

**Wireless Information Network Limited
(the "Company")**

Written Resolutions

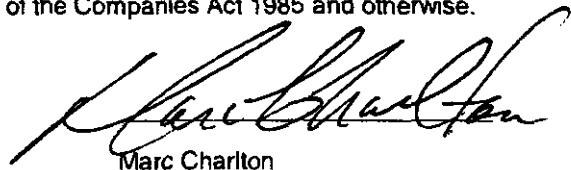
We, being all the shareholders entitled to attend and vote at a meeting of the shareholders of the Company, hereby pass the following resolutions pursuant to the Companies Act 1985 and the Articles of Association of the Company as special resolutions:

- 1 That the Board minutes, the notice of Extraordinary General Meeting, the consent to short notice and the minutes of the Extraordinary General Meeting, all dated 28 April 2000 and attached hereto, be ratified and confirmed. Terms defined in such documents shall have the same meanings in these Written Resolutions unless the context otherwise requires.
- 2 Confirm that pursuant to the Extraordinary General Meeting of 28 April 2000:
 - (a) the share capital of the Company has been subdivided into shares of 1 pence;
 - (b) the authorised share capital of the Company has been increased to £1,000,100 comprising 100,000,000 Ordinary Shares of 1 pence each and 10,000 Preference Shares of 1 pence each;
 - (c) the Directors have been generally and unconditionally authorised for a period of five years to all allot relevant securities of the Company in accordance with Section 80 of the Companies Act 1985; and
 - (d) shareholders' pre-emption rights have been disapplied for the same period.
- 3 In the light of further negotiations between the Company and GS none of the Sprintel Agreement, the Subscription and Shareholders' Agreement, the IPO Warrant, the Other Warrant or the Disclosure Letter were entered into and no shares or other securities were allotted in respect of any of these agreements and the terms of the Investment have now been revised and are as set out in the Sprintel Agreement, the Subscription and Shareholders' Agreement, the IPO Warrant, the Other Warrant and the Disclosure Letter attached and such revised terms be and are hereby approved and consequential changes made to certain of the documents tabled at the Board meeting on 28 April 2000 be and are hereby approved.
- 4 That any Authorised Person may on behalf of the Company enter into:
 - (a) the Sprintel Agreement and pursuant thereto 1,000 Ordinary Shares of 1 pence each be allotted and issued in full to Marc Louis Charlton;
 - (b) the Subscription and Shareholders' Agreement and pursuant thereto 5,412 Preference Shares of 1 pence each be allotted and issued for cash in full to GS;
 - (c) the IPO Warrant; and
 - (d) the Disclosure Letter.
- 5 That the form of the Other Warrant be approved in the form attached hereto.

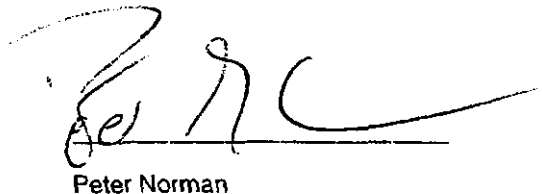
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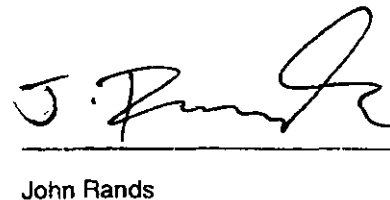
- 6 That upon Completion of the Subscription and Shareholders' Agreement, Atul Kapur and Antoine Schwartz be appointed as Directors nominated by GS.
- 7 That amendments made subsequent to the Board meeting on 28 April 2000 to the Employee Share Option Plan and the Service Agreements be and are hereby approved and such documents are attached hereto.
- 8 That immediately after the execution of the Subscription and Shareholders' Agreement, the regulations contained in the printed document attached hereto headed Articles of Association be and are hereby adopted as the Articles of Association of the Company in substitution for and to the exclusion of all existing Articles of Association of the Company in accordance with Section 9 of the Companies Act 1985.
- 9 That the terms of the proposed Share Buy Back Agreement, a draft of which is attached hereto, between Marc Louis Charlton and the Company providing for the purchase by the Company of certain of its own Ordinary Shares be and are hereby approved and authorised for the purposes of Section 164 of the Companies Act 1985 and otherwise.



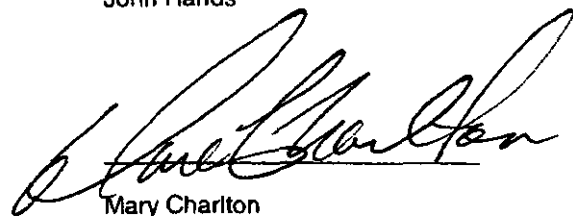
Marc Charlton



Peter Norman



John Rands



Mary Charlton

BY HER ATTORNEY MARC CHARLTON

Date: ¹⁶4 May 2000

Registered No: 3212199

Registered Office: 4 Lancaster Court
Cressex Business Park
High Wycombe
Buckinghamshire
HP12 3TD

Company No: 3212199

The Companies Acts 1985 to 1989

PRIVATE COMPANY LIMITED BY SHARES

**NEW
ARTICLES OF ASSOCIATION**

of

WIRELESS INFORMATION NETWORK LIMITED

(Adopted 4 May 2000)

1 Preliminary

The regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 in force at the time of adoption of these Articles (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied by these Articles and such regulations (save as so excluded or varied) and these Articles shall be the regulations of the Company.

2 Interpretation

In these Articles and in Table A the following expressions have the following meanings unless inconsistent with the context:-

"the Act"	the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force.
"the Agreement"	the subscription and shareholders agreement dated 4 May 2000 made between the (1) then existing members of the Company, (2) the Company, (3) Goldman and (4) the Executives.
"these Articles"	these Articles of Association, whether as originally adopted or as from time to time altered by special resolution.
"Auditors"	means the Company's auditors from time to time.

"clear days"	in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.
"Controlling Interest"	means an interest (within the meaning of Part I of Schedule 13 to the Act) in any shares in the capital of the Company conferring in the aggregate more than 50 per cent of the total voting rights conferred by all the shares in the capital of the Company from time to time and conferring the right to vote at all general meetings of the Company.
"Conversion Rate"	means the number of Ordinary Shares into which each Preferred Share is convertible in accordance with Article 5.3 hereof.
"Convertible Securities"	means any shares or other securities of the Company convertible into or exchangeable for Ordinary Shares.
"the directors"	the directors for the time being of the Company or (as the context shall require) any of them acting as the board of directors of the Company.
"Employees' Share Scheme"	means any share scheme approved by the Board which shall include the approval of each Nominated Director and set up to facilitate the holding of Ordinary Shares or options for Ordinary Shares by or for the benefit of the officers, directors and/or employees of the Company or its subsidiaries.
"executed"	includes any mode of execution.
"Executive"	means each of Marc Charlton, Peter Norman, John Rands (together, the "Executives").
"Family Trust"	means in relation to a member being an individual, a settlement of the relevant transferor under which no one other than the relevant transferor, his spouse, children (including adopted children) and any descendant (including any not yet born) of any such children is entitled to a beneficial interest.
"Goldman"	means each of GS Capital Partners III, L.P., GS Capital Partners III Offshore, L.P., Goldman Sachs & Co.

Verwaltungs GmbH, Stone Street Fund 2000, L.L.C. and Bridge Street Special Opportunities Fund 2000, L.P., GS PEP Technology Fund 2000, L.P., GS PEP Technology Fund 2000 Offshore Holdings, L.P., Stone Street PEP Technology Fund 2000, L.P., and GS Private Equity Partners 1999 Direct Investment Fund, L.P..

- "the holder" in relation to shares means the member whose name is entered in the register of members as the holder of the shares.
- "Investors" means each of Goldman and (upon becoming a Preferred Shareholder) the New Investor (individually, an "Investor").
- "Listing" means the closing of an underwritten public offering by the Company of all or part of the share capital of the Company (or any Depositary Receipts representing such share capital) to trading on the New York Stock Exchange, NASDAQ, EASDAQ, the Official List of the London Stock Exchange or the Alternative Investment Market of the London Stock Exchange or a listing or quotation on another recognised stock exchange or trading association in compliance with applicable laws and regulations.
- "New Securities" shall mean any share in the share capital of the Company, whether now authorised or not, and rights, options or warrants to purchase such shares, and securities of any type whatsoever that are, or may become, convertible or exchangeable into such shares, provided however, that the term "New Securities" does not include:
- (i) any Ordinary Shares into which the Preferred Shares may convert;
 - (ii) any securities in the capital of the Company to be issued or allotted pursuant to the Employees' Share Scheme or upon the exercise or conversion of any options, warrants or any rights to subscribe for any securities in the capital of the Company which have been issued or allotted with approval of the Board and the Investors;
 - (iii) Ordinary Shares or Preferred Shares issued in connection with any share consolidation, sub-division, bonus issue or any capitalisation of profits or reserves;

- (iv) any securities issued by the Company on a Listing;
- (v) any securities issued pursuant to the acquisition of another business, company or undertaking by the Company (or any of its subsidiaries (as defined in section 736 and 736A of the Companies Act 1985)) by consolidation, merger, purchase of all or substantially all of the assets, or other reorganisation in which the Company (or its subsidiaries) acquires, in a single transaction or a series of related transactions, all or substantially all of the assets of such other entity or fifty percent (50%) or more of the voting power of such other entity or fifty percent (50%) or more of the equity ownership of such other entity; or
- (vi) any securities issued pursuant to the Warrants.

"Nominated Director" means (if appointed) each of the Goldman Nominated Directors and the New Investor Nominated Director appointed by the Investors pursuant to Articles 19.4 and 19.5.

"office" the registered office of the Company.

"Options" means any rights or options to subscribe for or to purchase Ordinary Shares or any Convertible Securities.

"Ordinary Shares" means one ordinary share of 1 pence each in the capital of the Company having the rights set out in these Articles.

"Permitted Transfer" has the meaning ascribed to it in Article 8.3.

"Preferred Issue Date" means 4 May 2000.

"Preferred Issue Price" means £1,508.

