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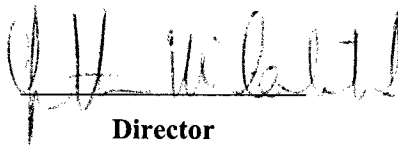
**AUDIO PROCESSING TECHNOLOGY HOLDINGS LIMITED**

(the "Company")

**Number NI 54094**



**I HEREBY CERTIFY** that this is a true copy of the Memorandum and Articles of Association.

  
**Director**

10 May 2005

**Dated**

# Companies (Northern Ireland) Orders 1986 to 1990

## COMPANY LIMITED BY SHARES

DEPARTMENT OF ENTERPRISE  
TRADE & INVESTMENT

16 MAY 2005

POST RECEIVED  
COMPANIES REGISTRY

## MEMORANDUM OF ASSOCIATION

### OF AUDIO PROCESSING TECHNOLOGY HOLDINGS LIMITED

1. The Company's name is: "AUDIO PROCESSING TECHNOLOGY HOLDINGS LIMITED".
2. The Company's registered office is to be situated in Northern Ireland.
3. The Company's objects are:
  - (A) i To subscribe for, take, or otherwise acquire and hold shares, stock, debentures, or other securities of any other company so as directly or indirectly to benefit the Company.
  - ii To purchase or otherwise acquire and undertake all or any part of the business, goodwill and assets of any person, firm or company carrying on or proposing to carry on any of the businesses which this Company is authorised to carry on: and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company, or to acquire an interest in, amalgamate with or enter into an arrangement or for sharing profits or for co-operation or for limiting competition or for mutual assistance with any such person, firm or company, and to give or accept by way of consideration for any of the acts or things aforesaid or for any property acquired, any shares, debentures, or securities that may be agreed upon, and to hold and retain or sell, mortgage and deal with any shares, debentures or securities so received.
  - iii To raise money by share capital, debentures, debenture stock, loan, or in any other manner that may be thought expedient, and to invest the amount for the time being thereof in, obtain options over or otherwise acquire and hold, either conditionally or otherwise, shares, stocks, bonds, obligations, debentures, debenture stock, scrip, and securities of all classes and descriptions, whether British, foreign or colonial, and whether created or issued by any Government or public authority, or by any person, corporation, company, society, or body.
- (B) i To act as marketing consultants, managers and agents, sales consultants, sales representatives, business advisers and organisers, advertising and publicity agents and consultants.
  - ii To carry on the business of marketing, management, industrial, commercial and general business promoters, developers and agents and in such capacity to act as consultants to, to advise on, to participate in, establish or undertake, industry, commercial enterprises, business management and all manner of business projects and business in general.
  - iii To design and implement marketing programmes, educational and training programmes to companies, firms or other persons engaged in, or about to engage in any business, trade or profession.
  - iv To act as agents, performers, producers, presenters in all aspects of advertising, sponsorship, media presentation including films, video, radio and television and to provide such ancillary services as may be required by the above.

