

Company No: SC256532

THE COMPANIES ACT 2006

WRITTEN MEMBERS' RESOLUTION

of

ELONICS LIMITED

(the "Company")

Circulation date: 29 April 2009

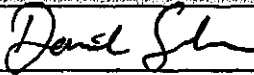









Pursuant to sections 281(1)(a) and 291 of the Companies Act 2006, the directors of the Company propose that the resolutions set out below be passed as special resolutions of the Company.

- (1) "That all of the of the authorised (issued and unissued) A ordinary shares of £0.01 each in the capital of the Company be converted into A1 ordinary shares each having the rights and being subject to the restrictions attributed to them in the articles of association to be adopted pursuant to paragraph 5 below."
- (2) "That 59,847 of the authorised but unissued ordinary shares of £0.01 each in the capital of the Company be converted into A2 ordinary shares each having the rights and being subject to the restrictions attributed to them in the articles of association to be adopted pursuant to paragraph 5 below."
- (3) "That pursuant to Section 80 of the Companies Act 1985 (a) the Directors of the Company be authorised generally and unconditionally to allot up to (i) 59,847 A2 ordinary shares and (ii) 50,399 ordinary shares pursuant to an employee share scheme, such authority to expire on the fifth anniversary of the date of the passing of this Resolution."
- (4) "That the Directors of the Company be and are hereby authorised pursuant to Section 95 of the Companies Act 1985 to allot equity securities (within the meaning of Section 94 of that Act) pursuant to the authority conferred by paragraph (3) above as if Section 89(1) of that Act did not apply to the allotment."

- (5) "That the Company adopt new articles of association in the form of the draft articles of association signed for the purpose of identification by David Srodzinski, Director of the Company and attached to this resolution in substitution for and to the exclusion of the existing articles of association of the Company."

We, the undersigned, each being a member of the Company who at 29 April 2009 would have been entitled to vote on the above resolutions at a general meeting of the Company duly convened and held, agree to the above resolutions.

Shareholder	Authorised Signature	Date
David Srodzinski		5 th May 09
Braveheart Investment Group plc		7 May 09
Braveheart Nominees Ltd (a/c DLGB; VRB; IGTF; JPDB; and AMS)	 For Braveheart Ventures Limited, Director	7 May 09
Braveheart Ventures Limited as attorney for Barry Rose; Colin Smith; David Short; Donald B MacGregor; Garry S Watson; Garry & Elizabeth Ann Watson-MAMM a/c; George G McAndrew; Gordon Stewart; Iain Mackintosh; Jeff Fergus; John F Lawrie; John H Beaton; Nicholas Kuenssberg; Patrick A Campbell Fraser; Alexander Walker; and William T Junor		7 May 09
Peter J Frith		5/5/09
www.thetaxshop.com Ltd		
Sir Tom Farmer	 (attorney)	6/5/09
Brian Souter		6/5/09
Scottish Enterprise Scottish Venture Fund		8/5/2009

David Milne	Hartani Heluo	5.5.09
Elizabeth Sharpe		
John Gray		
Irene Buchanan		
John Carey	Hartani Heluo	5.5.09

NOTES

1. Shareholders who wish to agree to such resolutions should signify their agreement by signing and returning this document to the Company, marked for the attention of the Company Secretary. If you do not agree to the resolutions, you do not need to do anything; you will not be deemed to agree if you fail to reply.
2. If sufficient agreement is not received by 28 days from the date of circulation of these resolutions then these resolutions will lapse and shareholders will not be able to indicate agreement after that date. If you agree to the resolutions, please ensure your agreement reaches us before that date.
3. Once you have indicated your agreement to the resolutions, you may not revoke your agreement.
4. If you are signing this document on behalf of a person under a power of attorney or other authority, please send a copy of the relevant power of attorney or other authority when returning this document.

ARTICLES OF ASSOCIATION
of
ELONICS LIMITED

Adopted by Written Resolution
dated 8 May 2009

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Private Company Limited by Shares
Incorporated under the Companies Acts 1985 and 1989

ARTICLES OF ASSOCIATION

of

ELONICS LIMITED

(Company number: SC256532)

Adopted by written resolution passed on: 8 May 2009

1. DEFINITIONS

- 1.1 In these articles the following words and phrases have the meanings set out opposite them below:

"2006 Act" means the Companies Act 2006;

"Act" means the Companies Act 1985 and every statutory modification or re-enactment of it for the time being in force and any provisions of the 2006 Act for the time being in force;

"A Ordinary Shares" means the A1 Ordinary Shares and A2 Ordinary Shares;

"A1 Ordinary Shares" means the A1 ordinary shares of £0.01 each in the capital of the Company having the rights and being subject to the restrictions set out in these articles;

"A2 Ordinary Shares" means the A2 ordinary shares of £0.01 each in the capital of the Company having the rights and being subject to the restrictions set out in these articles;

"Adoption Date" means the date of adoption of these articles;

"Bank" means The Bank of Scotland PLC, a company incorporated in Scotland with registered number SC327000 whose registered office is at The Mound, Edinburgh, EH1 1YZ;

"Bad Leaver" means an Employee Member who ceases to be a director or employee of the Company or any Group Company and does not continue as either a director or employee in relation to any of them where such cessation occurs in circumstances where the Employee Member is guilty of any gross misconduct, gross negligence or is in material breach of his contract of employment, service agreement or consultancy agreement;

"Benefits" means all fees, salary and other emoluments, including pension contributions and other taxable benefits, whether in cash or otherwise;

"BIG" means Braveheart Investment Group plc, a Company incorporated in Scotland under the Act with registered number SC247376 and having its

registered office at The Cherrybank Centre, Cherrybank Gardens, Perth, PH2 0PF;

"Braveheart Group" means:

- (a) in relation to BVL any holding company of BVL and all or any investment trusts or investment companies or funds under common management with, or advised by, the managers of or advisers to or nominee for any holding or subsidiary company of BVL and/or BIG;
- (b) any subsidiary of any holding company of BVL;
- (c) any client of BVL other than those which are competitors of the Company; and
- (d) any fund, partnership or other entity managed by a member of the Braveheart Group or where BVL or BIG is the general partner;

and **"member of the Braveheart Group"** shall be construed accordingly;

"Braveheart Investors" means those persons who have invested in the Company in their capacity as clients of BVL;

"Brian Souter" means Brian Souter residing at Ochertyre House, By Crieff PH7 4JR

"BVL" means Braveheart Ventures Limited, a company incorporated in Scotland under the Companies Acts with registered number SC171237 and having its registered office at The Cherrybank Centre, Cherrybank Gardens, Perth, PH2 0PF;

"Circulation Date" means the earliest date on which a proposed written resolution is communicated in hard copy or electronic form (including without limitation by electronic mail or by publication on a website) to every eligible Member who is entitled to receive such communication;

"Co-Investors" means each of Scottish Enterprise, Sir Tom Farmer and Brian Souter and **"Co-Investor"** means any of them;

"Connected Persons" means as defined by section 839 Income and Corporation Taxes Act 1988;

"Controlling Interest" means an interest in shares (as defined in section 820 to 825 of the 2006 Act) in a company conferring in the aggregate 50% or more of the total voting rights conferred by all the issued shares in that company;

"CVS" means the UK Government's corporate venturing scheme;

"Deferred Shares" means the deferred shares of £0.01 each in the capital of the Company, having the rights and being subject to the restrictions set out in these articles;

"Departing Employee Member" means an Employee Member who ceases to be a director or employee of the Company or any other Group Company and does not continue as, or thereupon become, a director or employee of any other Group Company;

"EIS" means the UK Government's enterprise investment scheme;

"Employee Member" means a person (which shall for the avoidance of doubt exclude any person appointed as an Investor Director pursuant to article 14.1) who is a Member and is or has been a director and/or an employee of any Group Company;

"Early Leaver" means a Departing Employee Member who is not a Bad Leaver and whose employment by the Company at the Termination Date has been for less than three years, such term not being capable of being applied to Fred Hallsworth;

"Equity Shares" means the A Ordinary Shares and the Ordinary Shares but not the Deferred Shares;