"Preferred Share" means a convertible redeemable preference share of 1 pence each in the capital of the Company having the rights and subject to the restrictions described in Article 5.3.

"Preferred Shareholder Group" means in relation to any Preferred Shareholder, a Preferred Shareholder and any group undertaking of the

Preferred Shareholder and any investment fund in which any person connected with the Preferred Shareholder (i) holds a participation stake of at least 20% of the aggregate amount of all invested and/or uninvested capital commitments of fund participants and (ii) the Preferred Shareholder or any person connected with the Preferred Shareholder (a) serves as the manager of the fund or (b) is responsible for designating the manager of the fund or (c) otherwise demonstrates significant management or administrative influence over the investment;

Preferred
Shareholder"

means a registered holder of a Preferred Share.

"Privileged Relation"

means and includes in relation to a member a spouse and children (including adopted children) and any descendant of any such children and any trustee or trustees of a Family Trust.

"New Investor"

means the person who becomes a Preferred Shareholder pursuant to the terms of the Agreement.

"Sale"

means the sale of all or substantially all of the business assets or undertaking of the Company or any part of the equity share capital of the Company to any person (other than a person who is or who becomes a member on or about the date of adoption of these Articles) resulting in that person together with any person acting in concert (within the meaning given in the City Code on Takeovers and Mergers as in force at the date of the adoption of these Articles) with such person acquiring a Controlling Interest.

"seal"

the common seal of the Company (if any).

"secretary"

the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary.

"share"

includes any interest in a share.

"Transfer Notice"

shall have the meaning given to it in Article 9.1.

"the United
Kingdom"

Great Britain and Northern Ireland.

"Warrants" means the warrant dated 4 May 2000 to purchase securities to be issued by the Company to Goldman and the warrant to purchasers securities to be issued by the Company to be issued to the New Investor pursuant to the terms of the Agreement.

Unless the context otherwise requires, words or expressions contained in these Articles and in Table A shall bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these Articles become binding on the Company. Regulation 1 of Table A shall not apply to the Company.

3 Share capital

- 3.1 The authorised share capital of the Company at the time of adoption of these Articles is £1,000,100 divided into 100,000,000 Ordinary Shares of 1 pence each and 10,000 Preferred Shares of 1 pence each.
- 3.2 Subject to the provisions of the Act, Table A and to the provisions of these Articles, the directors are generally and unconditionally authorised pursuant to Section 80 of the Act to exercise any power of the Company to offer, allot or grant rights to subscribe for or convert securities into or otherwise dispose of any shares (or interests in shares) in the Company, or any other relevant securities, up to the authorised share capital of the Company as at the date of adoption of these articles, to such persons, at such times and generally on such terms and conditions as the directors think proper provided that such authority shall only apply insofar as the Company in general meeting shall not have varied, renewed or revoked the same and provided that such authority may only be exercised within five years commencing upon the date of the adoption of these articles. This authority is in substitution for any previous authority to allot given to the directors.
- 3.3 Any offer or agreement in respect of relevant securities, which is made by the Company prior to the expiration of such authority and in all other respects within the terms of such authority, shall be authorised to be made, notwithstanding that such offer or agreement would or might require relevant securities to be allotted after the expiration of such authority and, accordingly, the directors may at any time allot any relevant securities in pursuance of such offer or agreement.
- 3.4 The authority conferred upon the directors to allot relevant securities may at any time, by ordinary resolution of the Company in general meeting, be revoked, varied or renewed (whether or not it has been previously renewed under these articles) for a further period not exceeding five years.

4 Allotment

- 4.1 All New Securities which the Directors propose to issue shall first be offered to the members in proportion as nearly as may be to the aggregate number of

Ordinary Shares then held by each member and the number of Ordinary Shares then issuable to each member upon conversion of the Preferred Shares held by them respectively (after taking into account the number of Ordinary Shares reserved for issue under any Employees' Share Scheme and outstanding Options) unless either (i) the Company in General Meeting shall by Special Resolution otherwise direct (with the prior written consent of the Investors) or (ii) all of the members shall agree in writing to waive the offering requirements of this Article 4.1. The offer shall be made by notice specifying the number of shares offered, and limiting a period (not being less than fourteen days) within which the offer, if not accepted, will be deemed to be declined. After the expiration of that period, those shares so deemed to be declined shall be offered in the proportion aforesaid to the persons who have, within the said period, accepted all the shares offered to them. Such further offer shall be made in like terms in the same manner and limited by a like period as the original offer. Any shares accepted by any member following any such offering procedure shall be issued as the same class as the New Securities. Any New Securities not accepted pursuant to such offer or further offer as aforesaid or not capable of being offered as aforesaid except by way of fractions and any shares released from the provisions of this Article by any such Special Resolution or agreement of the members as aforesaid shall be under the control of the Directors who may allot, grant options over or otherwise dispose of the same as Ordinary Shares within a period of 120 days following the end of such offer procedure to such persons, on such terms and in such manner as they think fit, provided that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of on terms which are more favourable to the subscribers therefore than the terms on which they were offered to the members. In the event that the Company has not issued and sold the New Securities within such 120 day period, then the Company shall not thereafter issue or sell any New Securities without again first offering such New Securities to the members pursuant to this Article 4.1. The foregoing provisions of this Article 4.1 shall have effect subject to Section 80 of the Act.

- 4.2 In accordance with Section 91(1) of the Act, Sections 89(1) and 90(1) to (6) (inclusive) of the Act shall not apply to the Company.

5 Preferred Shares

5.1 Rights attaching to Preferred Shares

The rights and restrictions attaching to the Preferred Shares are set out in this Article 5.

5.2 Capital

- (a) On a return of capital on a winding up or otherwise (other than on a conversion, redemption or purchase of shares) the Company's assets available for distribution among the members shall be applied in repaying to Preferred Shareholders twice the aggregate of the nominal

amount of the Preferred Shares and premium paid on subscription for them.

- (b) If there is a return of capital to which this Article 5.2 applies and there are insufficient funds to pay the amount due on the Preferred Shares, the Preferred Shareholders shall share the available funds in proportion to the number of Preferred Shares held by them. The Preferred Shareholders will be given priority over shareholders holding any other class of shares.

5.3 Conversion

- (a) Each Preferred Shareholder may at any time and in the manner specified in this Article 5.3 convert (which conversion shall not require approval under Article 5.5) the whole or any part of his holding of Preferred Shares (not involving a fraction of an Preferred Share) into fully-paid Ordinary Shares at the Conversion Rate per Preferred Share set out in this paragraph (a) (as adjusted in accordance with the other paragraphs of this Article 5.3). The initial Conversion Rate shall be one Ordinary Share for each Preferred Share, the effect of such rate being that upon the date of adoption of these Articles conversion of all of the Preferred Shares in issue at the date hereof (assuming issue of Preferred Shares to the New Investor pursuant to the Agreement), the Preferred Shareholders would be entitled to 8,118 Ordinary Shares, representing 25.4% of the fully diluted share capital of the Company.
- (b) The right to convert is exercisable at any time by a Preferred Shareholder by delivering the share certificate and a written notice (a "**conversion notice**") to the Company at its registered office address with any evidence the Board may reasonably require to prove the title of the person exercising the right to convert. The date on which the conversion notice is delivered to the Company is a "**conversion date**". If a conversion of Preferred Shares is to be made pursuant to any registered public offering in the United States of America, the conversion of any Preferred Shares may, at the election of the holder of such Preferred Shares, be conditional on the consummation of such registered public offering, in which case such conversion shall be deemed to be effective upon the consummation of such registered public offering.
- (c) In the event of a Listing all of the Preferred Shares shall automatically be converted into Ordinary Shares. In that event, each holder of Preferred Shares shall be treated as having exercised the right to convert in respect of the whole of his holding of Preferred Shares upon the earlier of the effectiveness of a registration statement under the U.S. Securities Act of 1933 and the date of such Listing becoming effective (the "**Effective Date**"), and the provisions of this Article 5.3 relating to conversion shall mutatis mutandis apply in the event of a conversion

under this Article 5.3(c), as if the date of such Listing were a conversion date.

- (d) The Ordinary Shares to which a Preferred Shareholder is entitled on conversion ("**new Ordinary Shares**"):
 - (i) shall be credited as fully paid:
 - (ii) will carry the right to receive all dividends and other distributions declared, made or paid on the ordinary share capital of the Company in respect of which the record date falls after the applicable conversion date; and
 - (iii) shall rank pari passu in all respects and form one class with the Ordinary Shares then in issue.
- (e) The allotment of new Ordinary Shares shall be made within two weeks of the relevant conversion date provided that in the case of a conversion upon a Listing the allotment shall be made on the Effective Date. A certificate for the relevant new Ordinary Shares shall be sent within two weeks of the relevant conversion date to each Preferred Shareholder without charge, with a new certificate for any balance of unconverted Preferred Shares comprised in the surrendered certificate and, if appropriate, a cheque in respect of a fractional entitlement. In the meantime, the converting shareholders shall be deemed to be the registered holders of the relevant number of Ordinary Shares from the conversion date.
- (f) The Board may in its absolute discretion from time to time decide the manner in which relevant shares are to be converted, subject to the provisions of the Articles and the Act.
- (g) Without prejudice to Article 5.3(f), the Board may elect to effect conversion of the relevant shares by redeeming them on the relevant conversion date at the nominal amount thereof plus any premium paid on subscription, in which case the relevant shares confer on the Preferred Shareholder the right and obligation to subscribe for the number of Ordinary Shares to which he is entitled in accordance with the Conversion Rate ("**specified Ordinary Shares**") at such premium, if any, as shall represent the amount (if any) by which the redemption monies in respect of the relevant shares exceeds the aggregate nominal amount of the specified Ordinary Shares. The Board may elect to effect redemption out of distributable profits, out of the proceeds of a fresh issue of shares made for the purposes of redemption (provided that the Board shall first have obtained all requisite authorities for the purpose of enabling them to allot the Ordinary Shares which fall to be allotted pursuant to this Article 5.3(g) and/or grant rights to subscribe therefore) or in another manner allowed by the Act and these Articles. If redemption is to be made out of distributable profits, the conversion notice given by the Preferred Shareholder is deemed irrevocably to

authorise and instruct the Board to apply the redemption money payable to the Preferred Shareholder in subscribing in his name for the specified Ordinary Shares at a premium, if any (as aforesaid). If redemption is to be made out of the proceeds of a fresh issue of shares made for the purposes of redemption, the conversion notice given by the Preferred Shareholder is deemed irrevocably:

- (i) to appoint a person selected by the Board as the Preferred Shareholder's agent with authority to apply an amount equal to the redemption money in subscribing on his behalf for the specified Ordinary Shares at a premium, if any (as aforesaid); and
 - (ii) to authorise and instruct the Board after the allotment of specified Ordinary Shares to pay the redemption money to the agent who is entitled to retain it for his own benefit.
- (h) If any Preferred Shareholders become entitled to fractions of an Ordinary Share as a result of conversion (the "**fractional holders**") the Board may deal with the fractions as it thinks fit on behalf of the fractional holders. In particular, the Board may aggregate and sell the fractions to a person (including, subject to the provisions of the Act, the Company) for the best price reasonably obtainable and distribute the net proceeds of sale in due proportions amongst the fractional holders.
- (i) Without prejudice to Article 5.3(f), the Board may elect to effect conversion by consolidation and sub-division, in which case all relevant Preferred Shares held by one holder or joint holders (as the case may be) to be converted on any conversion date are consolidated into one share (of all the nominal amount and any premium paid on the relevant Preferred Shares), pursuant to the authority granted by the adoption of these Articles. The consolidated share is then sub-divided into shares of £1 each (or such other nominal amount as may be appropriate as a result of another consolidation or sub-division of Ordinary Shares) of which:
 - (i) an appropriate number (at the applicable Conversion Rate) shall be re-designated as Ordinary Shares (ignoring fractions); and
 - (ii) the balance of the shares (including fractions) shall be re-designated non-voting deferred shares, having the rights set out in Article 5.3(j) ("**non-voting deferred shares**"),

so that when the aggregate nominal value of such non-voting deferred shares is taken together with the aggregate nominal value of the Ordinary Shares resulting from such sub-division and consolidation, the total aggregate nominal value of such non-voting deferred shares and such Ordinary Shares is equal to the nominal amount of the consolidated share being so sub-divided.

- (j) The non-voting deferred shares confer the right on a return of capital, on a winding up or otherwise only to the repayment of the amounts paid up on the non-voting deferred shares after repayment of the capital paid up on the Ordinary Shares (and Preferred Shares or any other shares in the capital of the Company) and the payment of a further amount of £1,000,000 in respect of each Ordinary Share. The non-voting deferred shares do not confer the right to be paid a dividend or to receive notice of or to attend, vote or speak at a general meeting. Conversion of a Preferred Share in accordance with Article 5.3(i) above is deemed to confer irrevocable authority on the Board at any time after conversion:
- (i) to appoint a person to execute on behalf of each holder of non-voting deferred shares an instrument of transfer for or an agreement to transfer (or both) all or some of the non-voting deferred shares, without making a payment to such holders, to such person as the Board may decide, as custodian; and
 - (ii) to purchase all or some of the non-voting deferred shares from a holder of a non-voting deferred share (subject to the provisions of the Act) for a price of 1 pence for all the non-voting deferred shares purchased, without obtaining the sanction of such holder.

Pending the transfer or purchase of any non-voting deferred shares in accordance with (i) and (ii) above the Company may retain the certificates for the non-voting deferred shares. The Company may at its option (exercisable by resolution of the Board) at any time redeem all or any of the non-voting deferred shares then in issue for 1 pence for all the non-voting deferred shares redeemed on giving each holder of non-voting deferred shares not less than four weeks' prior notice, stating a time and place for redemption, so that such registered holders shall be deemed to surrender to the Company the certificates for the non-voting deferred shares (save to the extent that any such certificates are held by the Company) in order that the same may be cancelled and the Company shall pay the redemption monies to one of such registered holders to be selected by lot. Redemption shall then be effected in accordance with the relevant provisions of Article 5.4.

- (k) If while any Preferred Shares remain capable of being converted into Ordinary Shares and there is a consolidation or sub-division (or both) of Ordinary Shares, the number of Ordinary Shares to be issued on any subsequent conversion of Preferred Shares shall be reduced or increased (as appropriate) proportionately by a corresponding adjustment of the Conversion Rate and any such reduction or increase shall become effective immediately after the relevant consolidation or sub-division takes place.
- (l) If while any Preferred Shares remain capable of being converted into Ordinary Shares, the Company shall make any capital distribution to the holders of Ordinary Shares, then the Conversion Rate shall be adjusted

by increasing the number of Ordinary Shares to result from any subsequent conversion of the Preferred Shares by such amount determined to be appropriate by the Auditors (acting as experts and not as arbitrators) whose certificate shall be conclusive and binding on all concerned. For the purposes of this Article 5.3(l) “**capital distribution**” means:

- (i) any dividend or other distribution of capital profits (whether realised or not) or capital reserves or any dividend or other distribution of profits or reserves arising after the date of the passing of the resolution creating the Preferred Shares from a distribution of capital profits (whether realised or not) or capital reserves by a subsidiary, except, in either case, by means of a capitalisation issue made in the form of fully paid Ordinary Shares in relation to which an adjustment pursuant to Article 5.3(m) is made; or
- (ii) a repayment of capital or purchase of the Company’s own Ordinary Shares (other than a redemption or purchase of redeemable shares in accordance with the terms of issue thereof and other than the redemption or purchase of non-voting deferred shares arising pursuant to Article 5.3(i)).

For the purpose of this Article 5.3(l), insofar as the relevant audited accounts do not distinguish between capital and revenue profits or reserves, the Company shall be entitled to rely upon a written estimate by the Auditors as to the extent to which any part of any profit or reserve should be regarded as of a capital nature.

- (m) If while any Preferred Shares remain capable of being converted into Ordinary Shares, on an allotment of Ordinary Shares (which shall only be allotted fully paid), whether pursuant to a capitalisation of profits or reserves (including share premium account and capital redemption reserve) or otherwise, to holders of Ordinary Shares, the number of Ordinary Shares to be issued on conversion of Preferred Shares after that allotment shall be increased by a corresponding adjustment of the Conversion Rate to reflect the percentage increase in the Ordinary Shares in issue.

Within 14 days after the happening of any of the events mentioned in this Article 5.3(m), Articles 5.3(k) and (l) above and (n) below, the Company shall notify the holders of the Preferred Shares then in issue, setting forth brief particulars of the event or events giving rise to such adjustment, the adjusted Conversion Rate and the effective date thereof and shall make available for their inspection (at such place as shall be specified in such notice) a copy of any report of the Auditors. In the absence of manifest error, the adjustment to the Conversion Rate as

specified in such notice shall be conclusive and binding on all concerned.

- (n) Subject to the Act and applicable law, in order to prevent dilution of the conversion rights granted under this Article 5.3, the Conversion Rate shall also be subject to adjustment from time to time pursuant to this Article 5.3(n).

- (i) If and whenever following the Preferred Issue Date the Company issues or sells (or in accordance with Article 5.3(n)(ii) and (iii) is deemed to have issued or sold) any Ordinary Shares for a consideration per share less than the Preferred Issue Price, then forthwith upon such issue or sale, the Conversion Rate shall be adjusted so that the number of Ordinary Shares to be issued in respect of every Preferred Share subsequently converted shall be increased by a factor equal to:

$$\frac{X}{Y}$$

where:

X = the Preferred Issue Price, adjusted appropriately to reflect any previous adjustments made to the Conversion Rate pursuant to paragraphs Article 5.3(k), (l) and (m) above and this paragraph (n).

Y = the price at which Ordinary Shares are to be issued by the Company.

and, provided always that in no event shall any adjustment pursuant to this Article 5.3(n)(i) result in a Conversion Rate of less than one Ordinary Share (subject to adjustment in accordance with Articles 5.3 (k), (l) and (m)) for each Preferred Share.

In the event of any doubt or dispute arising in respect of the adjustment to be made pursuant to this sub-paragraph the matter will be referred to the Auditors who, acting as experts and not as arbitrators, will certify the appropriate adjustment and the certificate of the Auditors shall be conclusive and binding on all concerned.

- (ii) If the Company in any manner grants any Options, then any Ordinary Shares to be issued upon the exercise of any such Option or upon conversion or exchange of any Convertible Securities issuable upon exercise of any such Options shall be deemed to have been issued by the Company at the time of the granting of such Options for a price per share equal to the sum of the lowest amounts of consideration (if any) received or

receivable by the Company upon the granting of the Options, upon exercise of the Options and upon conversion or exchange of any Convertible Securities issuable upon exercise of the Options, and the Conversion Rate shall be adjusted accordingly. No further adjustment of the Conversion Rate shall be made upon the actual issue of such Ordinary Shares or of such Convertible Securities upon the exercise of such Options or upon the actual issue of such Ordinary Shares upon conversion or exchange of such Convertible Securities.

- (iii) If the Company in any manner issues or sells any Convertible Securities, then any Ordinary Shares issuable upon conversion or exchange thereof shall be deemed to have been issued and sold by the Company at the time of the issue or sale of such Convertible Securities for a price per share equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Company upon the issue of such Convertible Securities and upon the conversion or exchange of such Convertible Securities, and the Conversion Rate shall be adjusted accordingly. No further adjustment of the Conversion Rate shall be made upon the actual issue of such Ordinary Shares upon conversion or exchange of any Convertible Security, and if any such issue or sale of such Convertible Security is made upon exercise of any Option for which adjustments of the Conversion Rate had been or are to be made pursuant to other provisions of this Article 5.3(n), no further adjustment of the Conversion Rate shall be made by reason of such issue or sale.
- (iv) If the purchase price provided for in any Option, the additional consideration (if any) payable upon the issue, conversion or exchange of any Convertible Security, or the rate at which any Convertible Security is convertible into or exchangeable for Ordinary Shares change at any time, the Conversion Rate in effect at the time of such change shall be readjusted to the Conversion Rate which would have been in effect at such time had such Option or Convertible Security originally provided for such changed purchase price, additional consideration or changed conversion rate, as the case may be, at the time initially granted, issued or sold.
- (v) Upon the expiration of any Option or the termination of any right to convert or exchange any Convertible Security without the exercise of any such Option or right, the Conversion Rate then in effect hereunder shall be adjusted to the Conversion Rate which would have been in effect at the time of such expiration or termination had such Option or Convertible Security, to the extent outstanding immediately prior to such expiration or termination, never been issued.