- (C) To carry on any other trade or business whether manufacturing or otherwise which can, in the opinion of the Board of Directors be advantageously carried on by the Company.
- (D) To purchase or otherwise acquire and undertake all or any part of the business, property, liabilities and transactions of any company, society, partnership or person carrying on any business which the Company is authorised to carry on or possessed of property suitable for any of the purposes of the Company, and to account and carry on, or liquidate and wind up, any such business.
- (E) To purchase, take on lease, take in fee farm or in exchange hire or otherwise acquire and hold for any estate or interest whatsoever any real or personal property and any rights or privileges of any kind necessary or convenient for the purposes of or in connection with the Company's business or any branch or department thereof and in particular any land, buildings, easements, concessions, vehicles, ships, machinery, plant and stock-in-trade.
- (F) To build, construct, alter, set-up, maintain, enlarge, pull down, remove or replace, and to work, manage and control any buildings, offices, factories, mills, shops, machinery, engines, roads, ways, tramways, railways, branches or sidings, bridges, reservoirs, watercourses, wharves, electric works and other works and conveniences which may seem calculated directly or indirectly to advance the interests of the Company, and to join with any other person or company on doing any of these things.
- (G) To apply for, purchase, or otherwise acquire and protect and renew in any part of the world any patents, patent rights, brevets d'invention, trade marks, designs, licences, concessions, and the like, conferring any exclusive or non-exclusive or limited right to their use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the Company, or the acquisition of which may seem calculated directly or indirectly to benefit the Company, and to use, exercise, develop, or grant licences in respect of, or otherwise turn to account the property, rights or information so acquired and to expend money in experimenting upon, testing or improving any such patents, inventions or rights.
- (H) To acquire and undertake the whole or any part of the business, property, and liabilities of any person or company carrying on, or proposing to carry on any business which the Company is authorised to carry on, or possessed of property suitable for the purposes of the Company, or which can be carried on in conjunction therewith or which is capable of being conducted so as directly or indirectly to benefit the Company.
- (I) To amalgamate with or enter into any partnership or arrangement for sharing profits, union of interests, joint adventure, reciprocal concession or co-operation or for limiting competition with any company, firm or person carrying on or engaged in or proposing to carry on or engage in any business, trade or transaction within the objects of this Company or which is capable of being carried on so as directly or indirectly to benefit this Company, and to subscribe for,

take or otherwise acquire and hold, sell, deal with or dispose of any shares or stock in or debentures or other securities of or other interests in any such company, and to guarantee the contracts or liabilities of, subsidise or otherwise assist, any such company.

- (J) To improve, manage, develop, work, lease, mortgage, charge, pledge, grant rights, easements or privileges in respect of or otherwise deal with, all or any part of the property and rights of the Company and also to invest and deal with the moneys of the Company not immediately required for the purposes of the business of the Company in or upon such investments and in such manner as the Company may approve.
- (K) To vest any real or personal property, rights or interest acquired by or belonging to the Company in any person or company on behalf of or for the benefit of the Company, and with or without any declared trust in favour of the Company.
- (L) To acquire by original subscription, tender, purchase or otherwise and hold, sell, deal with or dispose of any Shares, Stocks, Debentures, Debenture Stocks, Bonds, Obligations, or other securities in or guaranteed by any company constituted or carrying on business in the United Kingdom and/or any part of the world whether or not such company has objects altogether or in part similar to those of the Company and Debentures, Debenture Stock, Bonds, Obligations or other Securities guaranteed by any Government or Authority, Municipal, local or otherwise, whether at home or abroad, and to subscribe for the same either conditionally or otherwise and to guarantee the subscription thereof and to exercise and enforce all rights and powers conferred by the ownership thereof.
- (M) To lend and advance money or give credit to customers and others with or without security, and upon such terms as the Company may approve, and to guarantee the liabilities, obligations and contracts of customers and others, and the dividends, interest and capital of the shares, stocks or securities of any company of or in which this Company is a member or is otherwise interested and generally to give guarantees and indemnities.
- (N) To receive money on deposit or loan and borrow or raise money in such manner as the Company shall think fit, and in particular by the issue of debentures, or debenture stock (perpetual or otherwise) and to secure the repayment of any money borrowed, raised or owing by mortgage, charge or lien upon all or any of the property or assets of the Company (both present and future), including its uncalled capital, and also by a similar mortgage, charge or lien to secure and guarantee the performance by the Company or any other person or company of any obligation undertaken by the Company.
- (O) To draw, make, accept, endorse, negotiate, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable instruments.
- (P) To apply for, promote and obtain any Act of Parliament, charter, privilege, concession, licence or authorisation of any government, state or municipality, provisional order or licence of any Government

Department or other authority for enabling the Company to carry any of its objects into effect or for extending any of the powers of the Company or for effecting any modification of the constitution of the Company or for any other purpose which may seem expedient, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the interests of the Company.

