circumstances falling within Articles 6.1.1(c) or 6.1.1(d); or
- (b) if the member of the Group of which he is a director or employee shall cease for any reason to be a member of the Group

and the Member does not remain or thereupon immediately become a director or employee of another company which is still a member of the Group, unless within that following six months the Board shall notify the Company that such event is not a Transfer Event in relation to that Member for the purposes of this Article;

Unauthorised attempted transfer

6.1.3 if a Member or any Family Member or the trustees of any Family Trust of a Member shall attempt to deal with or dispose of any Share or any interest in it otherwise than in accordance with these Articles and within the following six months the Board shall resolve that such event is a Transfer Event in relation to that Member for the purposes of this Article; or

Failure to serve Transfer Notice under specified provisions

6.1.4 if a Member shall for any reason not give a Transfer Notice in respect of any Shares or transfer any Shares (as the case may be) as required by Articles 3.2 or 4.3 and within the following six months the Board shall resolve that such event is a Transfer Event in relation to that Member for the purposes of this Article.

Consequences of Transfer Event determination

6.2 Subject to Article 6.4 upon the making of a notification or resolution under Article 6.1 that the same is a Transfer Event (as the case may be) the Member in respect of whom it is a Transfer Event (the **Relevant Member**) and any other Member who has acquired Shares from him under a permitted transfer (directly or by means of a series of two or more permitted transfers) shall be deemed to have immediately given a Transfer Notice

in respect of all the Shares then held by such Member(s) (a **Deemed Transfer Notice**). A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same Shares except for Shares which have then been validly transferred pursuant to that Transfer Notice. For the purpose of this Article 6.2, any Shares received by way of rights or on a capitalisation by any person to whom Shares may have been transferred (directly or by means of a series of two or more permitted transfers) shall also be treated as included within the Deemed Transfer Notice.

Offer for sale

6.3 The Shares the subject of any Deemed Transfer Notice shall be offered for sale in accordance with Article 5 as if they were Sale Shares in respect of which a Transfer Notice had been given and treating as the Vendor the person who is deemed to have given the Deemed Transfer Notice save that:

6.3.1 subject to Article 6.4, the Sale Price shall be a price per Sale Share agreed between the Vendor and the Board or, in default of agreement within 15 business days after the making of the notification or resolution under Article 6.1 that the same is a Transfer Event, the Market Value;

6.3.2 a Deemed Transfer Notice shall be deemed not to contain a Total Transfer Condition and shall not be irrevocable whether under Article 5.8 or otherwise;

6.3.3 the Vendor may retain any Sale Shares for which Purchasers are not found; and

6.3.4 Article 6.4 shall apply.

Special provision on ex director/employee

6.4 The Sale Price for any Sale Shares which are the subject of a Deemed Transfer Notice given as a consequence of a Transfer Event falling within Article 6.1.2 shall in the case where the Relevant Member is a Bad Leaver, be the lower of:

6.4.1 their Issue Price; and

6.4.2 their Market Value.

7 CHANGE OF CONTROL

- 7.1 Notwithstanding any other provision in these Articles no sale or transfer or other disposition of any interest in any Share (the **Specified Shares**) shall have any effect, if it would result in a Change of Control, unless before the sale, transfer or other disposition takes effect the Third Party Purchaser has made a bona fide offer in accordance with this Article to purchase at the specified price (defined in Article 7.3.2) all the Shares held by the Members (except any Member which has expressly waived its right to receive such an offer for the purpose of this Article).
- 7.2 An offer made under Article 7 shall be in writing, open for acceptance for at least 21 days, and shall be deemed to be rejected by any Member who has not accepted it in accordance with its terms within 28 days and the consideration under such an offer shall be settled in full on completion of the purchase and within 30 days of the date of the offer.
- 7.3 For the purposes of Article 7.1:
- 7.3.1 the expressions **transfer**, **transferor**, and **transferee** include respectively the renunciation of a renounceable letter of allotment and any renouncer and renounee of such letter;
- 7.3.2 the expression **specified price** means, in the case of both A Ordinary Shares and B Ordinary Shares the higher of:-
- (a) a price per share equal to the highest price paid or payable by the Third Party Purchaser or persons acting in concert with him or connected with him for any Shares within the last 6 months plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the specified shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as part of the overall consideration paid or payable for the specified shares;
 - (b) the price to be paid by the Third Party Purchaser for the specified shares; and

- (c) if the specified price or its cash equivalent for any shares of any class cannot be agreed within 21 days of the proposed sale, transfer or other disposition referred to in Article 7.1 it may be referred to the Valuers by any Member and, pending its determination, the sale, transfer or other disposition referred to in Article 7.1 shall have no effect.

8 NUMBER OF DIRECTORS AND APPOINTMENT OF CHAIRMAN

The number of directors shall not be less than two and there shall be no maximum number. Regulation 64 of Table A shall not apply.

9 ALTERNATE DIRECTORS

- 9.1 The words 'approved by resolution of the directors and' in regulation 65 of Table A shall not apply to an appointment of an alternate director by an Investor Director.
- 9.2 Regulation 66 of Table A shall be amended by the insertion between the words 'shall' and 'be' of the words '(subject to his giving the Company an address within the United Kingdom at which notice may be served upon him)'.
- 9.3 A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.
- 9.4 If an alternate director is himself a director or attends any meeting as an alternate director for more than one director, his voting rights shall be cumulative but he shall only be counted once in deciding whether a quorum is present.

10 PROCEEDINGS OF DIRECTORS

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

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

11 RETIREMENT OF DIRECTORS

- 11.1 Directors shall not be required to retire by rotation.
- 11.2 The office of a director shall be vacated if:
- 11.2.1 he ceases to be a director by virtue of any provision of the Acts or he becomes prohibited by law from being a director;
 - 11.2.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - 11.2.3 he becomes, incapable by reason of mental disorder of discharging his duties as director;
 - 11.2.4 all the other Directors request his resignation in writing;
 - 11.2.5 he resigns his office by notice in writing to the Company;
 - 11.2.6 he has for more than six consecutive months been absent without permission of the Directors from meetings of Directors held during that period and his alternative Director (if any) has not during such period attended any such meetings instead of him, and the Directors resolve that his office be vacated.

12 NOTICES

- 12.1 Notices shall be given to a member whose registered address is outside the United Kingdom. Regulation 112 shall be modified accordingly.
- 12.2 Regulation 88 of Table A shall be amended by substituting for the sentence:-
- "It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom"

the following sentences:-

"Notice of every meeting of directors shall be given to each director or his alternate director, including directors and alternate directors who may for the time being be absent from the United Kingdom and have given the Company their address outside the United Kingdom. Directors who are for the time being absent from the United Kingdom shall be entitled to receive 14 days' notice of every meeting."

- 12.3 Any notice required by these Articles to be given by the Company may be given by any visible form on paper, including telex, facsimile and electronic mail and a notice communicated by such forms of immediate transmission shall be deemed to be given at the time it is transmitted to the person to whom it is addressed. Regulations 111 and 112 of Table A shall be amended accordingly.

13 INDEMNITY

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