"Exempt Issue" means any issue of shares pursuant to the Subscription Agreement entered into on or around the Adoption Date or pursuant to options granted by the Company prior to the Adoption Date;

"Exit Event" means each and any of:

- (a) a Winding-up;
- (b) a Trade Sale;
- (c) a Sale; or
- (d) an IPO; or
- (e) a Merger;

"Family Trust" means a trust which only permits the settled property or the income from the settled property to be applied for the benefit of:

- (a) the settlor and/or a Privileged Relation of that settlor; or
- (b) any charity or charities as default beneficiaries (meaning that such charity or charities have no immediate beneficial interest in any of the settled property or the income therefrom when the trust is created but may become so interested if there are no other beneficiaries from time to time except another such charity or charities);

and under which no power of control is capable of being exercised over the votes of any shares which are the subject of the trust by any person other than the trustees or the settlor or the Privileged Relations of the settlor. For purposes of this definition "settlor" includes a testator or an intestate in relation to a Family Trust arising respectively under a testamentary disposition or an intestacy of a deceased Member;

"Finally Determined" means the decision of a court or tribunal from which either no appeal lies or in respect of which no appeal is made within the prescribed time limit for appeals to be made;

"Group" means the Company, its subsidiaries, any holding company of the Company and any subsidiary of any such holding company from time to time and **"Group Company"** shall be construed accordingly;

"Indebtedness" means the total of:

- (a) amounts borrowed by the Group;
- (b) any actual or contingent liability under a guarantee given by a Group Company;
- (c) amounts due by the Group under any credit sale, hire purchase, and equipment leasing agreements, insofar as any of these can properly be attributed to capital,

but excluding loans and guarantees, from one Group Company to another;

"Independent Expert" means an umpire (acting as an expert and not as an arbiter) nominated by the parties concerned or, in the event that they have not reached agreement as to nomination within 28 days of a request by one of the parties concerned for the nomination of an umpire, appointed by the President for the time being of the Institute of Chartered Accountants of Scotland;

"Investors" means the holders of A Ordinary Shares from time to time and **"Investor"** means any of them;

"Investor Director" means any person appointed by an Investor Majority as a director of the Company pursuant to article 14.1;

"Investor Majority" means the holders of 75% or more in nominal value of the A Ordinary Shares;

"Investor Shares" means the A Ordinary Shares;

"IPO" means either (a) the listing of any share capital of any Group Company on (i) the Official List or Alternative Investment Market of London Stock Exchange plc or (ii) NASDAQ or NASDAQ Europe, or (b) the granting of permission for any of the share capital of a Group Company to be dealt in on any recognised investment exchange (as defined by section 285 Financial Services and Markets Act 2000) or any other exchange or market for the public trading of shares or securities which is acceptable to an Investor Majority;

"Member" means a holder of shares in the Company;

"Merger" means (a) a merger or consolidation of the Company or any other Group Company with or into another company if, immediately after such merger or consolidation, the persons who were Members or members of the relevant Group Company immediately prior thereto own, in the aggregate, shares of the surviving or resulting company representing less than a majority of the total voting power of such company or (b) any other transaction or series of events which having regard to the overall result or outcome thereof has the effect of allowing the holders of a majority of the Equity Shares to realise their investment in the Company;

"Ordinary Shares" means the Ordinary Shares of £0.01 each in the capital of the Company, having the rights and being subject to the restrictions set out in these articles;

"Original Subscription Price" means, in relation to each A Ordinary Share, the original subscription price paid or credited as paid on that share being:

- (a) in relation to the A1 Ordinary Shares, £26.33; and
- (b) in relation to the A2 Ordinary Shares, £12.90;

"Preference Date" means:

- (a) in relation to the A1 Ordinary Shares, 12 February 2008; and
- (b) in relation to the A2 Ordinary Shares, the date of allotment of any such A2 Ordinary Shares;

"Privileged Relations" means the lineal ascendants and descendants of, and the spouse or widow or widower of, a Member (including step and adopted children and their issue) and step and adopted children of the Member's children;

"Relevant Securities" means all shares, all options or rights to subscribe for or receive shares and all securities convertible into shares in the capital of the Company other than pursuant to an Exempt Issue;

"Relevant Shares" means in relation to an Employee Member all Ordinary Shares in the Company held by:

- (a) the Employee Member in question; and
- (b) any persons who acquired the shares while they were the Employee Member's Privileged Relations or who derived title to the shares from any such Privileged Relations and Family Trusts other than those shares held by those persons that an Investor Majority declares itself satisfied were not acquired directly or indirectly from the Employee Member or by reason of their relationship with the Employee Member and the decision of the Investor Majority in this respect will, in the absence of manifest error, be final;

"Remuneration Committee" means the remuneration committee of the board of directors of the Company as constituted from time to time;

"Restricted Member" means:

- (a) a Departing Employee Member who is subject to the Compulsory Employee Transfer Provisions set out in article 10.11; and
- (b) any other Members to the extent that, in relation to a Departing Employee Member who is subject to the Compulsory Employee Transfer Provisions set out in article 10.11, they are holding Relevant Shares;

"Restricted Shares" means Relevant Shares whose voting rights are suspended pursuant to article 10.12

"Sale" means (i) the sale of or the grant of a right to acquire or to dispose of a Controlling Interest in the Company or (ii) the issue or allotment of new shares or securities in the capital of the Company such that a person (or persons) not being a Member at the Adoption Date obtains a Controlling Interest in the Company and the monies raised by the Company (less associated professional costs) pursuant to such issue or allotment are or are to be distributed to the Members;

"Sale Shares" means the shares specified or deemed to be specified for sale in a Transfer Notice or Deemed Transfer Notice;

"Scottish Enterprise" Scottish Enterprise, a statutory corporation established under the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at 5 Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU;

"Scottish Enterprise Group" means shall mean Scottish Enterprise, any subsidiary for the time being of Scottish Enterprise and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of Scottish Enterprise or any subsidiary of such company, corporation or body and any other body to which the statutory functions of Scottish Enterprise have been transferred or delegated or a Scottish Enterprise Successor and the expression **"member of the Scottish Enterprise Group"** shall be construed accordingly;

"Scottish Enterprise Successor" means any party succeeding to the whole or substantially the whole of the interests of Scottish Enterprise;

"Second Close Investors" means David Milne of 18 Napier Road, Edinburgh EH10 5AY, Elizabeth Sharpe of 18 Napier Road, Edinburgh EH10 5AY, John Gray of Glebe House, High Street, Aberlady EH32 0RB, Irene Buchanan of Glebe House, High Street, Aberlady EH32 0RB and John Carey of 15320 Peach Hill Road, Saratoga, California 95070 USA;

"Seller" means the transferor of shares pursuant to a Transfer Notice or a Deemed Transfer Notice;

"Sir Tom Farmer" means Sir Tom Farmer of Maldenraig House, 192 Queensferry Road, Edinburgh EH4 2BN;

"Specified Price" means a price per Equity Share of not less than that offered or paid or agreed to be paid by the proposed transferee or transferees or his or their nominees for each Equity Share and in determining the price paid or agreed to be paid for an Equity Share for the purposes of article 12, there shall be included in each case an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the seller of the relevant Equity Shares which (having regard to the substance of the transaction as a whole) can reasonably be regarded as forming part of the consideration for the relevant Equity Shares;

"Subscription Agreement" means the subscription agreement between certain Investors, the Company, David Srodzinski and Braveheart Ventures Limited dated on or around the date of adoption of these articles;

"Table A" means Table A in the Companies (Tables A – F) Regulations 1985, SI1985/805 as amended (as amended, including without limitation by The

Companies (Tables A to F) (Amendment) Regulations 2007 (SI 2007/2541) and The Companies (Tables A to F) (Amendment) (No. 2) Regulations 2007 (SI 2007/2826));

"Termination Date" means:

- (a) where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires;
- (b) where a contract of employment is terminated by the employer and a payment is made in lieu of notice, the date on which notice of termination was served;
- (c) where an Employee Member dies, the date of his death;
- (d) where the Employee Member concerned is a director but not an employee, the date on which his contract for services with the Company is terminated; and
- (e) in any other case, the date on which the contract of employment is terminated;

"Trade Sale" means the completion of a transaction whereby any person or group of persons acting in concert purchase the whole or substantially the whole of the business and/or assets (whether together with associated liabilities or otherwise and as part of an undertaking or otherwise) of the Company and/or its subsidiaries;

"Transfer Notice" means a notice in writing given by any Member to the Company where such Member desires or is required by these articles to transfer any shares and where such notice is deemed to have been served it shall be referred to as a **"Deemed Transfer Notice"**; and

"Winding-up" means return of assets on liquidation, reduction of capital or otherwise.