- (Q) To enter into any arrangements with any governments or authorities, supreme, municipal, local or otherwise or any person or company that may seem conducive to the objects of the Company, or any of them, and to obtain from any such government, authority, person or company any rights, privileges, charters, contracts, licences and concessions which the Company may think it desirable to obtain and to carry out, exercise and comply therewith.
- (R) To take part in the formation, management, supervision or control of the business or operation of any Company or undertaking and for that purpose to appoint and remunerate any Directors, Accountants, Solicitors or experts or agents: and also to employ experts to investigate and examine into the condition, prospects, value, character and circumstances of any business concerns and undertakings and generally of any assets, property or rights.
- (S) To pay out of the funds of the Company all expenses which the Company may lawfully pay with respect to the formation and registration of the Company or the issue of its capital, including brokerage and commissions for obtaining applications for or taking, placing or underwriting or procuring the underwriting of shares, debentures or other securities of the Company.
- (T) To pay for any property or rights acquired by the Company and to remunerate any person or company whether by cash payment or by allotment of fully or partly paid-up shares, with or without preferred or deferred or special rights or restrictions in respect of dividend, repayment or capital, voting or otherwise, or by allotment of debentures or any other securities which the company has power to issue, or partly in one mode and partly in another, and generally on such terms as the Company may determine.
- (U) To insure the life of any person, who may, in the opinion of the Company, be of value to the Company as having or holding for the Company interests, goodwill or influence or other assets and to pay the premiums on such insurance.
- (V) To establish and maintain or procure the establishment and maintenance of any contributory or non-contributory pension or superannuation funds for the benefit of, and give or procure the giving of donations, gratuities, pensions, allowances or emoluments to any persons who are or were at any time in the employment or service of the Company, or of any company which is a subsidiary of the Company, or was taken over or otherwise acquired by the Company or is allied to or associated with the Company or with any such subsidiary company, or who are or were at any time Directors or Officers of the Company or of any such other company as aforesaid, and the wives, widows, families and dependants of any such persons, and also establish and subsidise and subscribe to any institutions,

associations, clubs or funds calculated to be for the benefit of or to advance the interest and well-being of the Company or of any such other company as aforesaid, and make payments to or towards the insurance of any such person as aforesaid and do any of the matters aforesaid, either alone or in conjunction with any such other company as aforesaid.

- (W) To procure the Company to be registered or recognised in Great Britain, the Republic of Ireland or in any other part of the World.
- (X) To establish, or promote or concur in establishing or promoting any company or companies for the purpose of acquiring all or any of the property, rights and liabilities of the Company or for any other purpose which may seem directly or indirectly calculated to benefit the Company and to place or guarantee the placing of, underwrite, subscribe for or otherwise acquire all or any part of the shares, debentures, or other securities of any such other company.
- (Y) To sell, lease, mortgage, grant in fee farm, exchange or otherwise dispose of the real or personal property, assets or undertaking of the Company or any part thereof for such consideration as the Company may think fit and to accept payment for any real or personal property or rights sold or otherwise disposed of or dealt with by the Company, either in cash, by instalments or otherwise, or in fully or partly paid-up shares or stock of any company or corporation whether or not having objects altogether or in part similar to those of the Company and whether or not such shares or stock shall have preferred or deferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or in debentures or mortgages or other securities of any company or corporation, or partly in one mode and partly in another, and generally on such terms as the Company may determine, and to hold, dispose of or otherwise deal with any shares, stock or securities so acquired.
- (Z) To distribute among the members in specie any property of the Company, or any proceeds of sale or disposal of any property of the Company, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law.
- (AA) To act as agents or brokers and as trustees for any person or company and to undertake and perform sub-contracts and to do all or any of the above things in any part of the world, and either as principals, agents, trustees, contractors or otherwise, and either alone or jointly with others, and either by or through agents, sub-contractors, trustees or otherwise.
- (BB) To appoint any person or persons, firm or firms, company or companies to be the attorney or agent of the Company and to act as agents, managers, secretaries, contractors or in similar capacity.
- (CC) To take, make, execute, enter into, commence, carry on, prosecute or defend all steps, contracts, agreements, negotiations, legal and other proceedings, compromises, arrangements and schemes, and to do all other acts, matters and things which shall at any time appear

conducive or expedient for the advantage or protection of the Company.

