

Registered Number: 231283

COMPANIES ACTS 1985 TO 1989



PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTIONS OF DALGLEN (NO.823) LIMITED

I the undersigned, being the sole member of Dalglen (No. 823) Limited ("the Company") who at the date of these resolutions is entitled to attend and vote at a general meeting of the Company, in accordance with the provisions of Section 381A of the Companies Act 1985 (as amended) and pursuant to the powers and authorities contained in the Articles of Association of the Company HEREBY UNANIMOUSLY RESOLVE that the following resolutions be passed as written resolutions of the Company, resolutions 9 and 10 to take effect as special resolutions and resolutions numbered 1 to 8 to take effect as ordinary resolutions and agree that the said resolutions shall for all purposes be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held.

#### Ordinary Resolutions

1. "THAT each of the existing issued and unissued ordinary shares of £1 each in the capital of the Company be and are hereby subdivided into and reclassified as ten ordinary shares of 10 pence each having the rights set out in the Company's Articles of Association."
2. "THAT the authorised share capital of the Company be and is hereby increased from £100 to £39,520 divided into 395,200 ordinary shares of £0.10 each by the creation of an additional 394,200 ordinary shares of £0.10 each in the capital of the Company ranking in all respects pari passu with the existing ordinary shares in the capital of the Company."
3. "THAT 60,000 of the existing unissued ordinary shares of £0.10 each in the capital of the Company be and are hereby sub-divided into and reclassified as 600,000 preferred ordinary shares of £0.01 each carrying the rights privileges and restrictions set out in the Articles of Association adopted pursuant to Resolution 10 below."
4. "THAT the 20 existing issued ordinary shares and 179,980 of the unissued Ordinary Shares of £0.10 each in the capital of the Company be and are hereby reclassified as 180,000 A Ordinary Shares of £0.10 each carrying the rights, privileges and restrictions set out in the Articles of Association adopted pursuant to Resolution 10 below."

5. "THAT 5,400 of the existing unissued Ordinary Shares of £0.10 each in the capital of the Company be and are hereby sub-divided into and reclassified as 54,000 B Ordinary Shares of £0.01 each carrying the rights, privileges and restrictions set out in the Articles of Association adopted pursuant to Resolution 10 below."
6. "THAT 148,000 of the existing unissued Ordinary Shares of £0.10 each in the capital of the Company be and are hereby reclassified as 148,000 C Ordinary Shares of £0.10 each carrying the rights, privileges and restrictions set out in the Articles of Association adopted pursuant to Resolution 10 below."
7. "THAT 1,800 of the existing unissued Ordinary Shares of £0.10 each in the capital of the Company be and are hereby sub-divided into and reclassified as 18,000 D Ordinary Shares of £0.01 each carrying the rights, privileges and restrictions set out in the Articles of Association adopted pursuant to Resolution 10 below."
8. "THAT the directors of the Company be and are hereby generally and unconditionally authorised to exercise all the powers of the Company to allot relevant securities (within the meaning of Section 80 of the Companies Act 1985) up to a maximum nominal amount of £39,420 provided that the authority hereby given shall expire five years after the passing of this resolution unless previously revoked or varied save that the Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the board may allot relevant securities in pursuance of such offer or agreement as if the authority conferred hereby had not expired."

#### Special Resolutions

9. "THAT pursuant to Section 95(1) of the Companies Act 1985, Section 89(1) of the Companies Act 1985 shall not apply to any allotment of shares in the capital of the Company pursuant to the authority conferred on the directors by resolution 8 above."
10. "THAT the regulations contained in the document submitted to this meeting and for the purposes of identification signed by the chairman as relative to this resolution be and are hereby approved and adopted as the new Articles of Association of the Company in substitution for and to the exclusion of the existing Articles of Association of the Company."

.....  
J Park

Date: 4/2/03 .....

Company No 231283

THE COMPANIES ACTS 1985 AND 1989

PRIVATE COMPANY LIMITED BY SHARES

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**NEW ARTICLES OF ASSOCIATION**

*(Adopted on 5 February 2003)*

**of**

**DALGLEN (No 823)LIMITED**

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THE COMPANIES ACTS 1985 AND 1989

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PRIVATE COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION  
of  
DALGLEN (NO 823) LIMITED

1. INTERPRETATION

1.1 Subject as provided in paragraph 1.2 below, the regulations contained in Table A in the schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No 805) ("Table A") shall, together with the following regulations, constitute the articles of association of the Company.

1.2 Regulations numbered 8, 9 and 73 to 80 (both inclusive) in Table A shall not apply to the Company.

1.3 In these Articles:-

1.3.1 headings are used for convenience only and shall not affect the construction hereof;

1.3.2 words and expressions which are defined in Table A shall bear the same meaning where used herein and, unless the context otherwise requires or does not so admit or save as otherwise provided herein, words and expressions contained herein shall bear the same meaning as in the Act (but excluding any statutory modification or re-enactment thereof not in force on the date on which these Articles become binding on the Company);

1.3.3 in the event of there being any conflict or inconsistency between any provision in Table A which is applicable to the Company and any provision set forth herein, the latter shall prevail;

1.3.4 the following words and expressions shall have the following meanings:-

"A Ordinary Shares" means A Ordinary Shares of £0.10 each in the capital of the Company having the rights as set out in these Articles

the "Act" the Companies Act 1985 and every statutory modification or re-enactment thereof and every statutory instrument relevant thereto or derived therefrom for the time being in force

"Acting in Concert" as defined in Article 7.1.4(e)

"Adoption Date" 5 February 2003

<b>"Annual Business Plan"</b>	means the business plan adopted by the Board of directors of the Company from time to time in accordance with the terms of the Shareholders Agreement
<b>"Approved Transferees"</b>	as defined in Article 5.12
<b>"these Articles"</b>	these articles of association as amended from time to time (and reference to an "article" shall be construed accordingly)
<b>"Associate"</b>	as defined in Article 7.1.4
<b>"B Ordinary Shares"</b>	means B Ordinary Shares of £0.01 each in the capital of the Company having the rights as set out in these Articles
<b>"Bad Leaver"</b>	a Leaver who is not a Good Leaver or an Early Leaver
<b>"Bad Leaver Price"</b>	the price per Share which is the lesser of: <ul style="list-style-type: none"> <li>(i) fair value, as agreed or determined pursuant to Article 5.6; and</li> <li>(ii) the Issue Price</li> </ul>
<b>"C Ordinary Shares"</b>	means C Ordinary Shares of £0.10 each in the capital of the Company having the rights as set out in these Articles
<b>"Controlling Interest"</b>	as defined in Article 7.1.3
<b>"D Ordinary Shares"</b>	means D Ordinary Shares of £0.01 each in the capital of the Company having the rights as set out in these Articles
<b>the "Directors"</b>	the Directors for the time being of the Company as a body or a quorum of the Directors present at a meeting of the Directors
<b>"Disenfranchisement Notice"</b>	as defined in Article 6.5.2
<b>"Disposal"</b>	means either the sale or other disposal whether by one transaction or a series of related transactions of the whole or a substantial part of the undertaking of the Company or any other Group Company (other than to a group company which is the Company or a wholly owned subsidiary of the Company) where the disposal of any Group Company or Group Companies itself comprises the whole or a substantial part of the undertaking of the Group
<b>"Early Leaver"</b>	means a Leaver, other than a Good Leaver, who at any time after two (2) years following the date on which he/she became a holder of shares in the

	Company, ceases to be employed by any Group Company by reason of the termination of his/her service agreement by the Company other than for summary dismissal as provided for under the terms of that agreement
"Equity Shares"	Preferred Ordinary Shares and Ordinary Shares
"Exit"	means a Listing or a Sale or Disposal
"Facilities Agreement"	means the agreement on or about the Adoption Date between the Company and the Bank of Scotland relating to the provision of term loan, working capital and mezzanine facilities totalling not less than £14,500,000
"Good Leaver"	a member who:- <ul style="list-style-type: none"> <li>(a) ceases to be employed by a Group Company in circumstances where he is wrongfully dismissed by the relevant Group Company; or</li> <li>(b) ceases to be employed by a Group Company as a result of death; or</li> <li>(c) by virtue of mental or physical ill health is determined by at least two medical reports from independent medical specialists to be unable to perform all or substantially all of his duties as an employee of a Group Company for a period of at least 6 months and ceases to be an employee of a Group Company as a result thereof.</li> </ul>
"Group Company"	the Company and any other company which is for the time being a subsidiary undertaking of the Company (and "Group" shall be construed accordingly)
"Investor"	as defined in Article 4.5.4
"Investor Approval"	the prior consent or approval in writing of an Investor Majority
"Investor Directors"	means a director or directors appointed in accordance with Article 3.6.1
"Investor Loan Notes"	the series of unsecured loan notes 2009 in an aggregate nominal amount of £11,950,000 issued by the Company as constituted by an instrument dated on or about the Adoption Date
"Investor Majority"	the holders of not less than one half of the total number of Preferred Ordinary Shares for the relevant time being in issue