1.2 Whether or not persons are **"acting in concert"** will be determined by the then most recent edition of the City Code on Takeovers and Mergers and **"concert parties"** shall be construed accordingly. For the avoidance of doubt Investors will not be considered to be acting in concert merely by reason of co-operating in a syndicate or co-investing in the ordinary course of their businesses.

1.3 All references in these articles to Sections or Sub-sections of the Act shall unless clearly stated to the contrary refer to the section or sub-section numbers of the Companies Act 1985. References in these articles to such sections and sub-sections of the Companies Act 1985 shall in the event that such sections or sub-sections are modified, re-enacted or repealed by the 2006 Act (and any subordinate legislation) shall be construed as referring instead to the corresponding provision in the 2006 Act (or subordinate legislation).

2. APPLICATION OF TABLE A

2.1 The regulations contained in or incorporated in Table A shall apply to the Company except insofar as they are excluded or varied by these articles or are inconsistent with these articles and such regulations (except as so excluded

varied or inconsistent) and these articles shall be the regulations of the Company.

- 2.2 Regulations 76-79 (inclusive), 85, 86, 94-98 (inclusive) and 118 of Table A shall not apply to the Company.

3. **SHARE CAPITAL**

- 3.1 The authorised share capital of the Company at the Adoption Date is £101,290 divided into:

- 3.1.1 94,950 A1 Ordinary Shares;
- 3.1.2 59,847 A2 Ordinary Shares;
- 3.1.3 2,480,849 Ordinary Shares; and
- 3.1.4 7,493,354 Deferred Shares.

4. **DIVIDENDS**

- 4.1 No dividend shall be made, paid or declared without the directors of the Company recommending such distribution and the prior written consent of an Investor Majority and, subject to the foregoing, every dividend shall be distributed to the holders of the Equity Shares (*pari passu* as if the same constituted one class of share) pro rata according to the number of fully paid up shares held by them respectively on the last date of the relevant accounting period prior to such distribution and shall accrue on a daily basis.

- 4.2 All dividends shall be paid in cash.

- 4.3 For the avoidance of doubt, no dividend shall be paid on any partly paid share or on any Deferred Share.

5. **RETURN OF CAPITAL**

- 5.1 On a return of assets pursuant to (i) a liquidation or winding-up of the Company or (ii) any other event that would deem the Investor Shares (or any of them) ineligible for relief in terms of EIS and/or CVS, the assets of the Company remaining after the payment of all of its liabilities shall be applied and distributed amongst the holders of the A Ordinary Shares and the Ordinary Shares (*pari passu* as if the same constituted one class of share) in proportion to the number of shares held by them respectively, subject to article 5.4 below.

- 5.2 In the event of a return of assets, otherwise than pursuant to the circumstances referred to in article 5.1, then such assets shall be applied in the following order of priority, subject to article 5.4 below:

- 5.2.1 first, in paying to the holders of the A2 Ordinary Shares the Exit Preference per A2 Ordinary Share;

- 5.2.2 second, in paying to the holders of the A1 Ordinary Shares the Exit Preference per A1 Ordinary Share; and

- 5.2.3 thereafter, the balance of such assets shall be distributed amongst the holders of the Equity Shares (*pari passu* as if the same constituted one class of share) in

proportion to the numbers of shares held by them respectively, subject to article 5.4.

- 5.3 For the purposes of article 5.2 the "Exit Preference" shall be the greater of the two amounts calculated in accordance with the following formulas:

(i) $OSP \times 1.5$

and

(ii) $OSP \times 1.15^{(n + D/365)}$

Where:

"OSP" is the Original Subscription Price;

"n" is the number of whole years elapsed since the Preference Date; and

"D" is the number of days elapsed since the last anniversary of the Preference Date

- 5.4 After the holders of the A Ordinary Shares and the Ordinary Shares have received the aggregate amounts paid up thereon (including any premium), plus £10,000 per Equity Share held, pursuant to articles 5.1, 5.2 or 5.3, each holder of a Deferred Share shall be entitled to receive a sum equal to the nominal capital paid up or credited as paid up on each Deferred Share but shall not be entitled to any further participation in the profits or assets of the Company.

6. VOTING

- 6.1 Subject to article 10.12 and to any other provisions in these articles concerning voting rights, shares in the Company shall carry votes as follows:

Ordinary Shares: one vote per share

A Ordinary Shares: one vote per share

Deferred Shares: no voting rights

- 6.2 The Deferred Shares shall entitle the holders thereof to receive notice of and attend all general meetings and to receive copies of all circulars sent to holders of shares or debentures in the Company and all resolutions of the Company in general meeting but shall not entitle the holders thereof to vote at any general meeting of the Company.

7. CLASS RIGHTS

- 7.1 Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class (save for the Deferred Shares) may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, with and only with, the consent in writing of (a) in the case of a variation of the class rights attached to Ordinary Shares, the holders of 50% of the total issued shares of that class which at that time carry the right to vote at a general meeting of the Company and (b) in the case of a variation of the class rights attached to A Ordinary Shares, an Investor Majority.

7.2 Without prejudice to the generality of this article, the special rights attached to the A Ordinary Shares shall be deemed to be varied (provided that an Investor Majority has not consented to any of the following):

7.2.1 by the Company:

- (1) issuing or allotting any shares or securities save pursuant to an Exempt Issue;
- (2) applying by way of capitalisation any sum in or towards paying up any share or loan capital of the Company (except as specifically provided for in these articles); or
- (3) redeeming any of its shares (except as specifically provided for in these articles) or purchasing or entering into a contract to purchase any of its shares or reducing the Company's share capital, share premium account, capital redemption reserve or any other reserve, other than as required by these articles, or reducing any uncalled liability in respect of partly paid shares; or
- (4) passing a resolution that it be wound up or otherwise effecting or seeking to effect, implement or conclude an Exit Event; or
- (5) entering into, terminating or varying any contract or arrangement between the Company or any member of the Group and (1) a director (2) a person who in relation to a director is connected with such director (3) any employee of the Company whose Benefits are at least £60,000 per annum, including a variation of the remuneration or other benefits under such a contract or arrangement, and the waiver of any breach of such a contract or arrangement, other than in respect of an increase in remuneration or other benefits where such increase is duly approved by the Remuneration Committee as part of a periodic review and represents an increase of less than 10% from the pre-existing level.
- (6) entering into a contract to acquire or dispose of all or a material part of a business, including that of the Company; or
- (7) expanding, developing or evolving its business otherwise than through the Company or a wholly owned subsidiary of the Company; or
- (8) changing the nature of its business other than as set out in the business plan adopted by the Company from time to time; or
- (9) making or granting any indemnity, guarantee or loans other than trade credit incurred in the ordinary course of business; or
- (10) entering into transactions with Connected Persons, or any contract or arrangement outside the ordinary course of trading or otherwise than at arm's length;

7.2.2 by the Company or any Group Company:

- (1) altering its memorandum or articles of association; or
- (2) altering, increasing, reducing, sub-dividing, consolidating or varying the authorised or issued share capital of the Company or any Group Company

or varying the rights attaching to shares in the capital of the Company or any Group Company, or issuing or allotting any shares or securities except in connection with an Exempt Issue; or