- (vi) If any Ordinary Share, Option or Convertible Security is issued or sold or deemed to have been issued or sold for cash, the consideration received therefore shall be deemed to be the net amount received by the Company therefor. In case any Ordinary Shares, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Company shall be the fair value of such consideration, except where such consideration consists of securities listed or registered on a recognised exchange, in which case the amount of consideration received by the Company shall be the fair market value thereof as of the date of receipt. The fair value of any consideration other than cash and securities shall be determined jointly by the Company and the holders of not less than ninety per cent of the outstanding Preferred Shares. If such parties are unable to reach agreement within a reasonable period of time, the fair market value of such consideration shall be determined by the Auditors, who shall be considered to be acting as experts and not as arbitrators and, accordingly, the Arbitration Act 1996 or any statutory re-enactment or modification therefore shall not apply. The determination of Auditors shall be final and binding upon the parties, and the fees and their expenses shall be borne by the Company.
- (o) If an order is made or resolution is passed for the winding up of the Company, the Company shall give written notice to all holders of Preferred Shares and the holders of Preferred Shares shall be entitled, upon giving written notice to the Company within 28 days after service of such notice, to elect to be treated as if immediately before the granting of such an order or the passing of such a resolution they had served a conversion notice in respect of all or part only of their Preferred Shares. In such event, any holders of Preferred Shares who have so elected shall in lieu of the payments which would otherwise be due to them in respect of their Preferred Shares be entitled to participate in the assets available in the winding up as if they were the holders of the Ordinary Shares to which they would have become entitled by virtue of such conversion at the applicable Conversion Rate and as if the date of the granting of such order or the date of the passing of such resolution was the conversion date.
- (p) No increase in the Conversion Rate is to be made when (1), except as provided under Article 5.3(1), Ordinary Shares are allotted by way of capitalisation of profits or reserves at the election of a holder instead of cash in respect of all or part of a dividend or dividends (2) shares, options, warrants or other rights to purchase Ordinary Shares are issued or granted pursuant to the Employees' Share Scheme or Ordinary Shares are allotted or issued upon the exercise of any such options, warrants or other rights under such scheme (3) Ordinary Shares are allotted or issued on a conversion of Preferred Shares (4) any options,

warrants or rights to purchase any securities ("**Warrant Securities**") are issued or granted following the unanimous approval of the Board with the consent of each of the Investors or any securities that are issued upon the exercise of any such Warrant Securities (5) any securities that are issued pursuant to a Listing or (6) any securities are issued pursuant to the acquisition of another business, company or undertaking by the Company (or any of its subsidiaries (as defined in section 736 and 736A of the Act)) by consolidation, merger, purchase of all or substantially all of the assets, or other reorganisation in which the Company (or its subsidiaries) acquires, in a single transaction or series of related transactions, all or substantially all of the assets of such other entity or fifty percent (50%) or more of the voting power of such other entity or fifty percent (50%) or more of the equity ownership of such other entity (and, except as otherwise provided in this Article 5.3, no such securities issued pursuant to clauses (1) through (6) above shall be taken into account in the calculation of any alteration to the Conversion Rate).

- (q) If a doubt or dispute arises concerning an adjustment of the Conversion Rate in accordance with this Article 5.3 the Board shall refer the matter to the Auditors (who shall act as experts and not as arbitrators) and their certificate as to the amount of the adjustment shall, in the absence of manifest error, be conclusive and binding on all concerned.
- (r) Neither the Company nor the holders of any class of shares shall, by amendment of these Articles or through any reorganisation, transfer of assets, dissolution, grant or issue of securities, consolidation of Ordinary Shares or otherwise, avoid or make impossible the operation of any provision for the benefit of the Preferred Shares hereunder or in any manner prevent or restrict the holders of the Preferred Shares from converting in whole or part their Preferred Shares into Ordinary Shares in accordance with these Articles, but the Company shall at all times in good faith assist in carrying out all of the provisions of these Articles relating to the Preferred Shares and in the taking of all such action as may be necessary or appropriate in order to protect the conversion and other rights of the holders of the Preferred Shares against impairment.
- (s) Notwithstanding any of the foregoing, no act or thing will be done by the Company so that, on conversion of Preferred Shares, Ordinary Shares would fall to be issued at a discount to their par value.

5.4 **Redemption**

- (a) A Preferred Shareholder may elect to redeem all (or a proportion specified by them) of the Preferred Shares held by him on the fifth anniversary of the Preferred Issue Date or (if earlier) upon a Sale (the "**redemption date**") by delivering a written notice to the Company in accordance with Article 5.4(c). If the Company is unable in compliance with the Act, to redeem all or any of the Preferred Shares on any

redemption date, then the Company shall redeem such number as may be lawfully redeemed at that time. Any such partial redemption shall be effected in proportion to the Preferred Shareholder's respective holding of Preferred Shares. The Company shall redeem the remaining Preferred Shares which would otherwise have fallen to be redeemed in accordance with this Article 5.4(a) as soon after such date or dates, as the Company shall be able to in compliance with the Act.

- (b) The redemption money payable on redemption of each Preferred Share is twice the aggregate of the nominal amount and any premium paid on subscription of the Preferred Share.
- (c) Redemption is effected by the holders of the Preferred Shares to be redeemed giving to the Company not more than eight nor less than four weeks' notice (a "**redemption notice**"). The redemption notice shall state:

- (i) the Preferred Shares to be redeemed; and
- (ii) the place to which redemption proceeds are to be remitted,

and shall be accompanied by applicable share certificates (or other evidence of title reasonably acceptable to the board).

- (d) On the redemption date, the Company shall redeem the particular Preferred Shares to be redeemed on that date and each of the holders of the Preferred Shares concerned shall be bound to deliver to the Company at its registered office address the certificates for such of the shares concerned as are held by him (or, in default, an indemnity satisfactory to the Company). On such delivery, the Company shall pay to such holder the amount due to him in respect of such redemption. If any certificate delivered to the Company includes any Preferred Shares not to be redeemed on the redemption date, a new certificate for such Preferred Shares shall be issued free of charge to the holder delivering such certificate to the Company.
- (e) If any holder of any of the Preferred Shares to be redeemed shall fail or refuse to deliver up the certificate or certificates held by him on the redemption date or shall fail or refuse to accept payment of the relevant redemption monies, such redemption monies shall be set aside and paid into a separate interest-bearing account with the Company's bankers (designated for the benefit of such holder). Such setting aside shall be deemed, for all purposes of these Articles, to be a payment to such holder and all the holder's rights as a holder of the relevant Preferred Shares shall cease as from the date the redemption date and the Company shall be discharged, on such setting aside, from all obligations in respect of the same. The Company shall not be responsible for the safe custody of the monies so placed on deposit or for interest on the same except such interest as those monies may earn while on deposit

less any expenses incurred by the Company in connection with the same.

- (f) The receipt of the registered holder for the time being of any Preferred Shares or, in the case of joint registered holders, the receipt of any of them for the monies payable on redemption of the same shall constitute an absolute discharge to the Company for the same.
- (g) Subject to the provisions of the Act, the Company may at any time purchase Preferred Shares (i) by tender (available alike to all holders of Preferred Shares), or (ii) by private treaty.
- (h) The Board may, pursuant to the authority given by the adoption of this Article, consolidate and sub-divide the share capital available for issue as a consequence of a redemption of Preferred Shares pursuant to Article 5.3 or 5.4 into Ordinary Shares or any other class of share into which the authorised share capital of the Company is at the time divided, each of a like nominal amount as the shares of that class then in issue, or into unclassified shares of the same nominal amount as the Preferred Shares. The Board may issue shares in anticipation of redemption to the extent permitted by the Act and these Articles.

5.5 Restrictions

For so long as the Preferred Shares remain in issue and capable of being converted into Ordinary Shares, the Company shall not, except with the prior written consent of the Investors, do any of the following:

- (i) make any declaration or payment of dividend including, without limitation, any distribution or return to members of a capital nature;
- (ii) create or allot or issue any further shares or grant or agree to grant to any person any option or right to subscribe for convert into or otherwise to require the issue or allotment of any shares or the creation or allotment or issue of shares, except to the Company or a subsidiary thereof;
- (iii) pass a resolution for the increase reduction or cancellation of its share capital or the reduction of any uncalled liability in respect thereof;
- (iv) purchase or redeem the whole or any part of its share capital other than in accordance with the terms of issue of any class of share capital;
- (v) modify vary alter or abrogate any of the rights privileges or restrictions attaching to any of the classes of its share capital;
- (vi) make any alteration to its memorandum and articles of association;
- (vii) pass any resolution or seek any order or take any steps with a view to the liquidation, winding up or striking off dissolution or administration

or receivership of any member of the Group or the equivalent in any other jurisdiction;

- (viii) merge or consolidate with or into any body corporate or other entity if such merger or consolidation would result in the shareholders of the Company immediately prior to such merger or consolidation holding less than majority of the voting power of the shares of the surviving body corporate immediately after such merger or consolidation;
- (ix) sell or encumber all or substantially all the Company's assets in a single transaction or series of related transactions;
- (x) liquidate or wind up the Company;
- (xi) increase the authorised or decrease the authorised or issued share capital of the Company; or
- (xii) enter into any other contract or transaction except in the ordinary and proper course of the business on arm's length terms.