<b>"Issue Price"</b>	the price per Share at which the relevant Shares are issued (being the aggregate of the amount paid up or credited as paid up in respect of the nominal value thereof and any share premium thereon)
<b>"Leaver"</b>	as defined in Article 6.3
<b>"Listing"</b>	the admission of all or any of the ordinary share capital of the Company to the Official List of the UK Listing Authority or the admission of the same to trading on the Alternative Investment Market of the London Stock Exchange plc or the admission of the same to, or the grant of permission by any like authority for the same to be traded on, any other equivalent or similar share market
<b>"Mandatory Transfer Notice"</b>	as defined in Article 5.4
<b>"Member"</b>	any holder for the time being of shares in the capital of the Company of whatever class
<b>"Official List"</b>	means the Official List of the UK Listing Authority
<b>"Options"</b>	means options constituted by an instrument to be issued by the Company to Uberior Trading Limited to subscribe for C Ordinary Shares upon the terms set out in that instrument
<b>"Ordinary Shares"</b>	means the A Ordinary Shares, B Ordinary Shares, C Ordinary Shares, and D Ordinary Shares
<b>"Other Nominees"</b>	as defined in Article 5.8.4
<b>"Permitted Transfer"</b>	as defined in Article 4.2.1
<b>"Preferred Ordinary Shares"</b>	Preferred Ordinary Shares of £0.01 each in the capital of the Company having the rights as set out in these Articles
<b>"Prescribed Period"</b>	the period referred to in Article 5.5.2 and Article 5.6
<b>"Priority Notice"</b>	as defined in Article 6.3.4
<b>"Priority Shares"</b>	as defined in Article 6.3.5
<b>"Proposed Transferee"</b>	as defined in Article 5.5.1
<b>"Remaining Assets"</b>	as defined in Article 3.2
<b>"Sale"</b>	the acquisition by a Buyer (as defined in Article 7.1.1) of a Controlling Interest
<b>"Sale Price"</b>	as referred to in Article 5.5.2 and Article 5.6
<b>"Sale Shares"</b>	as defined in Article 5.3

<b>"Shareholders Agreement"</b>	an agreement of even date with Adoption Date between (1) Jim Park and Others (2) Brian Phillips and Others (3) Dalglen (No.823) Limited (4) Lloyds TSB Development Capital Limited (5) LDC Co-Investment Plan 2003 (6) Uberior Equity Limited (7) Liam Kane
<b>"Shares"</b>	(unless the context does not so admit) shares in the capital of the Company (of whatever class)
<b>"Syndicatee"</b>	means a person who has Preferred Ordinary Shares and/or Series A Loan Notes transferred to it in accordance with Clause 11 of the Shareholders Agreement
<b>"Total Transfer Condition"</b>	as defined in Article 5.4
<b>"Transfer Notice"</b>	as defined in Article 5.2
<b>"Transferor"</b>	as defined in Article 5.2
<b>"UK Listing Authority"</b>	means the Financial Services Authority acting in its capacity as the competent authority for the purposes of Part VI of the Financial Services and Markets Act 2000

1.4 A Special or Extraordinary Resolution shall be effective for any purpose for which an Ordinary Resolution is expressed to be required under any provision of these Articles or the Act.

1.5 Insofar as Table A shall require that the seal be affixed to any document (including a share certificate) such requirement shall be treated as satisfied if such document is executed as provided in Section 36A(4) of the Act (as in force on the Adoption Date).

## 2. SHARE CAPITAL

The authorised share capital of the Company at the Adoption Date is £39,520 divided into 600,000 Preferred Ordinary Shares, 180,000 A Ordinary Shares, 54,000 B Ordinary Shares, 148,000 C Ordinary Shares and 18,000 D Ordinary Shares.

## 3. SHARE RIGHTS

The rights attaching to the respective classes of Shares shall be as follows:-

3.1 As regards income:-

3.1.1 In respect of any financial year of the Company the profits of the Company for the time being available for distribution shall be applied:

- (a) first in paying to the holders of the Preferred Ordinary Shares a fixed cumulative cash dividend (the "**Fixed Dividend**") at the rate (exclusive of any associated tax credit) of six per cent of the Issue Price per annum; the Fixed Dividend shall accrue from day to day from (and inclusive of) the date of issue of the Preferred Ordinary Shares and shall become payable and be paid annually on 30 April in every year, the first such payment to be made on 30 April



2004 and to be in respect of the period from the date of issue of the Preferred Ordinary Shares up to (and inclusive of) the date of an Exit;

- (b) next (subject to payment in full of the Fixed Dividend and all (if any) arrears of the same) in paying to the holders of the Preferred Ordinary Shares as a class a cumulative cash dividend (the "**Participating Dividend**") of a sum (exclusive of the associated tax credit) equal to 10 per cent of the Adjusted Net Profit (as hereinafter defined) for the relevant financial year; the Participating Dividend shall begin to accrue from 1 September 2007, shall thereafter be deemed to accrue from day to day throughout each subsequent financial year and shall become payable and be paid not more than 4 months after the end of the financial year to which it relates or not more than 14 days after the annual general meeting at which the accounts of the Company for such financial year are laid before the Members of the Company whichever is the earlier.

3.1.2 The Fixed Dividend and the Participating Dividend shall become due and payable on the respective dates referred to ipso facto and without any recommendation or resolution of the Directors or the Company in general meeting (and notwithstanding anything to the contrary contained in these Articles). Each payment of any such dividend shall be accompanied by a certificate for the related tax credit (if any).

3.1.3 The Company shall procure that the profits of any other Group Company for the time being available for distribution shall be paid to it by way of dividend if and to the extent that, but for such payment, the Company would not itself otherwise have sufficient profits available for distribution to pay in full either the Fixed Dividend or the Participating Dividend.

3.1.4 If the Company is not lawfully able to pay the Fixed Dividend or the Participating Dividend in full on the due date for payment of the same then it shall on such date pay the same to the extent that it is then lawfully able so to do and, without prejudice to the respective rights of the holders of the relevant Shares, any amount not so paid shall be paid so soon thereafter as the Company is lawfully able to pay the same.

3.1.5 If any Fixed Dividend or Participating Dividend is (for whatever reason) not paid in full on the due date for payment of the same then, as from such date, interest shall accrue on the amount unpaid at the rate of 4 per cent per annum above the base rate of Lloyds TSB Bank Plc from time to time and shall become due (as a charge against the Company) and be paid at the same time as the amount to which it relates is paid or, if any such amount remains outstanding on the relevant payment dates in any year, on such dates to the extent accrued at that time.

3.1.6 The Company may not distribute any profits in respect of any financial year in addition to those required to be distributed pursuant to paragraph 3.1.1(a) unless and until:-

- (a) either the Fixed Dividend or the Participating Dividend in respect of such year and, in addition, any arrears of all or any of the same have been paid in full; and

(b) the Investor Loan Notes have been repaid in full.

3.1.7 The expression "**Adjusted Net Profit**" where used in Article 3.1 shall mean the net profit of the Company or, if the Company has any subsidiary undertakings during the relevant financial year, the consolidated net profit of the Company and such subsidiary undertakings for the relevant financial year as shown in the audited profit and loss account of the Company or, if the Company has any subsidiary undertakings as aforesaid a consolidation of the audited profit and loss accounts of the Company and such subsidiary undertakings for such year subject (insofar as such adjustments shall not already have been made) to the following adjustments:-

- (a) if such accounts have not been prepared on the historical cost accounting basis, such adjustments as may be necessary to produce the same result as that which would have resulted if such accounts had been prepared on that basis;
- (b) before taking into account any payment in respect of or provision for corporation tax (including advance corporation tax) (or other tax equivalent to corporation tax in the case of any overseas company) and any other tax (whether of the United Kingdom or otherwise) which may be imposed on or by reference to profits, gains, income or distributions;
- (c) before taking into account any payment in respect of or provision for payment of dividends or other distributions;
- (d) before taking into account any transfer or proposed transfer to reserves;
- (e) before taking into account extraordinary items and exceptional items; and
- (f) before taking into account any amount written off in respect of goodwill or other intangible assets.