- (3) creating or granting any option or other right to subscribe for shares or convert into shares in the capital of the Company or any Group Company; or
- (4) declaring, making or paying any dividend or other distribution or other payment out of the distributable profits of the Company or of any Group Company; or
- (5) creating any mortgage, charge, security, pledge, lien, right of set off, right of retention of title or other encumbrance, whether fixed or floating, over any present or future property, assets or undertaking of the Company or any Group Company; or
- (6) incurring any indebtedness in excess of an aggregate of £100,000 or other than in the ordinary course of trading; or
- (7) effecting, implementing or concluding any Exit Event or seeking to do so; or
- (8) disposing of or acquiring any interest in any share in the capital of any company or incorporating any new subsidiary undertaking; or
- (9) entering into a contract or otherwise undertaking to acquire or dispose of a material asset having a value in excess of £75,000, other than any expenditure set out in any business plan adopted by the Company from time to time, with the consent of an Investor Majority; or
- (10) making any public offering of its securities; or
- (11) entering into any hire purchase, conditional sale or leasing agreement having a value in excess of £20,000 or, in relation to the aggregate of all such contracts entered into by the Group, £50,000 in total; or
- (12) effecting a sale, transfer or disposition of or encumbering any of its intellectual property (other than on an arms length basis and in the ordinary course of business); or
- (13) implementing any action which is likely to result in a material change in its business as set out in the business plan adopted by the Company from time to time; or
- (14) entering into any transaction outwith its ordinary course of business; or
- (15) taking any steps to wind up or dissolve the Company or any Group Company; or
- (16) entering into any agreement or arrangement in the nature of partnership, consortium, joint venture or profit sharing arrangement, or the amalgamation with any other person (other than as part of a solvent reconstruction); or

- (17) changing its accounting reference date or period, changing any accounting policy or practice (unless to comply with UK GAAP or on the advice of the Company's auditors) or appointing or changing its auditors other than the reappointment of existing auditors;
- (18) appointing or removing any director; or
- (19) the directors delegating any of their powers to a committee (other than the Remuneration Committee); or
- (20) instigating or settling any litigation or arbitration proceedings where the amount claimed exceeds £5,000; or
- (21) establishing any pension scheme or similar arrangement for the benefit of any person or amending any such scheme or arrangement; or
- (22) varying any terms of the banking facilities available to the Group; or
- (23) using the names of the Investors in any context whatsoever, or holding itself out as being connected or associated with the Investors in any manner whatsoever, other than a purpose for which it is or they are required by law to use such name.

7.2.3 The holders of the Deferred Shares shall be deemed at all times to consent to any variation or abrogation of the rights attached to the Deferred Shares either whilst the Company is a going concern or during or in contemplation of a winding up provided that the approval in writing of the holders of 50% of the total issued Equity Shares which carry the right to vote at a general meeting of the Company is obtained by the Company.

7.2.4 Without prejudice to the provisions of article 7.2.3, neither the passing by the Company of any special resolution or the cancellation of any of the Deferred Shares for no consideration by means of a reduction of capital requiring the confirmation of the court nor the obtaining by the Company, nor the making by the court of any order confirming any such reduction of capital nor the becoming effective of any such court order shall constitute a variation, modification or abrogation of the rights attaching to the Deferred Shares and accordingly the Deferred Shares may at any time be cancelled for no consideration by means of a reduction of capital effected in accordance with the Act without sanction on the part of the holders of the Deferred Shares.

8. FURTHER ISSUES OF SHARES

8.1 No Relevant Securities shall be allotted and/or issued without the prior written consent of an Investor Majority.

8.2 Unless an Investor Majority otherwise agree, all Relevant Securities shall first be offered to the Members (but not Restricted Members to the extent that they are the holders of Restricted Shares) in proportion as nearly as possible to the numbers of Equity Shares held by them. Any such offer shall be open for acceptance for not less than 21 days from the date of despatch. Any Relevant Securities not accepted in that period shall, for a period not exceeding three months from the expiry of the aforesaid period of 21 days, be at the disposal of the directors who may (within such period of three months) allot, grant options over or otherwise dispose of the same to such persons as may be approved by

an Investor Majority at a price per share and on terms not less favourable than that at which the same were offered to such Members.

- 8.3 In accordance with section 91(1) of the Act, sections 89(1), 90(1) to (5) inclusive and 90(6) of the Act shall be excluded from applying to allotment by the Company of equity securities (as defined in section 94 of the Act), which are made in accordance with article 8.1 or article 8.2.

9. **TRANSFER OF SHARES**

The directors shall refuse to register any transfer of shares made in contravention of the provisions of these articles but (subject to Regulation 24 of Table A) shall not otherwise be entitled to refuse to register any transfer of shares. For the purpose of ensuring that a particular transfer of shares is permitted under the provisions of these articles, the directors may request the transferor, or the person named as transferee in any transfer lodged for registration, to furnish the Company with such information and evidence as the directors may reasonably think necessary or relevant. Failing such information or evidence being furnished to the satisfaction of the directors within a period of 28 days after such request the directors shall be entitled to refuse to register the transfer in question.

10. **PROHIBITED, PERMITTED AND MANDATORY TRANSFERS**

Permitted transfers to relations and family trusts

- 10.1 Subject to the provisions of article 10.11 (mandatory transfer on cessation of employment), any Member who is a natural person may at any time during his lifetime transfer all or any shares held by him to a Privileged Relation or, provided that the conditions in article 10.2 are met, to trustees to be held upon a Family Trust of which he is the settler.

Criteria for transfers to family trusts

- 10.2 No transfer to trustees to be held upon a Family Trust shall be capable of being made unless the board of directors are satisfied:
- 10.2.1 with the terms of the trust instrument and in particular with the powers of the trustees;
- 10.2.2 with the identity of the proposed trustees;
- 10.2.3 that the proposed transfer will not result in 50% or more in the aggregate of the Company's Equity Shares being held by trustees of that and any other trusts; and
- 10.2.4 that no costs incurred in connection with the setting up or administration of the Family Trust in question are to be paid by the Company.

Permitted transfers by family trusts

- 10.3 Where any shares are held by trustees upon a Family Trust such shares may be transferred without restriction as to price or otherwise:
- 10.3.1 on any change of trustees, to the new trustees of that Family Trust provided that an Investor Majority is satisfied with the identity of such new trustees;

- 10.3.2 at any time to the settlor or to another Family Trust of which he is the settlor or to any Privileged Relation of the settlor.

Permitted transfers by corporate investors

- 10.4 Notwithstanding any other provisions of these articles, a transfer of any shares in the Company held by any Investor which is a company may be made to its holding company or to any subsidiary of that holding company (a "**member of the same group**") without restriction as to price or otherwise, and any such transfer shall be registered by the directors. If any such transferee ceases to be a member of the same group as the original transferor it shall forthwith transfer the relevant shares and any additional shares issued or transferred to such transferee by virtue of it holding the relevant shares back to the original transferor, or another member of the same group as the original transferor and if they do not do so within 28 days of the date upon which the transferee ceases to be a member of the same group as the original transferor the transferee shall be deemed to have given a Transfer Notice and the provisions of Article 11 shall have effect.

Permitted transfers by Investment Managers and Investment Funds

- 10.5 Notwithstanding any other provision of these articles, a transfer of any shares may be made without restriction as to price or otherwise (and any such transfers shall be registered by the directors) between any Member (or a nominee of a Member) who is:
- 10.5.1 a person whose principal business is to make, manage or advise upon investments (an "**Investment Manager**"); or
- 10.5.2 a fund, partnership, company, investment trust, syndicate or other entity whose principal business is to make investments and whose business is managed by an Investment Manager (an "**Investment Fund**"); or
- 10.5.3 a nominee of an Investment Manager of an Investment Fund;
- and:
- (a) where that Member is an Investment Manager or a nominee of an Investment Manager:
- (i) any participant or partner in or member of any Investment Fund in respect of which the shares to be transferred are held (but only in connection with the dissolution of such Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course) provided such participant partner or member is not a competitor of the Company; or
 - (ii) any Investment Fund whose business is managed by the Investment Manager who is or whose nominee is the transferor; or
 - (iii) any other Investment Manager who manages the business of the Investment Fund in respect of which the shares are held;

- (b) where that Member is an Investment Fund or nominee of an Investment Fund:
- (i) any participant or partner in or member of the Investment Fund which is or whose nominee is the transferor (but only in connection with the dissolution of such Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course) provided such participant partner or member is not a competitor of the Company; or
 - (ii) any other Investment Fund whose business is managed by the same Investment Manager as manages the Investment Fund which is or whose nominee is the transferor; or
 - (iii) the Investment Manager who manages the business of the Investment Fund which is or whose nominee is the transferor.