5.6 Reservation of shares

The Company shall:

- (i) cause to be authorised and reserve and keep available at all times during which any of the Preferred Shares remain outstanding, free from pre-emptive rights, out of its authorised but unissued share capital, solely for the purpose of effecting the conversion of the Preferred Shares pursuant to Article 5.3, a sufficient number of Ordinary Shares to provide for the issue of the maximum number of shares issuable upon conversion of the outstanding Preferred Shares;
- (ii) if the issue by the Company of any Ordinary Shares reserved for the purpose upon conversion of the Preferred Shares requires registration with or approval of any governmental authority in the United Kingdom or United States of America before such Ordinary Shares may be validly issued by the Company, use its best endeavours to secure such registration or approval, as the case may be, and (so far as it is able) maintain such registration or approval in effect so long as required.

5.7 Attendance at general meetings and voting and receipt of information

- (a) Holders of Preferred Shares shall be entitled to receive notice of, attend, speak and vote (as provided below) at a general meeting of the Company and receive a copy of every document sent to the holders of Ordinary Shares at the same as it is sent to the holders of Ordinary Shares.

- (b) On a show of hands, each Preferred Shareholder present in person or (being a corporation) by a representative shall have such number of votes equal to such number of Preferred Shares it then holds in the Company multiplied by 160% and rounded upwards to the nearest whole vote. On a poll each Preferred Shareholder present in person or by proxy or (being a corporation) by a representative, is entitled to exercise such number of votes equal to such number of votes if all the Preferred Shares then held by him, had they been converted into Ordinary Shares immediately before the holding of the general meeting at the Conversion Rate then applicable, multiplied by 160% and rounded upwards to the nearest whole vote.

5.8 **Fully-paid shares**

Preferred Shares may only be issued fully paid or credited as fully paid.

6 **Lien**

The Company shall have a first and paramount lien on all shares, whether fully paid or not, standing registered in the name of any person indebted or under liability to the Company, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company whether or not in respect of the shares in question. Regulation 8 of Table A shall be modified accordingly.

7 **Calls on shares and forfeiture**

There shall be added at the end of the first sentence of regulation 18 of Table A, so as to increase the liability of any member in default in respect of a call, the words "and all expenses that may have been incurred by the Company by reason of such non-payment".

8 **Transfer of shares - general provisions**

- 8.1 No share or shares in the capital of the Company (nor any interest therein) may be sold, transferred, or otherwise disposed of (including for these purposes the assignment of the beneficial interest in or the creation of any charge or other security interest over any share) (any such transfer, disposal, assignment or charge being referred in these Articles as a "**Transfer**") other than by a transfer made pursuant to or permitted by the provisions of these Articles. The directors shall be entitled to refuse to register any transfer or other disposal other than a transfer so made or permitted.
- 8.2 Notwithstanding any other provision of these Articles, no Executive may Transfer any share or shares in the capital of the Company prior to the third anniversary of the adoption of these Articles without the prior written consent of the Investors.

8.3 Subject to the provisions of these Articles, a member or other person entitled to Transfer any shares in the Company may at any time Transfer any of the shares registered in his name or which he is entitled to transfer:

- (a) in the case of Preferred Shareholder, to any member of its Preferred Shareholder Group; or
- (b) in the case of a member who is an individual, to a Privileged Relation or trustees to be held upon a Family Trust; or
- (c) in the case of a personal representative of a deceased member, to one or more Privileged Relations of such deceased member or to another personal representative of the same estate; or
- (d) in the case of a trustee of a Family Trust, to another trustee of that trust or to any other person to whom under Article 8.3(b) the same could have been transferred by the settlor if he had remained the holder thereof; or
- (e) in the case of any member, such member in good faith pledging or otherwise charging any of its shares to the Company or any bank, but only as security for such member borrowing funds to finance or refinance purchases of shares in the Company and to pay any taxes incidental to any such purchase; or
- (f) to any other person with the prior consent of the Board (including the consent of all Nominated Directors); or
- (g) any Transfer made pursuant to Articles 9 (Rights of First Offer), any Transfer made pursuant to Articles 10.5, 11.3 and 12.

(each, a "Permitted Transfer").

8.4 Where shares have been transferred under Article 8.3(c) (whether directly or by a series of transfers hereunder) from a member (the "**Original Member**") to a Privileged Relation of the Original Member no further Transfer pursuant to Article 8.3(c) may be made unless the transferee is a Privileged Relation of the Original Member.

8.5 For the purposes of ensuring that a transfer of shares has been made to a permitted transferee in accordance with the provisions of these Articles or that no circumstances have arisen whereby a Transfer Notice is deemed to have been given pursuant to these Articles or the Board could require the giving of a Transfer Notice, the Board may at any time in writing require any member or the legal personal representatives of a deceased member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the Board may require regarding the foregoing. If the Board is not within fourteen days of any such written request furnished with information and evidence reasonably satisfactory to it regarding

the same, the member (or his legal personal representatives) shall be bound, if and when required by the Board to do so, to give a Transfer Notice in respect of the relevant shares to the intent and effect that the provisions of Article 9 shall apply to such Transfer Notice.

- 8.6 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) (a "**Shareholders Agreement**") then the Directors may or, if any Investor so requires, shall:
- (a) require the transferee of such share to enter into a written undertaking (in such form as the Directors may with approval of the Investors prescribe) to be bound (to the same extent as the transferor or to such other extent as the Directors and/or the Investors may reasonably stipulate) by the provisions of such agreement; and
 - (b) decline to register the transfer of such Share unless and until the transferee has entered into such written undertaking.

9 **Right of First Offer**

- 9.1 Except in the case of a Permitted Transfer and subject to Article 8.2, any holder proposing to Transfer any shares registered in its name (or any interest therein) (hereinafter called the "**Proposing Transferor**") shall give a notice in writing (hereinafter called a "**Transfer Notice**") to the Board to that effect specifying the number and class of shares to be sold, transferred or otherwise disposed of (or in which any interest is to be sold, transferred or otherwise disposed of) (the "**Sale Shares**") and the price per Sale Share at which he is prepared to sell (the "**Offer Price**").
- 9.2 The Transfer Notice shall constitute the Board agent of the Proposing Transferor for:
- (a) to the extent permitted by these Articles and pursuant to the Act, the sale to Company of the Sale Shares at the Offer Price, provided such repurchase is approved on behalf of the Company by the Board (acting with the consent of a Nominated Director); and
 - (b) the sale of the Sale Shares (to the extent that they are not repurchased by the Company pursuant to Article 9.2(a) above) to any other holder(s) in the Company willing to purchase them (the "**Purchasing Shareholders**") at the Offer Price.

The Transfer Notice may contain a condition (the "**Total Transfer Condition**") that, unless all the Shares comprised therein are sold by the Board pursuant to this clause, none shall be sold. In absence of such statement, the Transfer Notice shall be deemed not to contain a Total Transfer Condition. Any such provision shall be binding on the Board but any provisions contained in a Transfer Notice purporting to impose any other restrictions in relation to

the Sale Shares on the sale or transfer thereof shall be null and void. A Transfer Notice shall not be revocable by the Proposing Transferor except with the prior written consent of all the other holders. If a Proposing Transferor revokes a Transfer Notice he may not subsequently transfer the Shares which are subject to the Transfer Notice (or any interest therein) otherwise than in accordance with this Article.

- 9.3 The Board shall within seven days of receipt by the Board of a Transfer Notice repurchase the Sale Shares the Board elects to repurchase and serve a copy of the Transfer Notice on all the other holders or, if later, within seven days of becoming aware that a Transfer Notice is deemed to have been given serve a copy of the Transfer Notice on all the other than the Proposing Transferor and invite all other holders (holders other than the Proposing Transferor) to apply to purchase shares of each class of the Sale Shares (to the extent that the Sale Shares have not been repurchased by the Company pursuant to Article 9.2(a) above) in proportion (as nearly as may be) to the number of shares held by them respectively (determined on an as-if-converted to Ordinary Share basis, excluding unexercised Options).

Every such notice and invitation shall be made in writing specifying the number of Sale Shares of each class which such holder is entitled to purchase (the "**Proportionate Entitlement**") and the Offer Price, if any, and shall be accompanied by forms of application for use by the holder in applying for his Proportionate Entitlement and for any Sale Shares in excess of such entitlement which he is prepared to offer to purchase ("**Excess Shares**"). Every such invitation shall state that an application for the Sale Shares will only be considered for acceptance if it is received by the Board at the Company's registered office (or such other address as may be referred to in the invitation) within twenty-one days from the date of despatch of the relevant invitation. Every form of application completed by a holder pursuant to any such invitation shall state that it is irrevocable until the expiry of the relevant period for notification of allocations referred to in Article 9.4.

- 9.4 Before the expiry of seven days after the expiry of the period for receipt of applications referred to in Article 9.3 the Board shall, on behalf of the Proposing Transferor but subject always to Article 9.7 accept applications for the Sale Shares the subject of the Transfer Notice and allocate the Sale Shares in the following manner:
- (i) to each Purchasing Shareholder there shall be allocated (as nearly as may be decided by the Board) his Proportionate Entitlement or such lesser number of the Sale Shares for which he may have applied, but there shall be no allocation of any fraction of a Sale Share;
 - (ii) where any Sale Shares remain unallocated after allocation pursuant to Article 9.4(i) and the number of Excess Shares applied for exceeds the number of Sale Shares remaining unallocated, the unallocated Sale Shares shall be allocated (as nearly as may be) in the proportions which the holdings of shares of the applications for Excess Shares (ignoring

any shares allocated to any such applications in respect of such applicants' Proportionate Entitlement) bear to one another but no application for Excess Shares shall be allocated a fraction of a Sale Share or a number of Sale Shares greater than that for which he shall validly have applied; and

- (iii) where any Sale Shares remain unallocated after allocation pursuant to Article 9.4(i) and the number of any Sale Shares which remain unallocated equals or is greater than the number of Excess Shares for which applications have been made, each Purchasing Shareholder who has applied for Excess Shares shall be allocated the number of Excess Shares for which he applied.

9.5 Within seven days of the expiry of the period for making allocations referred to in Article 9.4, the Board shall notify the Proposing Transferor and all Purchasing Shareholders of the details of the applications which have been made and of the allocations made as between Purchasing Shareholders under Article 9.4, provided that if a Total Transfer Condition is attached to the Transfer Notice, none of the Sale Shares shall be so allocated unless all are allocated. Such notice shall constitute the Proposing Transferor's acceptance of the Purchasing Shareholders' application.