- (DD) To do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them.

And it is hereby declared that:

- (a) the word "company" in this clause, except where used in reference to this Company, shall be deemed to include any partnership or other body or persons, whether corporate or unincorporate and whether domiciled in Northern Ireland, or elsewhere, and
- (b) The objects specified in each of the paragraphs of this clause shall be regarded as independent objects and accordingly shall in no wise be limited or restricted (except where otherwise expressed in such paragraphs) by reference to or inference from the terms of any other paragraph or the name of the Company, but may be carried out in as full and ample a manner and construed in as wide a sense as if each of the said paragraphs defined the objects of a separate and distinct company.

4. The liability of the members is limited.

5. The Company's share capital is: £2,000,000 divided into 2,000,000 Ordinary shares of £1. each.

The Company has power from time to time to increase or reduce its capital and to consolidate or sub-divide the shares into shares of larger or smaller denominations. Any new shares from time to time to be created may from time to time be issued with any such right of preference, whether in respect of dividend or repayment of capital, or both, or any such other special privilege or advantage over any shares previously issued or then about to be issued, or with such deferred rights as compared with any other shares previously issued or then about to be issued, or subject to any such conditions or provisions, and with any such right or without any right of voting and generally on such terms as the Company may from time to time determine.

We, the subscribers to this Memorandum of Association, wish to be formed into a company pursuant to this Memorandum; and we agree to take the number of shares shown opposite our respective names.

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NAMES AND ADDRESSES OF SUBSCRIBERS

Number of Shares  
taken by each  
Subscriber

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DOROTHY MAY KANE  
138 UNIVERSITY STREET  
BELFAST  
BT7 1HJ

ONE

TOTAL SHARES TAKEN:

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ONE

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Dated: 1st FEBRUARY 2005

Witness to the above signatures:

MALCOLM HARRISON  
138 UNIVERSITY STREET  
BELFAST  
BT7 1HJ



THE COMPANIES (NI) ORDER1986

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COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

of

AUDIO PROCESSING TECHNOLOGY HOLDINGS LIMITED\*

*\* Changed by a Written Resolution dated 10 May 2005*

1 PRELIMINARY

1.1 In these Articles:

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

**"Board"** means the Board of Directors for the time being of the Company;

**"B Ordinary Shares"** means the B Ordinary shares of £0.005 each in the capital of the Company;

**"Investors"** means the Investors defined in the Investment Agreement;

**"Investor Group"** shall have the same meaning as contained in the Investment Agreement;

**"Investment Agreement"** means the Agreement relating to the Company dated 9 May 2005 between (1) the Investors (2) the Founders (as defined therein) (3) the

Subsidiary and (as defined therein) and (4) the Company together with any agreements supplemental thereto;

**"Listing"** means a successful application being made in relation to all or any of the share capital of the Company for admission to listing to the United Kingdom Listing Authority and admission to trading to the London Stock Exchange plc or a successful application being made to any other recognised investment exchange (as such expression is defined in the Financial Services and Markets Act 2000) for all or any of the share capital of the Company to be admitted to trading on such exchange;

**"Member"** means any holder for the time being of Shares;

**"the Order"** means the Companies (NI) Order 1986 (as amended);

**"Ordinary Shares"** means the Ordinary Shares of £0.005 each in the capital of the Company;

**"Sale"** means:

- (a) the transfer, sale or disposal of all or substantially all of the assets of the Company or any subsidiary (whether pursuant to one transaction or a series of related (or unrelated) transactions); or
- (b) the exclusive, irrevocable licensing of all or substantially all of the Company's and/or any subsidiary's intellectual property to a third party (whether pursuant to one transaction or a series of related (or unrelated) transactions); or
- (c) a merger, reorganisation or other transaction or the sale of any part of the share capital to any person resulting (in any such case) in that person together with any other person acting in concert (within the meaning given in the City Code on Takeovers and Mergers as in force at the date of this adoption of these Articles) with such person holding more than 50% of the issued Ordinary Shares;