Permitted transfers among the Braveheart Group

- 10.6 Notwithstanding any other provisions of these articles, a transfer of any shares in the Company held by any member of the Braveheart Group may be made without restriction as to price or otherwise between the member of the Braveheart Group holding such shares and any other member of the Braveheart Group. If any such transferee ceases to be a member of the Braveheart Group (save for where a client of BVL ceases to be a client of BVL) such transferee shall forthwith transfer the relevant shares back to the original transferor, or where such transferor is no longer a member of the Braveheart Group, another member of the Braveheart Group.

Permitted transfers by Scottish Enterprise

- 10.7 Notwithstanding any other provisions of these articles (other than articles 10.14, 10.15 and 10.16 (Mandatory transfer of Deferred Shares)) a transfer of any shares in the Company held by any member of the Scottish Enterprise Group may be made without restriction as to price or otherwise between the member of the Scottish Enterprise Group holding such shares and any other member of the Scottish Enterprise Group. If any such transferee ceases to be a member of the Scottish Enterprise Group such transferee shall forthwith transfer the relevant shares and any additional shares issued or transferred to such transferee by virtue of it holding the relevant shares back to the original transferor, or where such transferor is no longer a member of the Scottish Enterprise Group, another member of the Scottish Enterprise Group.

Transfers with shareholder approval

- 10.8 Notwithstanding any other provision of these articles, a transfer of any shares (a) approved by the holders of 50% or more of the Ordinary Shares and an Investor Majority or (b) made in accordance with Article 12 or (c) made in accordance with articles 10.1-10.7 (inclusive), may be made without restriction as to price or otherwise and any such transfer shall be registered by the directors.

Mandatory transfer if trust ceases to be a Family Trust

- 10.9 If and whenever any shares in the Company held by trustees upon a Family Trust cease to be so held upon a Family Trust (otherwise than in consequence of a transfer to the settlor or to any Privileged Relation of the settlor) or there cease to be any beneficiaries of the Family Trust other than a charity or charities a Transfer Notice (as hereinafter defined) shall be deemed to have been given in respect of all shares in the Company by the holders thereof and the provisions of article 11 shall have effect and such shares may not otherwise be transferred.

Mandatory transfer on change of control

- 10.10 If any corporate Member ceases to be within the control (as such term is defined by section 840 Income and Corporation Taxes Act 1988) of the person(s) who controlled such company on the date on which it became a Member or on the Adoption Date (whichever shall be the later) it shall be deemed to have immediately given a Transfer Notice in respect of all the shares as shall then be registered in its name and the provisions of article 11 shall have effect PROVIDED ALWAYS that this sub-article shall not apply to BVL, BIG or any of the Co-Investors, nor to any member of the Braveheart Group or the Scottish Enterprise Group.

Mandatory transfer on cessation of employment

- 10.11 If an Employee Member becomes a Departing Employee Member and unless an Investor Majority has given its written consent to an alternative arrangement, Transfer Notice(s) shall be deemed to have been served on the relevant Termination Date in respect of:
- 10.11.1 in the event that the Departing Employee Member is a Bad Leaver, all Relevant Shares; or
- 10.11.2 in the event that the Departing Employee Member is an Early Leaver and at the Termination Date his:
- (a) term in office as a director of the Company and/or employment by the Company has continued for less than two continuous years, 100% of the Relevant Shares shall be offered for sale; or
 - (b) term in office as a director of the Company and/or employment by the Company has continued for two or more but less than three continuous years, 50% of the Relevant Shares shall be offered for sale; or
 - (c) term in office as a director of the Company and/or employment has continued for three or more continuous years, none of the Relevant Shares need be offered for sale,

Provided that:

- (i) in each case such Departing Employee Member may elect to offer for sale more than the specified percentage of the Relevant Shares;
- (ii) in the event that such Departing Employee Member makes an application to an employment tribunal within any applicable time period for the making of such application the Deemed Transfer Notice

shall be deemed served but the application of the provisions of articles 11.1 – 11.11 (inclusive) shall be suspended until the application has been Finally Determined and if:

- (a) the terms of the Final Determination are such that the Departing Employee Member was not guilty of any gross misconduct, gross negligence or material breach of his contract of employment, service agreement or consultancy agreement then the Departing Employee Member shall not be a Bad Leaver for the purposes of these articles; or
- (b) the terms of the Final Determination are such that the Departing Employee Member was guilty of any gross misconduct, gross negligence or material breach of his contract of employment, service agreement or consultancy agreement then the Departing Employee Member shall be a Bad Leaver; and

the suspension of the application of articles 11.1 – 11.11 (inclusive) shall be revoked with immediate effect; and

- (iii) for the avoidance of doubt if the Departing Employee Member is not either a Bad Leaver or an Early Leaver the Departing Employee Member shall not be deemed to have served a Transfer Notice

Transfers under this article 10.11 are in these articles referred to as **"Compulsory Employee Transfers"**.

Restriction of voting rights

- 10.12 All voting rights attached to Relevant Shares held by an Employee Member and by persons who acquired the Relevant Shares while they were his Privileged Relations and Family Trusts shall be suspended with immediate effect from the time such Employee Member becomes a Restricted Member.
- 10.13 Restricted Shares shall confer on the holders the right to receive notice of and attend all general meetings of the Company but shall have no right to vote either in person or by proxy. Such voting rights shall be automatically restored upon an IPO becoming effective. If a Restricted Member transfers any Restricted Shares in the Company in accordance with these articles to a person to whom an Investor Majority declares itself satisfied is not a Privileged Relation of the Restricted Member or a trustee for a Family Trust of the Restricted Member, all voting rights attached to the Restricted Shares so transferred shall upon completion of the transfer (as evidenced by the transferee's name being entered in the Company's register of Members) automatically be restored.

Mandatory transfer of Deferred Shares

- 10.14 Notwithstanding any other provision in these articles, where any Member holds any Ordinary Shares and any Deferred Shares concurrently and wishes to or is compelled to transfer such Ordinary Shares (or part thereof) pursuant to these articles (the **"Proposed Transfer"**), that Member shall be obliged (unless article 10.16 applies) to also transfer to the transferee of such Ordinary Shares such number of Deferred Shares as represents the same proportion of the total number of Deferred Shares held by the Member as the number of such Ordinary

Shares to be so transferred bears to the total number of Ordinary Shares held by that Member, prior to such transfer (the "**Relevant Proportion**").

- 10.15 The provisions of article 10.14 shall apply *mutatis mutandis* where a Proposed Transfer concerns a transfer of Deferred Shares rather than Ordinary Shares such that the Member in question shall be obliged to transfer the Relevant Proportion of Ordinary Shares. This article 10.15 shall not apply in the event of a Deferred Share Buy-back as defined in article 10.17.
- 10.16 Where a Proposed Transfer of Ordinary Shares arises on account of a Transfer Notice being deemed to be served, then a Transfer Notice shall also be deemed to be served in respect of the Relevant Proportion of Deferred Shares and *vice versa*.

Buy-back of Deferred Shares

- 10.17 Subject to the provisions of the Act but notwithstanding any other provision of these articles (including for the avoidance of doubt, any provision of article 11 (Pre-emption Rights), the Company shall have the power and right at any time to purchase all or any of the Deferred Shares for an aggregate consideration of £1 (a "**Deferred Share Buy-back**").
- 10.18 Any director of the Company may be appointed as agent or attorney of the holder of any Deferred Shares to be purchased by the Company pursuant to article 10.17 and the holder of such Deferred Shares shall be deemed to consent to the appointment of any such agent or attorney, and such agent or attorney shall be authorised to execute any transfer(s), buy-back agreement or other documentation as is required or desirable in connection with a Deferred Share Buy-back.