9.6 A Purchasing Shareholder shall be bound to pay to the Board as agent for the Proposing Transferor the Offer Price applicable to such purchaser for any Sale Shares allocated to him not later than seven days after the date of despatch by the Board of the notification of allocations of the Sale Shares pursuant to Article 9.5. The Proposing Transferor shall be bound, upon payment by each such Purchasing Shareholder of the relevant Offer Price to transfer the Sale Shares which have been allocated to such purchaser pursuant to Article 9.4 to such Purchasing Shareholder. If, after becoming so bound, the Proposing Transferor makes default in transferring any Sale Shares, the Board may receive the purchase money from each relevant Purchasing Shareholder and the Proposing Transferor shall be deemed to have appointed the Directors as his attorney (acting singly or jointly) to execute a transfer and any other deeds or documents as such attorney may consider necessary or desirable to perfect or assist in such transfer. Upon execution of such transfer, the Board shall hold the purchase money in trust for the Proposing Transferor pending confirmation from the Proposing Transferor that it has accepted such transfer and shall cause the Purchasing Shareholder to be registered as the holder of such Shares. The receipt of the Board for the purchase money shall be a good discharge to each relevant Purchasing Shareholder who shall not be bound to see to the application thereof. After the name of a Purchasing Member has been entered in the register of members of the Company the validity of the proceedings shall not be questioned by any person.

9.7 If all the Sale Shares comprised in a Transfer Notice are not applied for by a Purchasing Shareholder within the relevant time periods, the Board shall give notice thereof to the Proposing Transferor within seven days of the expiry of the latest of the periods referred to in Article 9.4. The Proposing Transferor

may, within ninety days of the date of notification, hereunder transfer any of the Sale Shares which have not been applied for and allocated pursuant to the foregoing provisions of this Article 9.4 (or, if the Transfer Notice contained a Total Transfer Condition, all of the Sale Shares) to any person or persons on a bona fide sale at a price per Sale Share not less than the Offer Price (after deduction, where appropriate, of any dividend or other distribution to be retained by the Proposing Transferor) and otherwise on terms no more favourable to a potential purchaser than those stated in the Transfer Notice, provided always that:

- (i) if the Transfer Notice contained a Total Transfer Condition, the Proposing Transferor shall not be entitled hereunder to transfer less than all of the Sale Shares; and
- (ii) the Directors may require to be satisfied that the Sale Shares are being transferred in pursuance of a bona fide sale for the consideration stated in the transfer without any deduction, rebate or allowance whatsoever to the purchaser and otherwise on terms no more favourable to the purchaser than those stated in the Transfer Notice relating to the Sale Shares and, if not so satisfied, shall refuse to register the instrument of transfer.

9.8 If any holder Transfers any share (or purports or attempts to do so) in breach of Article 8.1 or, as the case may be, becomes bankrupt or insolvent, such member shall be deemed to be a proposing transferor and to have given a Transfer Notice and which be deemed irrevocable and not to contain a Total Transfer Condition (as defined in Article 9.2 above) in respect of such share or shares immediately prior to any such actual, purported or attempted Transfer or, as the case may be, bankruptcy or insolvency (as described in Article 9.8(a) or 9.8(b) to the intent and effect that the remaining provisions of this Article 9 shall apply to such Transfer Notice. For the purposes of this Article:

- (a) "bankrupt" shall have the meaning ascribed thereto in Section 381 of the Insolvency Act 1986 or any statutory re-enactment or modification thereof for the time being in force and "bankruptcy" shall be construed accordingly; and
- (b) a member shall be deemed to have become insolvent if and when an order is made or a petition is presented or a resolution is passed for the administration, winding-up or dissolution of the member, or a receiver, administrator or other official or creditors' representative is appointed in respect of the member of any of its assets or property, or the member becomes insolvent for the purposes of any law or ceases or threatens to cease to carry on all or a substantial part of their respective businesses or any analogous event occurs in any jurisdiction and "insolvency" shall be construed accordingly.

9.9 If and whenever any shares held by trustees on 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, a Transfer Notice shall be deemed to have been given in respect of the relevant shares by the holders thereof and such shares may not otherwise be transferred. For the purposes of this Article the expression "**relevant shares**" means all shares registered in the names of trustees of a Family Trust as at the date of such cessation.

10 **Tag-Along Rights**

- 10.1 Except in the case of a Permitted Transfer but subject to the provisions of Article 9 (Right of First Offer), if any holder or any connected person (within the meaning of section 839 of the Income and Corporation Taxes Act 1988 and references in these Articles to a person being "connected" with another shall be construed accordingly) to such holder (collectively, a "**Selling Shareholder**") intends to Transfer (whether in one or a series of transactions) shares constituting an aggregate of 20 per cent. or more of the issued share capital of the Company (determined on an as-if-converted to Ordinary Share basis, excluding unexercised Options), such Selling Shareholder shall, subject always to observing all other provisions of these Articles, follow the procedures set out in this Article 10.
- 10.2 The relevant Selling Shareholder shall give to each of the other holders (together the "**Relevant Holders**") not less than 21 days' notice in advance of such proposed sale (a "**Sale Notice**"), specifying in such Sale Notice the identity of the proposed purchaser (the "**Buyer**"), the price per share which the Buyer is proposing to pay, the manner in which the consideration is to be paid, the maximum number of Shares which the relevant Selling Shareholder proposes to sell and the percentage (the "**Relevant Percentage**") which such Shares represent of the then current shareholding of that Selling Shareholder (the "**Selling Shareholder's Shares**").
- 10.3 Each Relevant Holder shall be entitled, within 14 days after receipt of the Sale Notice, to notify the relevant Selling Shareholder that they wish to sell Shares at the proposed sale price, in which case the notice shall specify the maximum number of Shares which such Relevant Holder wishes to sell (not to exceed the Relevant Percentage of a Relevant Holder's Share Entitlement (as defined below) as at the date of the Sale Notice).
- 10.4 For the purposes of this Article 10, the "**Share Entitlement**" of a Relevant Holder as at any date means the aggregate of the number of Shares then held by the Relevant Holder (determined on an as-if-converted to Ordinary Share basis, excluding unexercised Options).
- 10.5 Following receipt of such a counter-notice from a Relevant Holder, the Selling Shareholder shall be entitled to sell to the Buyer on the terms notified to the Relevant Holder a number of Shares (determined on an as-if-converted to Ordinary Share basis, excluding unexercised Options) not exceeding the maximum specified in the notice provided that at the same time the Buyer (or another person) purchases the Agreed Amount of Shares from the Relevant

Holder on terms no less favourable than those obtained by the Selling Shareholder from the Buyer.

10.6 In Article 10.5, the "**Agreed Amount**" shall be the lower of:

- (a) the number of Shares equal to the Relevant Percentage multiplied by the Relevant Holder's Share Entitlement;
- (b) the number of Shares which a Relevant Holder specified as being the maximum they were willing to sell in the counter-notice pursuant to Article 10.3.

10.7 If a Relevant Holder does not give any notice pursuant to Article 10.3 within the permitted time, or notifies the Selling Shareholder that it does not wish to sell any shares at the proposed price, then the Selling Shareholder shall be free to sell shares in accordance with the terms of their original Sale Notice.

10.8 No sale by the Selling Shareholder shall be made pursuant to any Sale Notice more than three months after service of that Sale Notice pursuant to Article 10.2.

10.9 If a Relevant Holder determines to exercise their rights under this Article 10 in relation to any Sale Notice, they shall exercise the conversion rights attaching to the Preferred Shares held by them to the extent necessary to enable them to deliver the number of Ordinary Shares to be sold by them, shall sell such shares with full title guarantee and shall do all such other acts and things as may reasonably be required by the Selling Shareholder in order to give effect to and complete the proposed transaction.

10.10 Each of the Selling Shareholders shall not Transfer any of their respective Ordinary Shares in the Company (or any interest therein) without the prior written consent of the Investors unless the purchaser (whether or not an existing shareholder of the Company) pays a price per Ordinary Share (whether in cash or kind) which is not less than the Equivalent Price and which would return to the Preferred Shareholders at the date of adoption of these Articles twice the aggregate of the nominal amount of the Preferred Shares and the premium paid on subscription for them.

10.11 For the purposes of Article 10.10, the "**Equivalent Price**" means the specified price per Ordinary Share divided by the number of Preferred Shares which would (at the relevant date) convert into one Ordinary Share.

11 Compulsory Transfers - Drag Along

11.1 Except in the case of a Permitted Transfer but subject to the provisions of Article 9 (Right of First Offer), if any holder or group of holders (the "**Proposing Shareholders**") propose to sell Shares (the "**Selling Shares**") constituting an aggregate of 70 per cent. or more of the issued share capital of the Company (determined on an as-if-converted to Ordinary Share basis,

excluding unexercised Options) as part of a bona fide arm's length transaction, the Proposing Shareholders shall have the right to give to the Company not less than 28 days' advance notice before selling the Selling Shares. That notice (the "**Selling Notice**") will include details of the Selling Shares and (subject to Article 11.5) the proposed price for each Selling Share to be paid by the proposed purchaser (the "**Proposed Purchaser**"), details of the Proposed Purchaser, the place, date and time of completion of the proposed purchase being a date not less than 28 days from the date of the Selling Notice (the "**Compulsory Sale Completion**").