3.1.8 In the event of any failure to agree the Adjusted Net Profit for a financial year, then the certificate of the auditors of the Company or, in the event that an Investor Majority shall so require, the certificate of such other firm of accountants as such holders shall nominate as to the amount of the Adjusted Net Profit shall be conclusive and binding on the Company and its Members. In so certifying the auditors or such other firm of accountants shall:-

- (a) in any case where the report of the auditors on any of the relevant accounts contains a qualification, be entitled to make, in addition to the adjustments referred to above, such further adjustments as they may in the circumstances consider appropriate;
- (b) be deemed to be acting as experts not as arbitrators and the provisions of the Arbitration Act 1996 (as from time to time amended) shall not apply; and
- (c) the charges of the auditors or such other firm of accountants of providing any certificates pursuant hereto shall be borne by the Company.

3.2 As regards capital:-

On a return of assets on liquidation, reduction of capital or otherwise, the surplus assets of the Company remaining after payment of its liabilities (including any interest payable pursuant to Article 3.1.5) (the "**Remaining Assets**") shall be applied:-

- 3.2.1 first in paying to the holders of the Preferred Ordinary Shares an amount equal to the subscription price (inclusive of any premium) paid for such shares together with a sum equal to all arrears and/or accruals of the Fixed Dividend and any Participating Dividends thereon to be calculated down to the payment date (and to be payable irrespective of whether or not such dividend has been earned);
- 3.2.2 next and subject thereto, in paying to the holders of the Ordinary Shares an amount equal to the subscription price (inclusive of any premium) paid for such shares (pari passu as if the same constituted one class of shares);
- 3.2.3 subject thereto, the balance of such assets shall belong to and be distributed amongst the holders of the Preferred Ordinary Shares and the Ordinary Shares (pari passu as if the same constituted one class of share) but taking into account:
  - (a) the provisions of Article 3.3 on the basis that the Net Market Capitalisation as defined therein is represented by the Remaining Assets: and
  - (b) the amounts paid to the holders of each class of Equity Shares in terms of Articles 3.2.1 and 3.2.2

such that if there are sufficient Remaining Assets the proportions of the Remaining Assets paid to the holders of each class of Equity Shares in terms of this Article 3.2 shall, subject to the provisions of Article 3.3, accord with the proportion that each class of Equity Shares bears to the total number of issued Equity Shares on the date of such return of assets.

3.3 As regards class rights immediately prior to an Exit and conditional upon the Exit occurring:-

3.3.1 for the purpose of this Article 3.3:

- (a) "E" means the amount (expressed in pounds sterling) by which on the Exit Date, the Net Market Capitalisation exceeds the following thresholds ("**Applicable Threshold**") dependant upon the date of Exit;

Financial Period in which Exit Date Occurs	Applicable Threshold
at any time on or prior to 31 August 2005	£40,000,000
at any time on or after 1 September 2005	£50,000,000

- (b) **"Exit Date"** means a date upon which a Listing becomes effective or a Sale or Disposal is completed;
- (c) **"Net Market Capitalisation"** means:-
  - (i) in relation to a Listing the price per share (expressed in pounds sterling) at which equity shares in the Company are proposed to be sold in connection with the Listing (in the case of an offer for sale, being the underwritten price or if applicable the minimum tender price, and in the case of a placing being the placing price) in each case multiplied by the number of ordinary shares in the Company which will be in issue immediately following the Listing but excluding therefrom any equity shares issued on the Listing in order to raise money for the Company for any purpose; or
  - (ii) in relation to a Sale, the aggregate consideration expressed as a cash price (whether that consideration is to be satisfied in cash, shares, loan stock or a combination thereof or otherwise) paid for the equity share capital of the Company (or where the Sale comprises part only of the equity share capital of the Company, the amount at the same price per share as the shares comprised in the Sale which would have been paid for the whole issued Equity share capital of the Company) subject to such partial sale resulting in the sale of all of the Preferred Ordinary Shares; or
  - (iii) in the case of a Disposal, an amount equal to the total amount available for payment to holders of equity shares as a result of the Disposal by way of dividend, dividend on liquidation or the consideration payable in respect of equity shares purchased by the Company.
- (d) **"Y"** means the percentage of the issued Equity Shares owned by the holders of the Relevant Class of shares on the Exit Date.

- 3.3.2 If on Exit the Net Market Capitalisation is more than the relevant Applicable Threshold each class's percentage entitlement to the amount of the Net Market Capitalisation up to the Applicable Threshold will be Y.

In respect of E, the holders of the A Ordinary Shares shall be entitled to Y + 10% of E, the holders of the D Ordinary Shares will be entitled to Y of E, and the holders of the remaining classes of Equity Shares will be entitled to share in the balance pro rata to shareholdings as if these three classes of shares constituted one class.

#### 3.4 As regards voting:-

- 3.4.1 save as provided in Article 3.4.2 Preferred Ordinary Shares and Ordinary Shares shall respectively confer on each holder thereof (in that capacity) the right to receive notice of and to attend, speak and vote at all general meetings of the Company;
- 3.4.2 if at the date of the meeting:-

- (a) all or any part of the principal amount of the Investor Loan Notes, or any interest thereon, has become due for repayment or payment and has not been paid in full within seven (7) days of the due date for payment and such failure to pay is continuing; or
- (b) a material breach has occurred of either the Shareholders' Agreement by the Executives (as defined in such agreement) or these Articles which breach (if capable of remedy) has not been remedied or waived within seven (7) days of notice to the Executive or the Company from an Investor Majority; or
- (c) an event of default has occurred under the Facilities Agreement which (if remediable) is not remedied or waived within 10 days of written notice to the Company from an Investor Majority; or
- (d) except where prohibited by law from doing so, the Company fails to pay any dividend on the Preferred Ordinary Shares within 10 days of the due date for payment and such failure to pay is continuing; or
- (e) there is to be an Exit to which the holders of more than 55% of the Preferred Ordinary Shares have given their consent and to implement such Exit would otherwise require the written consent of the holder(s) of the Ordinary Shares or the sanction of an extraordinary resolution passed at a separate meeting of the holders of the Ordinary Shares or the sanction of an ordinary or special resolution passed at an extraordinary general meeting of the Company (or passed by way of written consent or resolution); or
- (f) the provisions of Article 7 (Transfer of a Controlling Interest) come into effect; or
- (g) the Company has failed to meet its projected cashflow or projected profits before interest and tax as set out in the then current Annual Business Plan in any rolling 3 month period by twenty per cent (20%) or more; or
- (h) the Company wishes to increase its authorised share capital for the purpose of issuing more shares and authorise that issue and allotment for the purpose of a refinancing or restructure

and, in any such event, an Investor Majority shall have served notice on the Company at the office with regard to such event ("Default Notice") then following such notice:-

- (aa) the holder of Preferred Ordinary Shares shall be entitled (in that capacity) to vote at such meeting (and, on a poll,) on the basis he is entitled to exercise three votes for every Preferred Ordinary Share of which he is the holder PROVIDED THAT the holders of the Preferred Ordinary Shares shall exercise such powers in good faith and in particular shall not exercise or purport to exercise such powers in a manner unfairly prejudicial to the rights of any class of Ordinary Shares unless such is necessary to prevent the Company ceasing to carry on its business by reason of insolvency or the

passing of a resolution for the winding up of the Company or appointment of a receiver; and

- (bb) the holders of the Ordinary Shares covenant with and undertake to the holders of the Preferred Ordinary Shares that they will in accordance with directions from the Investor Majority give their written consent or exercise their votes at any such separate meeting and/or extraordinary general meeting, as the case may be, and give their consents to any such separate meeting and/or extraordinary general meeting, as the case may be, being held at short notice, and each such holder of Ordinary Shares hereby irrevocably and as security for its obligations under this Article 3.4 hereby appoints any Investor Director as its attorney to execute on its behalf any document (including, but without limitation, any written consent or resolution or form of proxy) and to do any act, matter or thing for the purpose of complying with such directions as may be given by the Investor Majority provided that the rights granted by this Article shall not require the holders of Ordinary Shares to comply with any instructions or undertake any actions required under this article 3.4.2 (b) which would be unfairly prejudicial to their rights under Article 3.3 unless such is necessary to prevent the Company ceasing to carry on its business by reason of insolvency or the passing of a resolution for the winding up of the Company or appointment of a receiver.

- 3.4.3 The Investor Majority shall serve a notice withdrawing the Default Notice on the Company as soon as reasonably practicable upon becoming aware that the event giving rise to the Default Notice has ceased to be continuing and in particular in relation to the default set out in Article 3.4.3 (g) upon the Company starting to perform again in accordance with any revised financial budget agreed with the Investor Majority which will be no more onerous than the original budget against which the default occurred.