11. PRE-EMPTION RIGHTS

Transfer Notices and Sale Price

- 11.1 Except where otherwise provided in these articles, every Member who desires to transfer any interest in shares must serve a Transfer Notice and any Member who is required by these articles to transfer any interest in shares will be deemed to have served a Deemed Transfer Notice. No Transfer Notice (other than a Deemed Transfer Notice or a Transfer Notice served in respect of a transfer permitted in terms of articles 10.1 – 10.8 (inclusive)) may be served without the prior written consent of an Investor Majority and if served without such consent shall not be effective. Transfer Notices and Deemed Transfer Notices shall constitute the Company as the Seller's agent for the sale of the Sale Shares at, subject to article 11.2, the price agreed by the Seller and the directors (the "**Sale Price**"). If the Seller and the directors are unable to agree a price within 21 days of the Transfer Notice being given or being deemed to have been given the Sale Price will instead be the price which the Independent Expert shall certify to be in his opinion a fair value of the Sale Shares. In arriving at his opinion the Independent Expert will value the Sale Shares as at the date the Transfer Notice is given, or is deemed to have been given, on a going concern basis as between a willing seller and a willing buyer, ignoring any reduction in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority interest and on the assumption that the Sale Shares are capable of transfer without restriction. The decision of the Independent Expert as to the Sale Price shall be final and binding.

Restriction of Sale Price for certain transfers by Employee Members, their Privileged Relations and Family Trusts

- 11.2 In the case of Compulsory Employee Transfers where the Departing Employee Member is either a Bad Leaver or an Early Leaver, the Sale Price shall be restricted to the lower of (i) the par value of the Sale Shares and (ii) the price certified by the Independent Expert to be the fair value of the Sale Shares pursuant to article 11.1;
- 11.3 For the avoidance of doubt in relation to an Early Leaver the Sale Price calculated pursuant to this article shall only apply in respect of those of the Sale Shares in respect of which a Transfer Notice is deemed to have been served pursuant to article 10.11.2.

Right of Seller to reject partial sales

- 11.4 A Transfer Notice (but not a Deemed Transfer Notice) may contain a condition (a "Total Transfer Condition") that unless all the Sale Shares are sold by the Company pursuant to this article none shall be sold. Any such provision shall be binding on the Company.

Certification of the Sale Price and right of Seller to cancel

- 11.5 If the Independent Expert is asked to certify the fair value his certificate shall be delivered to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Seller. The Seller shall be entitled, by notice in writing given to the Company within 7 days of the service upon him of the copy certificate, to cancel the Company's authority to sell the Sale Shares and revoke the Transfer Notice, unless the shares are to be sold pursuant to a Deemed Transfer Notice. The cost of obtaining the certificate shall be paid by the Company unless the Seller revokes the Transfer Notice in which case the Seller shall bear the cost.

Pre-emptive offers-general

- 11.6 Once the Sale Price has been determined then, unless the Seller has given a valid notice of cancellation to revoke the Transfer Notice, the Sale Shares shall be offered for sale in accordance with the provisions of articles 11.7 to 11.15 (inclusive).

Compulsory Employee Transfers to be offered to the Company

- 11.7 Provided an Investor Majority have given their prior written consent, any Sale Shares being sold by reason of a Compulsory Employee Transfer shall first be offered to the Company. Such consent shall not be unreasonably withheld. Consent shall be deemed to have been given by any Investor who has not given consent within 14 days of being requested to do so. If consent is refused under this sub-article the Sale Shares in question may instead be offered for sale to any other person jointly nominated by the Company and an Investor Majority. Any offer under this article to the Company or other such persons must be made within 14 days of the consent being given or refused. Any Sale Shares not sold under this sub-article within 14 days of being offered to the Company or other person (as the case may be) will be available for sale to the Members as set out below PROVIDED that such Sale Shares shall be offered pursuant to article 11.7.

Offer to Members

- 11.8 As soon as the Sale Shares become available for sale to the Members they shall forthwith be offered for sale by the Company giving notice in writing to that effect to all holders of Equity Shares (other than the Seller and Restricted Members in relation to any Restricted Shares). The notice shall specify:
- 11.8.1 the number and class of Sale Shares on offer and the Sale Price;
- 11.8.2 whether the Sale Shares are subject to a Total Transfer Condition;
- 11.8.3 the date by which the application to purchase the Sale Shares has to be received by the Company (being a date no less than 14 days and no more than 21 days after the date of the notice).

The notice shall set out the method of allocation of the Sale Shares and shall invite each Member to apply in writing to the Company for as many of the Sale Shares (if any) as that Member would like to purchase.

Basis of allocation to Members

- 11.9 The Sale Shares shall be allocated by the directors in satisfaction of the applications received in accordance with the procedure set out in this article.
- 11.10 The Sale Shares of the class specified in column (1) below shall, subject to article 11.7, be allocated first in satisfaction of the applications received from Members holding the class of share set out in the corresponding line of column (2) and after all applications for Sale Shares by that class have been satisfied any Sale Shares remaining shall be allocated in satisfaction of applications received from Members holding the class of share set out in the corresponding line of column (3) and after all applications for Sale Shares by that class have been satisfied any Sale Shares remaining shall be allocated in satisfaction of applications received from Members holding the class of share set out in the corresponding line of column (4).

(1) Class of Sale Shares	(2) First Preferred Applicants	(3) Second Preferred Applicants	(4) Third Preferred Applicants
A2 Ordinary	A2 Ordinary	A1 Ordinary	Ordinary
A1 Ordinary	A1 Ordinary & A2 Ordinary	Ordinary	
Ordinary	Ordinary	A1 Ordinary & A2 Ordinary	

- 11.11 If the total number of Sale Shares applied for by the Members is equal to or less than the number of Sale Shares available, the Sale Shares shall be allocated in satisfaction of the applications received unless the relevant Transfer Notice was subject to a Total Transfer Condition and not all of the Sale Shares were applied for.

- 11.11.1 If the total number of Sale Shares applied for is more than the number of Sale Shares available, the directors shall allocate Sale Shares in satisfaction of each Member's application for Sale Shares in accordance with the following formula. This formula shall be applied repeatedly until such time as there are no Sale Shares remaining to be allocated. Each application of the formula is herein referred to as an "iteration".

$$A = \frac{B}{C} \times D$$

Where:

- "A" is the number of Sale Shares to be allocated to the relevant Member in the iteration.
- "B" is the number of shares of the relevant class to which the iteration is being applied (less any Restricted Shares) held by the Member.
- "C" is the total number of issued shares of the relevant class to which the iteration is being applied (less any Restricted Shares).
- "D" is the number of Sale Shares or, after the first iteration, the number of Sale Shares remaining unallocated by previous iterations.

If, in any iteration, a Member would be allocated all or more than all of the Sale Shares for which he applied (including allocations from previous iterations) then any excess will not be allocated to that Member. That Member will cease to take part in any further iterations and the excess Sale Shares will be available for allocation in the next iteration.

- 11.11.2 The Company shall notify the Seller and each Member who applied for Sale Shares of the number of Sale Shares that have been allocated and the persons to whom they have been allocated. The notification shall include the place and time (being not later than 14 days after the date by which applications had to be received) at which the sale of the Sale Shares shall be completed.

Transfer procedure for pre-emptive offers

- 11.12 If the Company finds a purchaser or purchasers for all or any of the Sale Shares under the terms of this article the Seller shall be bound, upon receipt of the Sale Price, to transfer the Sale Shares (or such of the same for which the Company shall have found a purchaser or purchasers) to such persons unless the relevant Transfer Notice contained a Total Transfer Condition in which case a Seller shall only be required to transfer the Sale Shares if purchasers are found for all of the Sale Shares. If the Seller defaults in transferring Sale Shares the Company shall, if so required by the person or persons willing to purchase such Sale Shares, receive and give a good discharge for the purchase money on behalf of the Seller and shall authorise some person to execute transfers of the Sale Shares, on behalf of and as agent and attorney for the Seller, in favour of the purchasers and shall enter the names of the purchasers in the Register of Members as the holder of such of the Sale Shares as have been transferred to them. The Seller shall be deemed to consent to the appointment of any such attorney and once entered in the Register of Members, the validity of such

transfer shall not be open to challenge, notwithstanding that no share certificate has been produced.