McCartan Turkington Breen

**"Shares"** means the Ordinary Shares and the B Ordinary Shares for the time being of the Company;

**"subsidiary"** has the meaning ascribed thereto by article 4 of the Order (as amended);

**"Table A"** means Table A in the Companies (Table A to F) Regulations (Northern Ireland) 1986;

**"the Statutes"** means the Order and any statutory modification or re-enactment thereof for the time being in force and every other Order for the time being in force concerning companies and affecting the Company;

1.2 Subject as hereinafter provided, the regulations contained in Table A shall apply to the Company.

1.3 Regulations 24, 50, 64, 65 to 69, 73 to 78 inclusive, 87, 109 and 118 of Table A shall not apply to the Company, but the Articles hereinafter contained and the remaining regulations of Table A, subject to the modifications hereinafter expressed, shall constitute the regulations of the Company.

## **2 SHARE CAPITAL**

2.1 The share capital of the Company is £2,000,000 divided into 200,000,000 Ordinary Shares of £0.005 each and 200,000,000 B Ordinary Shares of £0.005 each.

## **3 ISSUE OF NEW SHARES**

3.1 Subject to the provisions of the Order (including without limitation article 99 to 101 thereof) and the Investment Agreement, shares may be allotted or issued to any person.

3.2 Subject as aforesaid, the Directors may unconditionally exercise the power of the Company to allot relevant securities (within the meaning of article 90(2) of the Order) and any shares hereafter created shall be under the control of the Directors, who may allot, grant options over or otherwise dispose of the same to such

persons (including the Directors themselves) on such terms and at such times as they may think proper, provided that no shares shall be issued at a discount.

3.3 The maximum nominal amount of share capital which or in respect of which the Directors may allot, grant options or subscription or conversion rights, create, deal or otherwise dispose of in accordance with this Article shall be the total amount stated in clause 5 of the Memorandum of Association or such other amount as shall be authorised by the Company in general meeting.

3.4 The authority conferred on the Directors by Articles 3.2 and 3.3 shall expire on the day preceding the fifth anniversary of the date of incorporation of the Company.

#### **4 NOT USED**

#### **5 RIGHTS OF ORDINARY SHARES AND B ORDINARY SHARES**

5.1 The Ordinary Shares and B Ordinary Shares shall have the following rights and be subject to the following restrictions:

##### **5.1.1 As regards Income**

The profits which the Company may determine (subject to and in accordance with the Investment Agreement) to distribute in respect of any financial period shall be distributed amongst the holders of the Ordinary Shares in proportion to the amount paid up on the Ordinary Shares and B Ordinary Shares (excluding any premium) held by them *pari pasu*.

##### **5.1.2 As to capital**

In the event of any return of capital on a liquidation or a winding up of the Company (which for these purposes shall include a distribution following a Sale, Listing or otherwise (or on a reduction of capital involving a return of capital) the assets of the Company remaining after payment of its debts and liabilities shall be distributed amongst the holders of the Ordinary Shares and B Ordinary Shares rateably in proportion to the number of fully paid up Ordinary Shares and B Ordinary Shares then held by each of them.

**5.1.3 As regards voting**

5.1.3.1 The Ordinary Shares shall each entitle the holder to attend any general meeting and vote upon any resolution and on a show of hands every holder of Ordinary Shares who (being an individual) is present in person or (being a corporation) is present by a representative or proxy shall have one vote and on a poll every holder of Ordinary Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a representative or proxy shall have one vote for each Ordinary Share of which he/it is the holder;

5.2.3.2 Subject to Article 14 the holders of the B Ordinary Shares shall have the right to receive notice of all general meetings of the Company but shall not have the right to attend, speak or vote at any general meeting of the Company.