### **3.5 As regards class consents:-**

Except with Investor Approval:-

- 3.5.1 and in this provision with approval of the holders of not less than 75% of the issued shares of the relevant class, no Group Company shall modify or vary the rights attaching to any class of its shares;
- 3.5.2 no Group Company shall vary or permit any variation in its authorised or issued share capital or grant any option or other rights to subscribe for shares or securities convertible into shares in its capital;
- 3.5.3 no Group Company shall pass any resolution for reducing its issued share capital or the amount (if any) for the time being standing to the credit of its share premium account or capital redemption reserve or for reducing any uncalled liability in respect of partly paid shares;
- 3.5.4 no Group Company shall purchase or redeem any shares;
- 3.5.5 no Group Company shall transfer any profits to reserves or otherwise take any action (excluding any payment of dividends to the Company or

as required under Article 3.1) which will or may reduce the amount of its profits available for distribution;

- 3.5.6 no Group Company shall capitalise any profits (whether or not the same are available for distribution and including profits standing to any reserve) or any sum standing to the credit of its share premium account or capital redemption reserve;
- 3.5.7 no Group Company shall dispose of all or any part of, or any interest in, the shares or securities convertible into shares or any right to acquire shares or securities so convertible of any other Group Company;
- 3.5.8 no Group Company shall dispose of the whole or a substantial part of its business, undertaking or assets;
- 3.5.9 no Group Company shall alter its memorandum or articles of association;
- 3.5.10 the Company shall not exempt any Share from the provisions of Article 8.1;
- 3.5.11 no resolution for the winding-up of a Group Company shall be passed (unless a licensed insolvency practitioner shall have advised that such company is required to be wound up by reason of having become insolvent); and
- 3.5.12 no Group Company shall suspend or relax any provision of its articles of association which prohibit a Director from voting at a meeting of Directors or of a committee of Directors in certain circumstances.

### 3.6 As regards appointment of Directors:-

- 3.6.1 The holders of a majority in number of the Preferred Ordinary Shares in issue at the relevant time shall be entitled from time to time to:-
  - (a) appoint three persons as director(s) of the Company and each Group Company (the "Investor Directors"); and
  - (b) remove any such persons from office.
- 3.6.2 No director appointed pursuant to Article 3.6.1 may be removed from office without Investor Approval.
- 3.6.3 Any such appointment or removal as is referred to in Articles 3.6.1 above shall be made by notice in writing to the Company and/or the relevant Group Company signed, in the case of an appointment or removal made pursuant to Article 3.6.1, by or on behalf of an Investor Majority and served upon the Company at the registered office of the Company.
- 3.6.4 Notwithstanding any provision of these Articles to the contrary, any person appointed as a Director pursuant to Article 3.6.1 may appoint such person as he thinks fit to be his alternate Director.

### 3.7 As regards quorums:-

3.7.1 No meeting of Members shall be quorate unless those Members present include (whether in person or by a duly authorised representative the holders of not less than 50% per cent of the Preferred Ordinary Shares for the time being in issue provided that in the event such a meeting is not quorate it shall be adjourned for a period of not less than 7 days of which written notice must be given and the adjourned meeting will be deemed quorate whether or not the holders of not less than 50% of the Preferred Ordinary Shares attend;

3.7.2 Save with Investor Approval no meeting of the Directors held at any time when a person appointed pursuant to Article 3.6.1 is in office as a Director of the Company shall be quorate unless such person (or a duly appointed alternate Director of such person) is present at such meeting provided that in the event such a meeting is not quorate it shall be adjourned for a period of not less than 7 days of which written notice must be given and the adjourned meeting shall be deemed quorate whether or not such person is present.

3.8 **As regards issue of shares:-**

3.8.1 With the exception of Ordinary Shares which are part of the authorised share capital of the Company at the Adoption Date but remain unissued on that date which shares the Directors are authorised to allot, subject to Investor Approval, within five years from the Adoption Date, all Equity Shares which are to be issued shall, before issue, be offered to all holders at the relevant time of Equity Shares in proportion to the number of Equity Shares held by such members respectively.

4. **SHARE TRANSFERS - GENERAL PROVISIONS**

4.1 In addition to the discretions vested in them pursuant to regulation 24 of Table A, the Directors may refuse to register the transfer of any Share to an individual who is (or whom the Directors reasonably believe to be) under 18 years of age or who does not have (or whom the Directors reasonably believe does not have) the legal capacity freely to dispose of any Share without let, hindrance or court approval.

4.2 The Directors shall refuse to register the transfer of any Share unless they are satisfied that such transfer is either:-

4.2.1 a transfer permitted under Article 4.5 (a "**Permitted Transfer**"); or

4.2.2 a transfer made in accordance with and permitted under Article 5; or

4.2.3 a transfer made in accordance with Article 7.6 or 7.7.

4.3 Subject as provided in Articles 4.1 and 4.4 or as required by law, the Directors shall register any such transfer as is referred to in Articles 4.2.1, 4.2.2 and 4.2.3.

4.4 If, in relation to a transfer of a Share, the transferor thereof is a party to any agreement between the Company and some or all of its Members (being an agreement additional to these Articles) then the Directors may or, if an Investor Majority so requires, shall:-

4.4.1 require the transferee of such Share to enter into a written undertaking (in such form as the Directors may with Investor Approval prescribe) to be bound (to the same extent as the transferor or to such other extent as the Directors and/or an Investor Majority may reasonably stipulate) by the provisions of such agreement; and



4.4.2 decline to register the transfer of such Share unless and until the transferee has entered into such written undertaking.

4.5 Subject to Articles 4.1, 4.4 and 4.6 and (subject as provided in Article 7.9) to Article 7.2, a Member shall be permitted to transfer the legal title to and/or beneficial ownership of a Share:-

4.5.1 if the Member is a company, to any holding or subsidiary company of that Member or to any other subsidiary company of any such Member's holding company; or

4.5.2 to a person who is the beneficial owner of such Share or (in the case of the legal title only) to a different or additional nominee or trustee or custodian on behalf of such beneficial owner provided that such person has not become the beneficial owner thereof other than in accordance with the provisions of these Articles;

4.5.3 if the Member is an individual, to an Associate (within the meaning of paragraph (a) of the definition of "Associate" contained in Article 7.1.4 of such Member provided that such a member shall only be entitled to transfer in aggregate up to 10% of his holding in shares to such Associates; or

4.5.4 if the Member is a company or institution whose principal business is to make, manage or advise upon share investments (an "Investor") (or a nominee of such a person or any person to whom any of them may have transferred Shares pursuant to this Article 4.5.4, or any subsequent transferee of such Shares):

(a) to the beneficial owner or owners in respect of which the transferor is a nominee or custodian or any other nominee or custodian for such beneficial owner or owners;

(b) to any unitholder, shareholder, partner, participant, manager or adviser (or any employee or director of, or any consultant to, any such manager or adviser or of any company which is the subsidiary company, holding company or another subsidiary of the holding company of, or is associated with, such manager or adviser or to the trustees of any trust of any person in or of any of the Investors or of any investment fund, collective investment scheme or any co-investment scheme in respect of which UEL or Lloyds TSB Development Capital Limited ("LDC" ) or any Syndicatee (in any case referred to in this Article as "**Institutional Body**") or any of its group companies or entities or the transferor is the manager, adviser or administrator or a nominee or custodian (or of any such fund or scheme which otherwise co-invests with the Investors);

(c) to any other investment fund or collective investment scheme managed or advised by an Institutional Body or any of its group companies or entities; or

(d) to a nominee or custodian of, or to any company which is the subsidiary company, holding company or another subsidiary of the holding company of, the transferor or any of the persons referred to in sub-paragraphs (a), (b) or (c) of this Article 4.5.4

(e) if the Member is LDC, to the LDC Co-Investment Plan 2003 or any nominee or manager or custodian of either entity (a "Plan Member") and, if the Member is a Plan Member, to LDC;

(f) to Custodians pursuant to Article 6.3.5(a) and by Custodians in accordance with paragraph 6.3.6 of that Article;

(g) to a Syndicatee.

4.6 No such Permitted Transfer as is referred to in paragraphs 4.5.1 or 4.5.2 in Article 4.5 may be made in respect of or in relation to any share which for the relevant time being is the subject of any Transfer Notice or Mandatory Transfer Notice.

## 5. SHARE TRANSFERS - PRE-EMPTION PROVISIONS

5.1 Except in the case of a Permitted Transfer, the right to transfer or otherwise dispose of a Share or any interest or right in or arising from a Share (an option, warrant or other right to acquire any Share (whether by subscription, conversion or otherwise) being deemed to be an interest in a Share for this purpose) shall be subject to the provisions contained in this Article and any such transfer or other disposal made otherwise than in accordance with such provisions shall be void.

5.2 Before transferring or otherwise disposing of any Share or any interest or right in or arising from any Share the person proposing to transfer or otherwise dispose of the same (the "**Transferor**") shall give notice in writing (a "**Transfer Notice**") to the Company specifying the Shares, interest and/or rights of which the Transferor wishes to dispose. The Transferor shall, contemporaneously with the giving of a Transfer Notice, deliver up and lodge with the Company the share certificate(s) in respect of the relevant shares.