- 11.2 Immediately upon receipt of the Selling Notice, the Board shall give notice in writing (a "**Compulsory Sale Notice**") to each of the holders (other than the Proposing Shareholders) giving the details contained in the Selling Notice requiring them each to sell to the Proposed Purchaser at the Compulsory Sale Completion all of their holding of shares.
- 11.3 Each holder who is given a Compulsory Sale Notice shall, in the event of a sale, sell all of his Shares referred to in the Compulsory Sale Notice at the highest price per Selling Share proposed to be sold to the Proposed Purchaser on the Compulsory Sale Completion by the Proposing Shareholders.
- 11.4 If any of the Shareholders (the "**Defaulting Shareholders**") fail to comply with the terms of Article 11.3, the Company shall be constituted the agent of each Defaulting Shareholders for the sale of his shares in accordance with the Compulsory Sale Notice (together with all rights then attached thereto) and the Board may authorise some person to execute and deliver on behalf of each Defaulting Shareholders the necessary transfer(s) and the Company may receive the purchase money in trust for each of the Defaulting Shareholders and cause the Proposed Purchaser to be registered as the holder of such shares. The receipt of the Company for the purchase money, pursuant to such transfers, shall constitute a good and valid discharge to the Proposed Purchaser (who shall not be bound to see the application thereof) and after the Proposed Purchaser has been registered in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person. The Company shall not pay the purchase money to a Defaulting Shareholders until he shall, in respect of the shares being the subject of the Compulsory Sale Notice, have delivered his share certificates or a suitable indemnity and the necessary transfers to the Company. Provided that the Proposing Shareholders shall sell the Selling Shares to the Proposed Purchaser on the Compulsory Sale Completion, subject at all times to the Proposed Purchaser being able to withdraw the Selling Notice at any time prior to the Compulsory Sale Completion by giving notice to the Company to that effect, whereupon each Compulsory Sale Notice shall no longer be binding and cease to have effect.
- 11.5 The Board may require to be satisfied that the shares to be sold by the Proposing Shareholders are to be sold bona fide for the consideration stated in the transfer without any deduction, rebate or allowance whatsoever to the Proposed Purchaser and if not so satisfied may require the proposed price to be determined by the Auditors. The Company shall request the Auditors to

determine and certify the sum which in their opinion is the fair market price of a Share (the "**Fair Market Price**") as at the date of the Compulsory Sale Notice. For the purposes of determining the Fair Market Price, the Auditors shall assume that the Company will continue as a going concern and that the sale of the Sale Shares is as between a willing vendor and a willing purchaser.

- 11.6 The Board and the Proposing Shareholders shall give to the Auditors all information in their possession which a prudent prospective purchaser of the whole of the share capital of the Company might reasonably require if he were to purchase the same from a willing vendor by private treaty on arm's length terms. In providing any certificate, the Auditors shall be considered to be acting as experts and not as arbitrators. The cost of obtaining any Auditors' certificate (including any expert valuations required in respect thereof) shall be borne by the Company.

12 **Compulsory Transfers - Executives**

- 12.1 This Article shall apply whenever an Executive shall cease to be a Director or employee of the Company or shall cease to provide services to the Company (a "**Departing Employee**") and for the purpose of this Article:

- (a) such Departing Employee, in respect of all shares then held by him or person connected to him (within the meaning of section 839 of the Income and Corporation Taxes Act 1988); and
- (b) the spouse (whether current or former) of such Departing Employee as at the date of this agreement, in respect of all Shares of whatever class then held by such spouse; and
- (c) any person or persons (or their nominees) to whom shares formerly held by such Departing Employee have been transferred (whether or not by such Departing Employee), in respect of all shares so transferred,

all of such persons, inclusive of the Departing Employee, being the "**Retiring Shareholders**".

- 12.2 If the Executive has become a Departing Employee for any of the reasons set out in Articles 12.4(a), 12.4(b), 12.4(c) or 12.4(e), the Retiring Shareholders shall each give, or shall each be deemed to have given, a Transfer Notice (a "**Compulsory Transfer Notice**") to the Board indicating that the Departing Employee desires and/or they desire (as the case may be) to transfer all of his and/or their shares (the "**Compulsory Transfer Shares**") at the Compulsory Transfer Price and the provisions of Article 9 above shall apply as if the Compulsory Transfer Notice were a Transfer Notice which did not contain a Total Transfer Condition and the Offer Price was the Compulsory Transfer Price.

12.3 If the Executive has become a Departing Employee for any of the reasons set out in Article 12.4(d), the Retiring Shareholders shall each give, or shall each be deemed to have given, a Compulsory Transfer Notice to the Board indicating that the Departing Employee desires and/or the Retiring Shareholders desire (as the case may be) to transfer a maximum of 50% of his and/or their shares Compulsory Transfer Shares at the Compulsory Transfer Price and the provisions of Article 9 above shall apply as if the Compulsory Transfer Notice were a Transfer Notice which did not contain a Total Transfer Condition and the Offer Price was the Compulsory Transfer Price. Any shares not so transferred and retained by Departing Employee desires and/or the Retiring Shareholders shall cease to have any right to vote on any matters upon which shareholders would otherwise be entitled to vote with effect from such departure.

12.4 The "**Compulsory Transfer Price**" shall:

(a) if the reason for the Executive having become a Departing Employee is as a result of:

(i) fraud or theft by the Executive (whether or not connected with his employment by, or his being a Director of, the Company or any subsidiary of the Company or whether or not connected with the provision of his services to the Company or any subsidiary of the Company); or

(ii) the Executive committing any act of gross misconduct or repeating or continuing any other serious breach of his obligations under his employment agreement and, because of this, is given written notice of termination signed by any Director; or

(iii) the Executive being convicted of any criminal offence for which he is sentenced to a term of imprisonment, whether immediate or suspended,

be the number of Compulsory Transfer Shares multiplied by the nominal value thereof, provided that if an employment tribunal shall find (and no appeal against such finding shall have been instituted by the Company within the period prescribed by the Employment Appeal Tribunal Rules and such appeal has been unsuccessful in relation to a finding of unfairness) that the circumstances under which the Executive became a Departing Employee pursuant to (a)(i) and (ii) above, are unfair, the Compulsory Transfer Price shall be the Fair Market Price; or

(b) if the fact that the person has become a Departing Employee is by reason of his resignation without the approval of the Board, be the number of Compulsory Transfer Shares multiplied by the Preferred Issue Price, or, if the Departing Employee is Marc Charlton, one fifth of the Preferred Issue Price; or

- (c) if the fact that the person has become a Departing Employee is by reason of his resignation with the approval of the Board (including a Goldman Nominated Director), be determined by agreement between the Board and the Departing Employee, and in the event that such parties do not reach agreement, no Compulsory Transfer Notice shall be given or shall be deemed to have been given to the Board and there shall be no transfer of shares; or
- (d) if the reason for the person having become a Departing Employee is as a result of:
 - (i) the death of the Executive; or
 - (ii) the Executive becoming bankrupt or making any arrangement or composition with his creditors generally,

be the aggregate of

- (A) the number of Compulsory Transfer Shares multiplied by the Fair Market Price, payable as to 50% to the Retiring Shareholders upon the determination of the Compulsory Transfer Price and as to 50% to the Company to hold on trust on behalf of the Retiring Shareholders and the transferees of their shares (as applicable) for six months from the Departing Employee ceasing to be a Director or employee of the Company and subject to the provisions contained in these Articles;

plus or minus (as applicable)

- (B) an amount, to be paid or subtracted (as applicable) in the event that the entire issued share capital of the Company is sold to a third party or all or part of the issued share capital is the subject of a Listing (an "Exit") within 6 months of the Departing Employee ceasing to be a Director or employee of the Company,
 - (i) such additional amount shall be equal to fifty percent of the amount by which the price per share upon the Exit (the "Exit Price") exceeds the Fair Market Price, or
 - (ii) such deductible amount shall be equal to fifty percent of the amount by which the Fair Market Price exceeds the Exit Price,

in either case of (i) or (ii) multiplied by the number of Compulsory Transfer Shares transferred,

Upon the later of the expiry of six months from the Departing Employee ceasing to be a Director or employee of the Company and determination of the adjusted Compulsory Transfer Price, the balance of the Compulsory Transfer Price shall be paid to the relevant Retiring Shareholders, and any excess funds held on trust by the Company shall be returned to the relevant persons in accordance with provisions of this Article. If the funds held on trust by the Company are insufficient to return to the relevant person their entitlement calculated pursuant to this Article, such person shall be entitled to claim any such shortfall from the Retiring Shareholder as a debt immediately due and payable upon determination of the Compulsory Transfer Price;

- (e) if the reason for the person having become a Departing Employee as a result of a majority decision of the Board (other than as set out in sub-clauses (a) and (c) above) the Compulsory Transfer Price shall be the Fair Market Price.

- 12.5 In the event that the Auditors are required to determine the price to which Shares are to be transferred pursuant to this Article 12, such price shall be the Fair Market Price determined in accordance with clause 11.5 as at the date of the Compulsory Transfer Notice or deemed Compulsory Transfer Notice is given.
- 12.6 In so certifying, the Auditors shall act as experts and not as arbitrators and its decision shall be conclusive and binding on the Company and upon all of its holders for the purposes of this Article 12.
- 12.7 The costs of the Auditors incurred pursuant to this Article 12 shall be borne by the Company.
- 12.8 The requirements of this Article 12 may, with the consent in writing of the Investors, be waived in whole or in part in respect of any Retiring Shareholders.

13 **Restrictions on Sale of Control**

- 13.1 Notwithstanding any other provision of these Articles, no holder, acting alone or together with any other holder pursuant to a common plan, shall Transfer any shares to any party or parties acting in common (a "**Prospective Acquiror**") if as a result of such Transfer the Prospective Acquiror would become the beneficial owner, directly or indirectly, of shares representing 40 per cent or more of the total voting rights attaching to the issued share capital of the Company (determined on an as-if-converted to Ordinary Share basis, excluding unexercised Options), unless such Prospective Acquiror offers to purchase all of the issued share capital of the Company for the same consideration offered to such holder and on the same terms and conditions, subject to giving effect to Article 13.2.

- 13.2 For purposes of this Article 13, consideration other than cash received in connection with the change in control set out in Article 13.1 shall be valued as follows: (i) with respect to securities that are traded on a recognised investment exchange (as such term is defined in the English Financial Services Act 1986), the average of the closing bid price for such security measured over the 30 trading days prior to the announcement of the transaction constituting the change in control and (ii) for all other assets, the fair market value of such assets as determined by an investment bank selected by a majority-in-interest of the holders of the Preferred Shares and approved by the Company, which approval shall not be unreasonably withheld.

14 **General meetings**

The directors may call general meetings and regulation 37 of Table A shall not apply to the Company.