Transfers free of pre-emption

- 11.13 If the Company does not find purchasers for all of the Sale Shares under the terms of this article 11, the Seller shall at any time within six months after the date of the offer by the Company to its Members be free to sell and transfer such of the Sale Shares as have not been so sold to any person at a price which is no less than the Sale Price. If the Sale Shares were the subject of a Total Transfer Condition such a sale may only be made of all the Sale Shares and not part only.

Effect of non-compliance

- 11.14 Any purported transfer of shares otherwise than in accordance with the provisions of these articles shall be void and have no effect.

Re-Classification of Shares

- 11.15 In the event that any holder of Ordinary Shares becomes the holder of any A Ordinary Shares then such A Ordinary Shares shall be deemed, immediately prior to them being registered in the name of such holder of Ordinary Shares, to have been automatically re-classified as Ordinary Shares without the requirement for the passing of any resolution of the Company or its Members or any class thereof.

12. CHANGE OF CONTROL AND EXIT EVENTS ETC.

Change of Control

- 12.1 No sale or transfer of the legal or beneficial interest in any shares in the Company may be made or validly registered if, as a result of such sale or transfer and registration thereof, a Controlling Interest would be obtained in the Company by any person or group of persons acting in concert unless:
- 12.1.1 the consent in writing of an Investor Majority has been obtained; and
- 12.1.2 before the transfer is lodged for registration the proposed transferee or transferees or his or their nominees makes or make an offer (stipulated to be open for acceptance for at least 21 days) to all Members to purchase all the Equity Shares at the Specified Price, subject to any subsequent adjustment in accordance with article 12.13; and
- 12.1.3 in respect of any such Members who accept the said offer, the sums due are paid to each of them in full at completion of the transfer by the proposed transferee or his nominee.
- 12.2 So far as is reasonably practicable the Company shall use reasonable endeavours to ensure that the Members are provided with sufficient information as may be necessary for them to form a reasonable view as to the nature of the proposed transaction.
- 12.3 Any Member who fails to accept any such offer within the period limited for acceptance shall be deemed to have rejected it.

Drag along

- 12.4 If an Investor Majority (the "**Selling Shareholders**") wish to transfer all their interest in Equity Shares (the "**Sellers' Shares**") to a bona fide arms length purchaser (the "**Third Party Purchaser**") the Selling Shareholders shall have the option (the "**Drag Along Option**") to require all the other holders of Equity Shares (the "**Called Shareholders**") to sell and transfer all their shares to the Third Party Purchaser or as the Third Party Purchaser shall direct in accordance with the provisions of articles 12.5 – 12.11 (inclusive).
- 12.5 The Selling Shareholders may exercise the Drag Along Option by giving a written notice to that effect (a "**Drag Along Notice**") at any time before the transfer of the Sellers' Shares to the Third Party Purchaser. A Drag Along Notice shall specify that the Called Shareholders are required to transfer all their Equity Shares (the "**Called Shares**") pursuant to this article, to the person to whom they are to be transferred, the consideration for which the Called Shares are to be transferred (calculated in accordance with article 12.7) and the proposed date of transfer.
- 12.6 Drag Along Notices shall be Irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares by the Selling Shareholders to the Third Party Purchaser within 60 days after the date of service of the Drag Along Notice. The Selling Shareholders shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 12.7 The aggregate price payable (in cash or otherwise) by the Third Party Purchaser for the whole issued share capital of the Company (assuming the exercise of all share options, warrants and other rights to subscribe for shares in the capital of the Company are exercised in full) shall be distributed to and allocated amongst the Selling Shareholders and the Called Shareholders in the manner and order of priority provided for in article 5.
- 12.8 No Drag Along Notice may require a Called Shareholder to agree to any terms save those specifically provided for in this article.
- 12.9 Completion of the sale of the Called Shares shall take place on the same date as the date proposed for completion of the sale of the Sellers' Shares unless:
- 12.9.1 all of the Called Shareholders and the Selling Shareholders agree otherwise; or
- 12.9.2 that date is less than 3 days after the Drag Along Notice where it shall be deferred until the third business day after the Drag Along Notice.
- 12.10 If any Called Shareholder does not execute transfer(s) on the date for completion of the sale of Called Shares in respect of all the Called Shares held by them the defaulting Called Shareholder shall be deemed irrevocably to have appointed any person nominated for the purpose by a majority of the Selling Shareholders to be their agent and attorney to execute all necessary transfer(s) on his behalf against receipt by the Company (on trust for such holder) of the purchase monies or any other consideration payable for the Called Shares and to deliver such transfer(s) to the Third Party Purchaser (or as they may direct) and the directors shall forthwith register the Third Party Purchaser (or as they may direct) as the holder thereof. After the Third Party Purchaser (or their nominee) has been registered as the holder, the validity of such proceedings shall not be questioned by any

such person. It shall be no impediment to registration of any transfer of shares under this sub-article that no share certificate has been produced.

12.11 Upon any person, following the issue of a Drag Along Notice, becoming a Member pursuant to the exercise of a pre-existing option to acquire shares in the Company (a "New Member"), a Drag Along Notice shall be deemed to have been served upon the New Member on the same terms as the previous Drag Along Notice who shall thereupon be bound to sell and transfer all such shares acquired by them to the Third Party Purchaser or as the Third Party Purchaser may direct and the provisions of this article shall apply mutatis mutandis to the New Member save that completion of the sale of such shares shall take place forthwith upon the Drag Along Notice being deemed served on the New Member.

12.12 The rights of pre-emption set out in these articles shall not arise on any transfer of shares pursuant to this article 12.

Application of Returns

12.13 Subject only to article 5.1 and notwithstanding any other provision in these articles, in the event that any Exit Event is proposed any allocation, payment or distribution of the proceeds thereof amongst the Members shall be made on the basis that such proceeds are allocated, paid or distributed as if they were a return of net assets of the Company and articles 5.2, 5.3 and 5.4 applied thereto as appropriate.

12.14 Without prejudice to the generality of article 12.13, in the event of an IPO such distribution shall be by way of the issue of such number of additional shares to Investors, as would result in the Investors holding such proportion of the issued share capital of the Company immediately prior to IPO as is equal to the proportionate share of any distribution that the Investors would have received pursuant to Article 5.2, 5.3 and 5.4 as appropriate, had the Company made a distribution of an amount equal to the valuation placed on the Company in the IPO, prior to the receipt of any additional funds arising from or in connection with the IPO. Such shares will be issued fully paid at par but at no cost to the Investors by means of a capitalisation of any available reserves of the Company. If the Company has insufficient reserves to pay up the necessary shares then once all available reserves have been capitalised, proportionately amongst the Investors, each Investor shall be entitled to subscribe at par for the shares remaining to be paid up.

12.15 If an Exit Event occurs then, notwithstanding anything to the contrary in the terms and conditions governing such Exit Event, upon a written instruction to do so from an Investor Majority, the relevant Members immediately prior to such Exit Event shall procure that the aggregate consideration received or receivable by them in respect of such Exit Event (whenever received and whether payable to the relevant Members or the Company) shall be placed in a designated trustee account upon terms that it shall only be distributed amongst such Members and in such amounts and in such order of priority as provided for in articles 5.2, 5.3 and 5.4.

12.16 All other regulations of the Company relating to the transfer of shares and the rights to registration of transfers shall be read subject to this Article 12.

13. APPOINTMENT OF DIRECTORS

- 13.1 The number of directors in office at any time shall not exceed 6.
- 13.2 Subject to article 13.1, the directors may with the prior written consent of an Investor Majority appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director.