5.3 Notwithstanding that a Transfer Notice specifies that the Transferor wishes to dispose only of an interest or right in or arising from or attaching to, the Shares referred to therein, the Transfer Notice shall (notwithstanding anything in the Transfer Notice to the contrary) unconditionally constitute the Company the agent of the Transferor in relation to the sale of all the legal title to, beneficial ownership of and all interests and rights attaching to the Shares referred to therein (the "**Sale Shares**") at the Sale Price in accordance with the provisions of this Article. A Transfer Notice shall not be revocable except with the consent of the Directors.

5.4 Except in the case of a Transfer Notice which a Member is required to give or is deemed to have given pursuant to Article 6 (a "**Mandatory Transfer Notice**"), a Transfer Notice may include a condition (a "**Total Transfer Condition**") that if all the Sale Shares (of whatever class) are not sold to Approved Transferees, then none shall be so sold.

5.5 Except in the case of a Mandatory Transfer Notice, the Transfer Notice may state, in addition to details of the Sale Shares:

5.5.1 the name or names of a person or persons (such person or persons being hereinafter referred to as the "**Proposed Transferee**") to whom the Sale Shares (or an interest or right in or arising therefrom) are proposed to be transferred in the event that the Sale Shares are not acquired by Approved Transferees (as hereinafter defined); and

5.5.2 the entire consideration per share for which any such transfer or transfers will be made (and, if any of the said consideration is not a cash price expressed in pounds sterling an amount per share which is so expressed and which is commensurate with the entire consideration). In such event, subject to the Directors being satisfied (and to that end being provided with such evidence as they may reasonably require) that the consideration so stated is a bona fide consideration (not inflated for particular reasons) agreed between the Transferor and the Proposed Transferee at arms' length and in good faith, such

consideration shall be the Sale Price and the Prescribed Period shall commence on the date on which the Transfer Notice is given and shall expire 60 days thereafter.

5.6 In the case of a Mandatory Transfer Notice or a Transfer Notice which does not state the further details referred to in Article 5.5 then, subject always to Article 5.6:

5.6.1 if, not more than 30 days after the date on which the Transfer Notice was given or was deemed to be given (or such longer period (if any) as the Directors with Investor Approval may, prior to the expiry of such period of 30 days, determine to allow for this purpose), the Transferor and the Directors shall have agreed a price per Share as representing the fair value of the Sale Shares or as being acceptable to the Transferor and not more than the fair value thereof then such price shall be the Sale Price and the Prescribed Period shall commence on the date on which such agreement is reached and shall expire 60 days thereafter; or

5.6.2 failing such agreement, upon the expiry of 30 days (or such longer period (if any) as aforesaid) after the date on which the Transfer Notice was given or was deemed to be given the Directors shall instruct the auditors for the time being of the Company to determine and report to the Directors the sum per Share considered by them to be the fair value of the Sale Shares and (subject always to Article 6.3) the sum per Share so determined and reported shall be the Sale Price and the Prescribed Period shall commence on the date on which the auditors shall so determine and report and shall expire 60 days thereafter.

5.7 For the purposes of Article 5.6, the auditors shall act as experts and not as arbitrators and (save only for manifest error) their determination shall be final and binding upon the Company and all Members. The costs and expenses of the auditors in relation to the making of their determination shall be borne by the Company unless the Sale Price as so determined is the same as, or substantially the same as, that (if any) which the Directors had notified to the Transferor as being in their opinion the Sale Price, in which event such costs and expenses shall be borne by the Transferor). For the purposes of Article 5.6 and this Article, the fair value of Sale Shares shall be the market value thereof as at [the date when the relevant Transfer Notice or Mandatory Transfer Notice was given or deemed to have been given (as the case may be)] as between a willing buyer and a willing seller at arms' length but with no discount being made by reason of such Shares (if such be the case) constituting a minority holding or having no, or limited voting rights (and the auditors shall be instructed accordingly).

5.8 Subject as provided in articles 5.9, 6.3 and 6.4, Sale Shares shall be offered for sale to all the Members of the Company for the relevant time being holding Preferred Ordinary Shares or Ordinary Shares but so that:-

5.8.1 if and to the extent that the Sale Shares consist of Preferred Ordinary Shares the holders for the time being of Preferred Ordinary Shares (other than the Transferor or any Associate of the Transferor) shall have a prior right to purchase the same ahead of the holders of A Ordinary Shares who shall have the prior right to purchase the same ahead of the holders of the other classes of Ordinary Shares; or

5.8.2 if and to the extent that the Sale Shares consist of A Ordinary Shares, the holders for the time being of A Ordinary Shares (other than the Transferor or any Associate of the Transferor) shall have the prior right to purchase the same ahead of holders of the Preferred Ordinary Shares and the other classes of Ordinary Shares who together shall rank *pari passu* as if the same constituted one class;

- 5.8.3 if and to the extent that the Sale Shares consist of Ordinary Shares (other than A Ordinary Shares), subject to the provisions of Article 6.3.4 in the case of C Ordinary shares, the holders for the time being of Ordinary Shares (other than the Transferor or any Associate of the Transferor) and the holders of the Preferred Ordinary Shares shall have right to purchase the same and shall rank pari passu as if the same constituted one class;
- 5.8.4 Sale Shares may also be offered to such person or persons (if any) as the Directors (with Investor Approval) think fit ("**Other Nominees**") provided that any such offer is made upon the condition that such Sale Shares shall only be available for purchase by such person or persons if and to the extent that such Shares are not acquired by holders of Preferred Ordinary Shares and/or Ordinary Shares following acceptance of such offers as are referred to in Articles 5.8.1 and 5.8.2.
- 5.9 The Company shall not be required to, and shall not, offer any Sale Shares to the Transferor, any Associate of the Transferor or any person who remains a Member but who has been deemed to have given a Mandatory Transfer Notice on or prior to the date on which any such offer as is referred to in Article 5.8 is made. In addition, if, during the period between the date on which any such offer is made and (following the acceptance of such offer by a Member) the sale of Sale Shares to such member is completed, such member is deemed to have given a Mandatory Transfer Notice then such member shall be deemed not to have accepted such offer and the relevant Sale Shares shall be re-offered for sale (at the same Sale Price per share and as if such price had been determined on the date on which the Mandatory Transfer Notice is deemed to have been given).
- 5.10 Any such offer as is required to be made by the Company pursuant to Article 5.8 shall limit a time (not being less than 14 days or (unless an Investor Majority otherwise agrees or directs) more than 21 days) after such offer is made within which it must be accepted or, in default will lapse. Following any such offer, if acceptances are received in respect of an aggregate number of Shares in excess of that offered, the number of Sale Shares shall be allocated according to the class of the Sale Shares on the following basis of priority:
- 5.10.1 if the Sale Shares are Preferred Ordinary Shares (subject in each case as provided in Article 5.9) first to the other holders of Preferred Ordinary Shares, next to the holders of A Ordinary Shares and next to the holders of other classes of Ordinary Shares for this purpose pari passu as if the same constituted one class and next to Other Nominees (if any); or
- 5.10.2 if the Sale Shares are A Ordinary Shares (subject in each case as provided in Article 5.9) to the other holders of A Ordinary Shares next to the holders of Preferred Ordinary Shares and holders of the other classes of Ordinary Shares who together shall rank pari passu as if the same constituted one class, and next to Other Nominees (if any); or
- 5.10.3 if the Sale Shares are Ordinary Shares (other than A Ordinary Shares) (subject in each case as provided in Article 5.9) to the holders of Preferred Ordinary Shares and holders of the other classes of Ordinary Shares who together shall rank pari passu as if the same constituted one class, and next to Other Nominees (if any);
- 5.10.4 if, by virtue of the application of the provisions in Article 5.10, acceptances are received from any such class as therein referred to in respect of an aggregate number of Shares which is in excess of that offered then the number of Sale Shares shall be allocated amongst those who have accepted the same in proportion to the number of Shares of the relevant class held by each acceptor

(or in the case of Other Nominees on such basis as the Directors (with Investor Approval) shall determine) provided that no acceptor shall be obliged to acquire more Sale Shares than the number for which he has applied and so that the provisions of this Article 5.10.2 shall continue to apply mutatis mutandis until all Shares which any such acceptor would, but for this proviso, have acquired on the proportionate basis specified above have been allocated accordingly.