15 **Notice of general meetings**

- 15.1 A notice convening a general meeting shall be required to specify the general nature of the business to be transacted only in the case of special business and regulation 38 of Table A shall be modified accordingly. The words "or a resolution appointing a person as a director" and paragraphs (a) and (b) in regulation 38 of Table A shall be deleted and the words "in accordance with section 369(3) of the Act" shall be inserted after the words "if it is so agreed" in that regulation.

- 15.2 All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the profit and loss account, balance sheet, and the reports of the directors and auditors, the appointment of and the fixing of the remuneration of the auditors, the giving or renewal of any authority in accordance with the provisions of section 80 of the Act.

- 15.3 Every notice convening a general meeting shall comply with the provisions of section 372(3) of the Act as to giving information to members in regard to their right to appoint proxies; and notices of and other communications relating to any general meeting which any member is entitled to receive shall be sent to the directors and to the auditors for the time being of the Company.

16 **Proceedings at general meetings**

- 16.1 The words, "save that, if and for so long as the Company has only one person as a member, one member present in person or by proxy shall be a quorum" shall be added at the end of the second sentence of regulation 40 of Table A.
- 16.2 If a quorum is not present within half an hour from the time appointed for a general meeting the general meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other

time and place as the directors may determine; and if at the adjourned general meeting a quorum is not present within half an hour from the time appointed therefor the member or members present in person or by proxy or (being a body corporate) by representative and entitled to vote upon the business to be transacted shall constitute a quorum and shall have power to decide upon all matters which could properly have been disposed of at the meeting from which the adjournment took place. Regulation 41 of Table A shall not apply to the Company.

17 Votes of members

17.1 Regulation 54 of Table A shall not apply to the Company. Subject to any rights or restrictions for the time being attached to any class or classes of shares, on a show of hands every member entitled to vote who (being an individual) is present in person or by proxy (not being himself a member entitled to vote) or (being a corporate body) is present by a representative or proxy (not being himself a member entitled to vote) shall have one vote and, on a poll, every member shall have one vote for each share of which he is the holder.

17.2 The words "be entitled to" shall be inserted between the words "shall" and "vote" in regulation 57 of Table A.

17.3 A member shall not be entitled to appoint more than one proxy to attend on the same occasion and accordingly the final sentence of regulation 59 of Table A shall not apply to the Company. Any such proxy shall be entitled to cast the votes to which he is entitled in different ways.

18 Alternate directors

18.1 An alternate director shall be entitled to receive notice of all meetings of the directors and of all meetings of committees of the directors of which his appointor is a member (subject to his giving to the Company an address within the United Kingdom at which notices may be served on him), to attend and vote at any such meeting at which the director appointing him is not personally present and generally to perform all the functions of his appointor at such meeting as a director in his absence. An alternate director shall not be entitled as such to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct. Regulation 66 of Table A shall not apply to the Company.

18.2 A director, or any such other person as is mentioned in regulation 65 of Table A, may act as an alternate director to represent more than one director, and an alternate director shall be entitled at any meeting of the directors or of any committee of the directors to one vote for every director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one for the purpose of determining whether a quorum is present and the final sentence of regulation 88 shall not apply to the Company.

- 18.3 Save as otherwise provided in the regulations of the Company, an alternate director shall be deemed for the purposes specified in Article 18.1 to be a director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the director appointing him. Regulation 69 of Table A shall not apply to the Company.

19 **Appointment and retirement of directors**

- 19.1 The directors shall not be required to retire by rotation and regulations 73 to 80 (inclusive) of Table A shall not apply to the Company.
- 19.2 The Company may by ordinary resolution appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director. The number of directors shall be a minimum of 3 and a maximum of 8.
- 19.3 The directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director, provided that the appointment does not cause the number of directors to exceed the number of directors referred to in Article 19.2. Regulation 64 of Table A shall not apply to the Company.
- 19.4 Notwithstanding any other provisions of these Articles, so long as Goldman or any member of its Preferred Shareholder Group holds shares in the Company, Goldman shall be entitled to appoint as directors (each a **"Goldman Nominated Director"**) any two persons and to remove from office any persons so appointed and to appoint other persons in their place. Any such appointment and the removal of any such appointee may be effected in writing to the Company. The remuneration and expenses of any Nominated Director shall be payable by the Company and shall be such sum as may be agreed between the Investors and the Company from time to time or failing agreement such reasonable sum as shall be fixed by the Investor. Upon request by Goldman the Company shall also procure that any of the Goldman Nominated Director(s) be appointed a director to any subsidiary of the Company.
- 19.5 Notwithstanding any other provisions of these Articles, so long as the New Shareholder or any member of its Preferred Shareholder Group holds shares in the Company, the New Shareholder shall be entitled to appoint as a director (a **"New Shareholder Nominated Director"**) any one person and to remove from office any such person so appointed and to appoint another person in his place. Any such appointment and the removal of such appointee may be effected in writing to the Company. The remuneration and expenses of the New Shareholder Nominated Director shall be payable by the Company and shall be such sum as may be agreed between the Investors and the Company from time to time or failing agreement such reasonable sum as shall be fixed by the Investors. Upon request by the New Shareholder the Company shall also procure that the New Shareholder Nominated Director be appointed a director to any subsidiary of the Company.

20 **Disqualification and removal of directors**

The office of a director shall be vacated if:-

- 20.1 he ceases to be a director by virtue of any provision of the Act or these Articles or he becomes prohibited by law from being a director; or
- 20.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- 20.3 he is, or may be, suffering from mental disorder and either:-
 - (a) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
 - (b) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
- 20.4 he resigns his office by notice to the Company; or
- 20.5 he becomes incapable by reason of illness or injury of managing or administering his property and affairs; or
- 20.6 he shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated;

Regulation 81 of Table A shall not apply to the Company.

21 **Gratuities and pensions**

Regulation 87 of Table A shall not apply to the Company and the directors may exercise any powers of the Company conferred by its Memorandum of Association to give and provide pensions, annuities, gratuities or any other benefits whatsoever to or for past or present directors or employees (or their dependants) of the Company or any subsidiary or associated undertaking (as defined in section 27(3) of the Companies Act 1989) of the Company and the directors shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.

22 **Proceedings of the directors**

- 22.1 The quorum for the transaction of the business of the Directors at any meeting shall be three and

- (a) if any Goldman Nominated Director has been appointed pursuant to Article 19.4, such quorum shall include at least one Goldman Nominated Director; and
 - (b) if a New Shareholder Nominated Director has been appointed pursuant to Article 19.5, such quorum shall include the New Shareholder Nominated Director.
- 22.2 Regulations 85 and 86 of Table A shall be amended to the extent that a director (excluding any Nominated Directors) shall not vote at a meeting of the Board or a committee thereof concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts with the interest of the Company (including, without limitation, any decision relating to the terms of his employment or determination thereof), shall absent himself from any such meeting and shall not be entitled to receive papers presented at, or minutes of, such meetings not apply to the Company.
- 22.3 Any director including an alternate director may participate in a meeting of the directors or a committee of the directors of which he is a member by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the Act, he shall be entitled to vote and be counted in a quorum accordingly. 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 then is.
- 22.4 Regulation 88 of Table A shall be amended by deleting the sentence:-
- "It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom"
- 22.5 Regulations 94 to 97 (inclusive) of Table A shall not apply to the Company.

23 **The seal**

If the Company has a seal it shall be used only with the authority of the directors or of a committee of the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined, every instrument to which the seal is affixed shall be signed by one director and by the secretary or another director. The obligation under regulation 6 of Table A relating to the sealing of share certificates shall only apply if the Company has a seal. Regulation 101 of Table A shall not apply to the Company.

24 **Notices**

- 24.1 Every director of the Company (including an alternate director) shall be entitled to receive notices of general meetings at his usual address or such other address as he may notify to the Company whether such address (in either case) by inside or outside the United Kingdom.
- 24.2 The Company may give any notice required by these Articles or otherwise to be given in writing, either personally at or by sending it by post in a prepaid envelope or by any other visible form, including facsimile and electronic mail, to the person to whom it is addressed ("the Addressee") to the Addressee's usual address or such other address (whether, in either case, inside or outside the United Kingdom) as the Addressee may notify to the Company. In the case of joint holders of a share, all notices shall be given to the joint holder whose name stands first in the register of members in respect of the joint holding and notice so given shall be sufficient notice to all the joint holders. Regulation 112 of Table A shall not apply to the Company.
- 24.3 A notice posted airmail from an address inside the United Kingdom to an address outside the United Kingdom (and vice versa) shall be deemed, unless the contrary is proved, to be given at the expiration of 6 days after the envelope containing it was posted and regulation 115 of Table A shall be deemed to be amended accordingly. A notice sent by facsimile or electronic mail shall be deemed to have been sent on completion of the transmission, provided that the sender of the notice has received confirmation that the transmission was successful.
- 24.4 Regulation 116 of Table A shall be deemed to be modified by the substitution of the words "at the address, if any, whether inside or outside the United Kingdom" for the words "at the address, if any, within the United Kingdom".

25 **Winding up**

In regulation 117 of Table A, the words "with the like sanction" shall be inserted immediately before the words "determine how the division".

26 **Indemnity**

- 26.1 Subject to the provisions of section 310 of the Act every director (including an alternate director) or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the lawful execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 144 or section 727 of the Act in which relief is granted to him by the court, and no director (including an alternate director) or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the lawful execution of the duties of his office or in relation thereto. Regulation 118 of Table A shall not apply to the Company.

- 26.2 The directors shall have power to purchase and maintain for any director, (including an alternate director) officer or auditor of the Company insurance against any such liability as is referred in section 310(1) of the Act and, subject to the provisions of the Act, against any other liability which may attach to him or loss or expenditure which he may incur in relation to anything done or alleged to have been done or omitted to be done as a director, (including as an alternate director) officer or auditor.
- 26.3 The directors may authorise the directors of companies within the same group of companies as the Company to purchase and maintain insurance at the expense of the Company for the benefit of any director (including an alternate director), other officer or auditor of such company in respect of such liability, loss or expenditure as is referred to in Article 26.2.