14. BOARD APPOINTEES AND CHAIRMAN

- 14.1.1 BVL shall be entitled, following prior consultation with the board of directors, to appoint one director of the Company and shall be entitled to remove and, following prior consultation with the board of directors, replace any such director so appointed, and to have any director so appointed, appointed to the board of any Group Company;
- 14.1.2 The Co-investors acting unanimously shall be entitled, following prior consultation with the board of directors, to appoint one director of the Company and shall be entitled to remove and, following prior consultation with the board of directors, replace any such director so appointed, and to have any director so appointed, appointed to the board of any Group Company; and
- 14.1.3 The Second Close Investors acting unanimously shall be entitled, following prior consultation with the board of directors, to appoint one director of the Company and shall be entitled to remove and, following prior consultation with the board of directors, replace any such director so appointed, and to have any director so appointed, appointed to the board of any Group Company.
- 14.2 The remuneration to be paid to any director appointed pursuant to article 14.1 shall be such sum as shall be agreed between the relevant appointed director and the board of directors or failing agreement shall be such reasonable sum as shall be fixed by BVL in respect of its own appointment and by the Co-investors or the Second Close Investors acting unanimously in respect of their own appointment.
- 14.3 The board of directors of the Company shall, subject to article 14.4, be entitled to appoint as Chairman of the Company and/or any subsidiary of the Company any member of the board acceptable to the Investor Majority and to remove from office any person so appointed and to appoint another person in his place (subject to such other person also being acceptable to the Investor Majority).
- 14.4 The Investor Majority shall be entitled by notice in writing to the Company to require that the chairman of the board of directors of the Company and/or any subsidiary of the Company be removed from office as chairman and that another member of the board of directors approved by the Investor Majority be appointed as chairman of the board of directors of the Company and/or of any subsidiary of the Company.
- 14.5 Each of BVL, each of the Co-Investors, and the Second Close Investors (acting unanimously) may appoint a separate observer to attend board meetings and committee meetings of the Company and of any Group Company and shall be entitled to remove and replace any such observer.
- 14.6 Any observer appointed pursuant to article 14.5 will be allowed to table items for discussion and to speak at board meetings but shall not be entitled to vote.

- 14.7 The party exercising rights pursuant to article 14.5 shall be responsible for all costs and expenses incurred by its observer and no fees shall be payable by the Company to any such observer.

15. **MEETINGS OF DIRECTORS**

- 15.1 Notice of every meeting of the directors shall be given to each director at any address (which may for the avoidance of doubt be an email address) supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such meeting that notice was not given to him. Meetings of the directors may be held by conference telephone or similar equipment, so long as all the participants can hear each other. Such meetings shall be as effective as if the directors had met in person. The second sentence of regulation 88 of Table A shall not apply.

16. **DIRECTORS' CONFLICTS OF INTEREST**

- 16.1 Subject to the provisions of the Act and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:
- 16.1.1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested;
 - 16.1.2 may be a director or other officer of or employed by or be a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is in any way interested;
 - 16.1.3 may (and any firm or company of which he is a partner or Member or director may) act in a professional capacity for the Company or any body corporate in which the Company is in any way interested;
 - 16.1.4 shall not by reason of his office be accountable to the Company for any benefit which he derives from such office, service or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and
 - 16.1.5 shall be entitled to vote and be counted in the quorum on any matter referred to in the foregoing paragraphs of this article.
- 16.2 For the purposes of this article:
- 16.2.1 a general notice to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified;
 - 16.2.2 an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and
 - 16.2.3 an interest of a person who is for any purpose of the Act (excluding any statutory modification not in force when these articles were adopted) connected with a

director shall be treated as an interest of the director and in relation to an alternate director an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise.

17. LIEN

The lien conferred by regulation 8 of Table A shall apply to all shares of the Company whether fully paid or not and to all shares registered in the name of any person indebted or under liability to the Company whether he be the sole registered holder of the shares or one of several joint holders.

18. PARTLY PAID SHARES

18.1 The liability of any Member in default in respect of a call shall be increased by the addition at the end of the first sentence of regulation 18 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment."

18.2 If the subscription price of any share (including any premium) is partly paid, the rights to dividend and on a return of capital of any such share shall be abated in the same proportion as the unpaid amount bears to the total subscription price.

19. SEAL

Regulation 6 of Table A shall be modified so as to remove the reference to the company seal and regulation 101 of Table A shall be modified by the insertion of the words ", if the Company has one," after the words "The seal" at the beginning of that regulation.

20. INDEMNITY

20.1 Subject to the provisions of and so far as may be permitted by, the 2006 Act:

20.1.1 every Director or other officer of the Company (excluding the Company's auditors) shall be entitled to be indemnified by the Company (and the Company shall also be able to indemnify directors of any associated company (as defined in section 256 of the 2006 Act)) out of the Company's assets against all liabilities incurred by him in the actual or purported execution or discharge of his duties or the exercise or purported exercise of his powers or otherwise in relation to or in connection with his duties, powers or office, provided that no director of the Company or any associated company is indemnified by the Company against:

- (a) any liability incurred by the director to the Company or any associated company; or
- (b) any liability incurred by the director to pay a fine imposed in criminal proceedings or a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirements of a regulatory nature; or
- (c) any liability incurred by the director:
 - (i) in defending any criminal proceedings in which he is convicted;
 - (ii) in defending civil proceedings brought by the Company or any

associated company in which final judgment (within the meaning set out in section 234 of the 2006 Act) is given against him; or

- (iii) in connection with any application under sections 144(3) or 144(4) or 727 of the Act or sections 661(3) or 661(4) or 1157 of the 2006 Act (as the case may be) for which the court refuses to grant him relief,

save that, in respect of a provision indemnifying a director of a company (whether or not the Company) that is a trustee of an occupational pension scheme (as that term is used in section 235 of the 2006 Act) against liability incurred in connection with that company's activities as trustee of the scheme, the Company shall also be able to indemnify any such director without the restrictions in Articles 20.1.1(a), 21.1.1(c)(ii) and 21.1.1(c)(iii) applying;

- 20.1.2 the Directors may exercise all the powers of the Company to purchase and maintain insurance for any such Director or other officer against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company, or any associated company including (if he is a director of a company which is a trustee of an occupational pension scheme) in connection with that company's activities as trustee of an occupational pension scheme.

- 20.2 The Company may (at the cost of the Company) effect and maintain for each Director policies of insurance insuring each Director against risks in relation to his office as each director may reasonably specify including without limitation, any liability which by virtue of any rule of law may attach to him in respect of any negligence, default of duty or breach of trust of which he may be guilty in relation to the Company.

21. WRITTEN RESOLUTIONS AND AGMS

- 21.1 Where a resolution is to be proposed as a written resolution and such written resolution is accepted by or on behalf of:

- 21.1.1 in the case of an ordinary resolution, over 50%; and

- 21.1.2 in the case of a special resolution, 75% or more,

of the Members who would be entitled to receive notice of and to attend and vote at a general meeting at which such resolution was to be proposed shall, subject always to the provisions of the Act from time to time, be valid, effectual and binding on all of the Members of the Company. Any such written resolution may consist of several documents in materially the same form, each accepted by or on behalf of the requisite number of Members. Acceptance of a written resolution shall be in terms of the procedure set out in section 296 of the 2006 Act. In the case of a corporation which is a Member of the Company, acceptance (following section 296 of the 2006 Act) by a Director or its secretary or by a duly appointed and authorised attorney or representative shall be sufficient.

- 21.2 Unless waived in writing or by email by an Investor Majority, the Company shall hold an annual general meeting in each calendar year.

DATA PROTECTION

Each of the Members and directors of the Company (from time to time) consent to the processing of their personal data by the Company, its Members and directors (each a "**Recipient**") for the purpose of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information amongst themselves. A Recipient may process such personal data either electronically or manually. The personal data which may be processed for such purposes under this Article shall include any information which may have a bearing on the prudence or commercial merits of investing, or disposing of any shares (or other investment or security) in the Company. Subject to any confidentiality undertakings given to them by a Recipient, each of the Company's Members and directors (from time to time) consent to the transfer of such personal data to persons acting on behalf of any Recipient and to the offices of any Recipient both within and outside the European Economic Area for the purposes stated above, where it is necessary or desirable to do so.