- 5.11 If a Transfer Notice shall validly contain a Total Transfer Condition then any such offer as aforesaid shall be conditional upon such condition being satisfied and no acceptance of an offer of Sale Shares will become effective unless such condition is satisfied. Subject thereto, any such offer as is required to be made by the Company pursuant to Article 5.8 shall be unconditional.
- 5.12 If, prior to the expiry of the Prescribed Period, the Company shall, pursuant to the foregoing provisions, find Members or Other Nominees ("**Approved Transferees**") to purchase some or (if Article 5.11 shall apply) all the Sale Shares it shall forthwith give notice in writing thereof to the Transferor and the Approved Transferees. Every such notice shall state the name and address of each of the Approved Transferees and the number of the Sale Shares agreed to be purchased by him and shall specify a place and time and date (not being less than 3 days nor more than 10 days after the date of such notice) at which the sale and purchase shall be completed. Upon the giving by the Company of any such notice as aforesaid the Transferor shall be unconditionally bound (subject only to due payment of the sale price) to complete the sale of the Sale Shares to which such notice relates in accordance with its terms.
- 5.13 If a Transferor shall (save only for reason that an Approved Transferee does not duly pay the Sale Price) fail duly to transfer (or complete the transfer of) any Sale Shares to an Approved Transferee, the Directors shall be entitled to, and shall, authorise and instruct some person to execute and deliver on his behalf the necessary transfer and the Company may receive the purchase money in trust for the Transferor and (notwithstanding (if such is the case) that the Transferor has failed to deliver up the relevant share certificate(s)) shall (subject to so receiving the same) cause such Approved Transferee to be registered as the holder of such Shares. The receipt of the Company for the purchase money shall be a good discharge to the Approved Transferee (who shall not be bound to see to the application thereof) and after the Approved Transferee has been registered in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person.
- 5.14
- 5.14.1 If the Company shall not, prior to the expiry of the Prescribed Period, find Approved Transferees willing to purchase some, or, if the relevant Transfer Notice validly contains a Total Transfer Condition, all the Sale Shares, it shall give notice in writing thereof to the Transferor and the Transferor, at any time thereafter up to the expiration of 60 days from the date of such notice, shall, (subject as provided below) be at liberty to transfer those of the Sale Shares not purchased by Approved Transferees or all the Sale Shares (as the case may be) to the Proposed Transferee or, where the Transfer Notice did not contain details of a Proposed Transferee, to any one person on a bona fide sale at any price not being less than the Sale Price. The Directors may require the Transferor to evidence to them (to their reasonable satisfaction) that such Shares are being transferred in pursuance of a bona fide sale for the consideration stated in the Transfer Notice without any deduction, rebate, allowance or indulgent terms whatsoever to the purchaser thereof and, if not so satisfied, may refuse to register the instrument of transfer and/or serve a Disenfranchisement Notice with

the effect set out in Article 6.5.2 in respect of such Shares as shall have been so sold.

5.14.2 The provisions of the immediately preceding paragraph shall not apply to any Sale Shares which so became by virtue of the holder thereof having been deemed to have given a Mandatory Transfer Notice in respect thereof. In such event, such holder shall not be permitted to transfer all or any of the same as provided in Article 5.14.1 above (and, accordingly, the provisions in Article 5 shall apply if such holder subsequently determines to seek to transfer the same).

5.15 Any Share required to be transferred by a Transferor to an Approved Transferee pursuant to this Article shall be transferred free from any mortgage, charge, lien, option or other encumbrance and with the benefit of all rights and entitlements attaching thereto and if, in determining the Sale Price, there was taken into account any entitlement to any dividend which has been paid prior to the date on which the transfer is registered then the Transferor shall be liable to account to the Approved Transferee for the amount thereof (and the Approved Transferee, when making payment for such Share, may set-off such amount against the Sale Price payable).

## 6. SHARE TRANSFERS - FURTHER PROVISIONS

6.1 If any person shall purport to transfer or otherwise dispose of any Share or any interest in or right arising from any Share otherwise than as permitted under Article 4.5 or in accordance with the provisions of Article 5, such person and any Associate of such person who is a Member shall, unless and to the extent (if any) that the Directors otherwise determine at the relevant time, be deemed to have given, on the date on which the Directors give notice to such person that they have become aware of the purported transfer or other disposal (or on the date (if any) specified in such notice), a Transfer Notice in respect of all Shares of which such person and any such Associate of such person is then the holder.

6.2 If any person becomes entitled to Shares in consequence of the death, bankruptcy or liquidation of a Member then (unless a transfer to such person would be a Permitted Transfer or the Directors (with Investor Approval) determine otherwise at the relevant time) a Transfer Notice shall be deemed to have been given on such date as the Directors shall specify in writing to the person concerned in respect of all Shares held by the Member and any Associate of such Member.

6.3 If at any time any director (not being a director appointed pursuant to Article 3.6) or employee of or consultant to any Group Company shall cease (for whatever reason) to be such a director or employee or consultant and such person and/or any Associate(s) of such person shall be the holder of any Shares, then the Shares held by such person (the "Leaver") and his Associates shall be subject to the following:

6.3.1 the date on which the Leaver ceases to be a director of or an employee of or a consultant to a Group Company shall be the "Cessation Date" for the purposes of these Articles provided always that where a Leaver who is an employee of or consultant to a Group Company ceases to be an employee or consultant in circumstances where he has served notice on a Group Company or a Group Company has served notice on him terminating his employment or consultancy (as the case may be) then, if an Investor Majority so notifies the Company in writing, the Cessation Date shall be deemed to be the date of service of such notice;

6.3.2 (unless and to the extent that an Investor Majority agrees otherwise at the relevant time) there shall be deemed to have been given on the Cessation Date

(or such later date (if any) as the Directors (with Investor Approval) may determine and notify in writing to the person concerned) a Transfer Notice in respect of all Shares then owned and/or held by the Leaver and any Associate of the Leaver;

6.3.3 (unless and to the extent that an Investor Majority determines otherwise) if the Leaver is:-

- (a) a Bad Leaver the Sale Price of all the Shares the subject of the Transfer Notice shall be the Bad Leaver Price PROVIDED THAT in the case of a Leaver who holds D Ordinary Shares and whose employment is terminated by the Company (other than for cause) or by him, in each case prior to 31 December 2003 the Sale Price will be the Issue Price;
- (b) an Early Leaver in circumstances of under performance, the Sale Price of all the Shares the subject of the Transfer Notice shall be either (a) the Sale Price in whole if such is determined to be less than the Issue Price (as agreed or determined in accordance with Article 5.6) or (b) if the Sale Price (as agreed or determined in accordance with Article 5.6) is determined to equal or exceed the Issue Price, then it shall be a price equal to the Issue Price plus the relevant percentage detailed below of the difference between the Sale Price and the Issue Price:-

Year of Leaving	Relevant Percentage of difference between Sale Price and Issue Price
after 2nd anniversary of holding shares	25%
after 3rd anniversary of holding shares	50%
after 4th anniversary of holding shares	75%
after 5th anniversary of holding shares	100%

- (c) a Good Leaver or an Early Leaver who is not leaving in circumstances of under performance, then in either case the Sale Price for all the shares the subject of a Transfer Notice shall be the price calculated in accordance with Article 5.6.

For the purpose of this Article the expression "circumstances of under performance" shall mean that the termination of an Early Leaver's employment takes place:-

- (i) at a time when an Investor Majority would be entitled (but not necessarily have exercised its rights) to serve a Default Notice under Article 3.4.3 paragraph (a), (c) (d) or (g); or
- (ii) at any time when in the unanimous opinion of the Board, (excluding the director who would be the Early Leaver), the Early Leaver has been failing

to satisfactorily perform his duties as a director and or employee of the Company or any of its subsidiaries.

6.3.4 If any Transfer Notice is deemed to be given pursuant to Article 5 or Article 6.3, and is given by any holder of Ordinary Shares who is a director (not being a director appointed pursuant to Article 3.6) or employee or consultant of any Group Company or any Associate of such person, the Company shall forthwith give written notice of such occurrence (such notice to include details of all the Shares to which such Transfer Notice relates) to each holder of Preferred Ordinary Shares. If the shares the subject of a transfer Notice are\_

- (a) C Ordinary Shares then the Investor Majority must give written notice to the Company if in the reasonable opinion of the Investor Majority the Company has sufficient funds to fund the payment of a Sale Price: or
- (b) any other class of Ordinary Shares then within 21 days of the giving of such notice by the Company an Investor Majority following consultation with the Board may at its discretion require, by written notice to the Company

(in case (a) or (b) such notice from the Investor Majority to be referred to as a "Priority Notice") that all or any Shares to which such Transfer Notice relates should be made or kept available either for any person or persons who is or are (an) existing director(s) (not being a director appointed pursuant to Article 3.6) and/or employee(s) of a Group Company or a person or persons (whether or not then ascertained) whom in the opinion of such Investor Majority it will be necessary or expedient to appoint as (a) director(s) and/or employee(s) of a Group Company whether or not in place of the person by whom the relevant Transfer Notice was deemed to be given) then the provisions of Article 6.3.5 below shall apply.

6.3.5 If a Priority Notice is given, then, in relation to the Shares the subject thereof (the "Priority Shares") the provisions of Article 5.8 shall not apply and the Priority Shares shall either:-

- (a) be offered to the person(s) (and, in the case of more than one, in the proportions) specified in the Priority Notice (conditional, in the case of any prospective director and/or employee, upon his taking up his proposed appointment with a Group Company (if not then taken up)); or
- (b) if the relevant Priority Notice so requires, be offered to not less than two persons designated by an Investor Majority ("Custodians") to be held (in the event of their acquiring the Priority Shares) on and subject to the terms referred to in Article 6.3.6 below.

6.3.6 If Custodians become the holders of Priority Shares, then, (unless and to the extent that the Directors with Investor Approval otherwise agree from time to time) they shall hold the same on, and subject to, the following terms:

- (a) they may exercise the voting rights (if any) for the time being attaching to such Shares as they think fit;
- (b) save with Investor Approval, they shall not encumber the same;
- (c) they will (subject as provided in Article 6.3.7 below) transfer the legal title to such Shares and all such other interests as they may have therein to (and only to) such person or persons and at such time or times and otherwise on such terms as an Investor Majority may from time to time direct by notice in



writing to the Custodians PROVIDED THAT the Custodians may not be required to enter into any agreement or otherwise take any action if and to the extent that they would or might incur any personal liability (whether actual or contingent) or suffer any personal loss;

- (d) if an offer is made to them for the Priority Shares (whether as part of a general offer or otherwise) then they shall seek instructions from the holders of the Preferred Ordinary Shares as to what (if any) actions they should take with regard thereto but, absent instructions from an Investor Majority within 14 days of seeking the same, the Custodians may accept or decline to accept such offer, as they think fit.

6.3.7 An Investor Majority may not direct the Custodians to transfer all or any Priority Shares other than to a person who is an existing director and/or employee of a Group Company or who has agreed (subject only to Priority Shares being transferred to him) to accept appointment as such a director and/or employee save with the prior approval of the Directors save at the time of an Exit when an Investor Majority may direct the Custodians to transfer all Priority Shares to either the Company (to the extent permissible by law) or to all shareholders at that time in amounts pro rata to their shareholdings at which time such shares would upon transfer automatically convert into the same class of shares held by the transferee.

6.4 If a corporation which is a holder and/or beneficial owner of any Share in the Company ceases to be controlled by the person or persons who were in control of the corporation at the time when the corporation became a Member of the Company, it shall, within 7 days of such cessation of control, give notice in writing to the Company of that fact and unless the Directors (with Investor Approval) determine otherwise at the relevant time there shall be deemed to have been given as from the date on which the Directors become aware of such cessation (however they become so aware) a Transfer Notice in respect of all Ordinary Shares held and/or beneficially owned by such corporation and any Associate(s) of such corporation. For the purposes of this paragraph "control" shall have the same meaning as in section 416 Income and Corporation Taxes Act 1988. The provisions of this sub-paragraph shall not apply to any corporation which holds Preferred Ordinary Shares at the time when these provisions would otherwise operate or any holding company for the time being of any such corporation or any subsidiary of any such holding company.

6.5 For the purpose of ensuring that a transfer of Shares is a Permitted Transfer or that no circumstances have arisen whereby a Transfer Notice is required or may be deemed to have been given under any provision of Article 5 or this Article, the Directors may from time to time require any Member or the personal representatives of any deceased Member or any person named as transferee in any transfer lodged for registration or any person who was, is or may be an Associate of any of the foregoing to furnish to the Company such information and evidence as the Directors may think fit regarding any matter which they may deem relevant to such purpose. If such information or evidence discloses that a Transfer Notice ought to have been given in respect of any Shares the Directors may by notice in writing stipulate that a Mandatory Transfer Notice shall as from the date of such notice (or on such future date as may be specified therein) be deemed to have been given by the holders of those Shares and/or their Associates in respect of all or any of such Shares. Failing such information or evidence being furnished to the reasonable satisfaction of the Directors within a reasonable time after request, the Directors shall be entitled:

- 6.5.1 to refuse to register the transfer in question or, in case no transfer is in question, to require by notice in writing to the holder(s) of the relevant Shares that a

Transfer Notice be given in respect of all such Shares (and such notice may stipulate that if a Transfer Notice is not given within a specified period then, upon the expiry of such period, a Mandatory Transfer Notice shall be deemed to have been given in respect of all the relevant Shares); and/or

6.5.2 to give to the holder(s) of the Shares in question a notice (a "**Disenfranchisement Notice**") stating that such Shares shall as from the date of such notice no longer confer any right to attend, speak or vote at any general meeting of the Company or at any class meeting or to receive or be entitled to receive any dividend or other distribution until such time as the Directors shall think fit and, as from such date, such Shares shall no longer confer any such rights accordingly.

6.6 A Director (not being a director appointed pursuant to Article 3.6.1) shall be regarded as having an interest which is material and which conflicts with the interests of the Company in (and accordingly shall not be entitled to vote in relation to) any matter which requires to be determined or otherwise decided upon by the Directors pursuant to or for the purposes of Articles 4 or 5 or this Article to the extent such matter relates to any Shares held by such Director or any Associate of such Director or in which such Director is otherwise interested.

6.7 In any case, where a Mandatory Transfer Notice has been deemed to have been given by a Member, such Member shall, upon demand by the Company, deliver up to and lodge with the Company, the share certificate(s) in respect of the relevant Shares.

## 7. **TRANSFER OF A CONTROLLING INTEREST**

7.1 For the purposes of this Article:-

7.1.1 the expression "**Buyer**" means any one person (whether or not an existing member of the Company) but so that any Associate of any such person shall be deemed to be such person;

7.1.2 the expression "**acquire**" means to be or become the legal or beneficial owner of Shares (or the right to exercise the votes attaching to Shares), whether directly or indirectly and whether by the issue, transfer, renunciation or conversion of shares or otherwise and whether all at one time or not;

7.1.3 the expression a "**Controlling Interest**" means Shares (or the right to exercise the votes attaching to Shares) which confer in the aggregate 50 per cent or more of the total voting rights conferred by all the Shares in the capital of the Company for the relevant time being in issue and conferring the right to vote at all general meetings;

7.1.4 the expression "**Associate**" means:

(a) the trustees of any settlement (whether or not set up by the relevant person) under which the relevant person being any husband, wife, mother, father, grandmother, grandfather, brother, sister, child (including adopted child) or other lineal descendant of the relevant person and/or any other Associate of the relevant person is or is capable of being a beneficiary provided that the terms of any such trust are satisfactory to an Investor Majority;

(b) any nominee or bare trustee for the relevant person or any other Associate of the relevant person;

- (c) if the relevant person is a company, any subsidiary or holding company of the relevant person and any other subsidiary of any such holding company;
- (d) any person with whom the relevant person or any Associate of the relevant person is connected, the question of whether any such person is so connected falling to be determined for this purpose in accordance with the provisions of section 839 Income and Corporation Taxes Act 1988; and
- (e) any person with whom the relevant person is acting in concert (such expression to have the same definition and meaning as that ascribed thereto in the City Code on Take-overs and mergers as for the relevant time being current);

7.2 Notwithstanding anything to the contrary contained in these Articles, no Buyer shall be entitled or permitted to acquire, and no person shall transfer any Shares (or any interest therein) if, as a result, a Buyer (of any Shares or any interest in any Shares held by an Associate of the Buyer being treated as being held by the Buyer for this purpose) would acquire a Controlling Interest in the Company unless and until the Buyer has first made offers, in accordance with Articles 7.3 and 7.4 to all the holders of all Shares in the Company at the relevant time (of whatever class) (other than the Buyer if he is already such a holder) to purchase from them their entire holdings of Shares in the capital of the Company.

7.3 Each such offer as is referred to in Article 7.2 (an "Offer") must, in respect of each class of the Company's share capital, be in cash or be accompanied by a cash alternative at not less than the highest price paid or agreed to be paid by the Buyer (or his Associates) for shares of that class during the period when the Offer remains open for acceptance or within 12 months prior to its commencement.

7.4 In addition, any Offer must be made in writing, must be open for acceptance and irrevocable for a period of not less than 30 and not more than 60 days, must not save with Investor Approval contain any requirement for any holder of Preferred Ordinary Shares to give any representation, warranties or undertakings other than as to their capacity and capability to sell the relevant Shares and all rights thereto and interests therein free from any option, lien, charge or other encumbrance and must not be subject to any condition save only, if the Buyer so wishes, that acceptances must be received for a specified percentage of all the Shares in respect of which the Offer is made.

7.5 If within 60 days of the making of an Offer, the Buyer has not acquired a Controlling Interest then such Offer shall be deemed not to have been made to the extent that the Buyer shall not be entitled to acquire a Controlling Interest at any time thereafter unless and until he has made further Offers.

7.6 If a Buyer receives (within the period of 60 days referred to in Article 7.5) acceptances of an Offer which will result in the Buyer together with his Associates owning not less than 50 per cent of all the issued Preferred Ordinary Shares then the Buyer may extend the Offer to the extent that, if within 30 days of the expiry of such period of 60 days, the Buyer gives written notice to those Members who have not accepted the Offer requiring them to do, then each of such non-accepting Members shall upon the giving of such notice:-

- 7.6.1 be deemed to have accepted the same in respect of all Shares held by him in accordance with the terms of the Offer; and
- 7.6.2 become obliged to deliver up to the Buyer an executed transfer of such Shares and the certificate(s) in respect of the same.

- 7.7 If any such non-accepting Member as is referred to in Article 7.6 shall not, within 14 days of becoming required to do so, execute transfers in respect of the Shares held by such Member, then the Directors shall be entitled to, and shall, authorise and instruct such person as they think fit to execute the necessary transfer(s) on his behalf and, against receipt by the Company (on trust for such Member) of the purchase moneys payable for the relevant Shares, deliver such transfer(s) to the Buyer (or its agents) and register the Buyer (or its nominees) as the holder thereof, and after the Buyer (or its nominees) has been registered as the holder the validity of such proceedings shall not be questioned by any person.
- 7.8 In calculating the price at which an Offer is required to be made for the purposes of this Article there shall be brought into account any other consideration (in cash or otherwise) received or receivable by any Member or former Member (or any Associate of such member or former Member) which, having regard to the substance of the relevant transaction as a whole, can reasonably be regarded as part of the consideration paid (or provided) or payable (or to be provided) for the Shares in question.
- 7.9 Any transfer of a Share (or an interest therein) made, or required to be made, pursuant to Articles 7.6 and/or 7.7 shall be treated as a 'Permitted Transfer' for the purposes of Article 5.1. Subject thereto, any other transfer of a Share (or any interest therein) pursuant to and by way of acceptance of an Offer shall not be a Permitted Transfer.
- 7.10 For the purpose of ensuring:-
- 7.10.1 that no Buyer has acquired or may acquire a Controlling Interest otherwise than as permitted by this Article (and to that end for the purpose of determining whether one person is an Associate of another); or
- 7.10.2 that a price offered or proposed to be offered for any Shares is in accordance with Article 7.3;

the Directors or an Investor Majority may from time to time require any Member to furnish to the Company or to one or more of the holders of Preferred Ordinary Shares for the time being such information and evidence as the Directors or an Investor Majority may reasonably think fit regarding any matter which they may deem relevant for such purposes.

## 8. LIEN

- 8.1 The Company shall have a first and paramount lien on every Share (whether or not a fully paid Share) for all moneys (whether presently payable or not) payable or otherwise owing by the holder of such Share (or any Associate of such holder) to the Company or any other Group Company. The Directors may at any time declare any Share to be wholly or in part exempt from the provisions of this regulation. The Company's lien on a Share shall extend generally as aforesaid as well as to any amount payable in respect of it.
- 8.2 The Company may sell any Shares on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within 14 Clear Days after notice in writing has been given to the holder of the Share or to the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the Shares may be sold. The provisions of Article 5 shall apply to any sale of Shares made by the Company pursuant to this Article (on the basis that a Mandatory Transfer Notice shall be deemed to have been given upon the expiry of such period of 14 days as is above referred to).

9. **FORFEITURE**

The provisions of Article 5 shall apply in relation to any proposed sale re-allotment or other disposal of a Share pursuant to Regulation 20 of Table A (on the basis that a Mandatory Transfer Notice in respect of such Share shall be deemed to be given on such date as the Directors determine for this purpose).

10. **APPOINTMENT AND RETIREMENT OF DIRECTORS**

10.1 The Directors shall have power at any time, and from time to time, to appoint any person (willing to act) to be a Director, either to fill a casual vacancy or as an additional Director.

10.2 The Company may by ordinary resolution appoint a person (willing to act) to be a Director either to fill a vacancy or as an additional Director.

10.3 No Director shall be required to vacate his office as a Director, nor shall any person be ineligible for appointment as a Director, by reason of his having attained any particular age.

11. **REMOVAL OF DIRECTORS**

In addition to the provisions of provided in Regulation 81 of Table A, the office of a Director shall also be vacated if:

11.1 he is convicted of a criminal offence (other than a minor motoring offence) and the Directors resolve that his office be vacated; or

11.2 in the case of a person who is also an employee of the Company or another Group Company, he ceases to be such an employee and the Directors resolve that his office be vacated; or

11.3 all the other Directors unanimously resolve that his office be vacated.

12. **PROCEEDINGS OF DIRECTORS**

The Directors, or a committee of the Directors, may hold meetings by telephone either by conference telephone connection(s) or by a series of telephone conversations or by exchange or facsimile transmissions addressed to the chairman. The views of the Directors, or a committee of the Directors, as ascertained by such telephone conversations or facsimile transmissions and communicated to the chairman shall be treated as votes in favour of or against a particular resolution (as appropriate). A resolution passed at any meeting held in this manner and signed by the chairman shall be as valid and effectual as if it had been passed at a meeting of the Directors (or, as the case may be, of that committee) duly convened and held. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the chairman of the meeting is then present.

13. **INDEMNITY**

13.1 Subject to the provisions of the Act, every director, auditor, secretary or other officer of the Company shall be entitled to be indemnified by the Company out of its own funds for all costs, charges, losses, expenses and liabilities incurred by him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as officer or employee of the Company and

in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court.

- 13.2 Without prejudice to the provisions of Article 13.1 above, the Directors shall have the power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers, employees or auditors of the Company or of any subsidiary undertaking of the Company including (without prejudice to the generality of the foregoing) insurance against any liability 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 exercise or purported exercise of their powers and/or otherwise in relation to or in connection with their duties, powers or offices in relation to the Company or any such subsidiary undertaking.
- 13.3 Subject to the provisions of the Act, a director shall (in the absence of some other material interest as is indicated below) be entitled to vote (and be counted in the quorum) in respect of any resolution concerning any proposal concerning any insurance which the Company is empowered to purchase and/or maintain for or for the benefit of any directors of the Company provided that for the purposes of this Article 13.3 insurance shall mean only insurance against the liability incurred by a director in respect of any such act or omission by him as is referred to in Article 13.2 above or any other insurance which the Company is empowered to purchase and/or maintain for or for the benefit of any groups of persons consisting of or including directors of the Company.

#### 14. **SUBSIDIARIES**

The Company shall procure that each other Group Company shall comply with those provisions of these Articles which are expressed to apply to a Group Company and that no Group Company shall do or permit to be done any act, matter or thing which if it were done or permitted to be done by the Company would constitute a breach by the Company of any provision of these Articles or would require any consent, approval or sanction under these Articles, unless in such latter case such consent, approval or sanction has first been obtained.

#### 15. **GENERAL POWER OF ATTORNEY**

Notwithstanding any other provision in these Articles:-

- 15.1 if and to the extent that title (whether legal or beneficial) to Shares required to be transferred by a Leaver or an Associate of a Leaver in accordance with these Articles is not so transferred by the relevant Member (or his Associate), an Investor Majority shall be entitled at the reasonable expense of such Member (or his Associate) to specify any Directors by written notice to the Company (such person having consented so to act) to act as attorney and the relevant Member (and/or his Associate) hereby appoints such person as its attorney for such purpose and, without prejudice to the generality of the foregoing, the attorney shall sign or execute on the relevant Member's/Associate's behalf any documents required to effect such transfer; and
- 15.2 if and to the extent that a Leaver or an Associate of a Leaver retains Shares following his Cessation Date then an Investor Majority shall be entitled to specify any Director by written notice to the Company (such person having consented so to act) unconditionally and irrevocably to exercise all of the rights attaching to such Shares other than the rights to receive dividends, distributions, or the proceeds of sale of such Shares.

16. **NOTICES**

- 16.1 Any notice given under or in connection with these Articles shall be in writing.
- 16.2 Any notice or other document may be given or served by being delivered to the registered address of the Member (in which case the notice or other document shall be deemed to be served at the time of delivery) or by being sent by facsimile to a number provided by the Member to the Company for this purpose (in which case the notice or other document shall be deemed to be served upon completion of the transmission) or by being sent by first class post to the registered address of the Member (in which case the notice or other document shall be deemed to be served 24 hours after the time of posting).
- 16.3 In proving service of any notice, it shall be sufficient to prove that delivery was made or that the envelope containing the notice or other document was properly addressed and posted or that the facsimile was transmitted to the correct number, as the case may be.