**6 REDEMPTION OR PURCHASE OF OWN SHARES OUT OF CAPITAL**

Subject to articles 181 to 191 inclusive of the Order, the Company may purchase its own shares and, if it is a private company, make a payment in respect of the redemption or purchase of its shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares of the Company or out of capital (within the meaning of article 181(2) of the Order).

**7 LIEN AND CALLS ON SHARES**

7.1 The lien conferred by regulation 8 of Table A shall also attach to fully paid shares, and the Company shall also have a first and paramount lien on all shares, whether fully paid or not, standing registered in the name of any member, whether he is their sole registered holder thereof or one of several joint holders, for all indebtedness or liability payable by him or his estate, to the Company. Regulation 8 of Table A shall be modified accordingly.

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

## **8 TRANSFERS OF SHARES**

8.1 No member shall dispose of any interest in, or right attaching to, or renounce or assign any right to receive or subscribe for any share (save as may be required in pursuance of his obligations under these Articles or the Investment Agreement) or create or permit to exist any Encumbrance or trust over any share or agree (whether subject to any condition precedent, condition subsequent or otherwise) to do any of such things except:

8.1.1 as permitted by Article 9;

8.1.2 as permitted by Articles 10 to 14; or

8.1.3 as permitted by the Investment Agreement.

8.2 If a Member at any time attempts to deal with or dispose of a share or any interest therein or right attaching thereto otherwise than as permitted by these Articles he shall be deemed immediately prior to such attempt to have given a Transfer Notice (as defined below) in respect of such share.

8.3 For the purpose of ensuring that a particular transfer of shares is permitted hereunder the Directors may require the transferor or the person named as transferee in any transfer lodged for registration to furnish the Company with such information and evidence as the Directors may think necessary or relevant. Failing such information or evidence being furnished to the satisfaction of the Directors within a period of 28 days after such request the Directors shall be entitled to refuse to register the transfer in question.

8.4 Where a Transfer Notice in respect of any share is deemed to have been given under any provision of these Articles or under the Investment Agreement and the circumstances are such that the Directors (as a whole) are unaware of the facts giving rise to the same, such Transfer Notice shall be deemed to have been received by the Directors on the date on which such Directors (as a whole) actually became aware of such facts and the provisions of Article 10 shall apply accordingly.

8.5 The Directors shall not refuse to register any transfer of a share which is permitted under these Articles but may, in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share which would otherwise be permitted hereunder if it is a transfer:

8.5.1 of a share on which the Company has a lien; or

8.5.2 of a share (not being a fully paid share) to a person to whom they shall not approve and shall in any event refuse to register the transfer of a share which is prohibited by the Investment Agreement.

8.6 If a member or his Representatives becomes aware of any event which is deemed to give rise to an obligation to serve a Transfer Notice he shall forthwith give written notice thereof to the Directors.

8.7 The election by the Representatives of a member to become the registered holders of any share pursuant to regulation 30 of Table A shall be permitted by the Directors and shall not give rise to any obligation to serve a Transfer Notice (as hereinafter defined) in respect of such share. Regulation 30 of Table A shall be modified accordingly.

## 9 PERMITTED TRANSFERS

9.1 Not used.

9.2 Subject to Article 9.4, any Member being a body corporate may transfer any Shares held by it to a member of the same group (as hereinafter defined), provided that where Shares are transferred from a body corporate (the “**transferor company**” which expression shall not include a second or subsequent transferor in such a series of transfers) and subsequently the transferee company ceases to be a member of the same group as the transferor company then the transferee company shall forthwith transfer the Relevant Shares (as hereinafter defined) to the transferor company; and failure so to transfer such Shares within 14 days of the transferee company ceasing to be a member of the same group as the transferor company shall result in a Transfer Notice being deemed immediately to be given in respect of the Relevant Shares, and the provisions of Article 10.2 shall have effect in respect of such shares (or the relevant provision thereof).

9.3 For the purposes of Article 9.2:

9.3.1 the expression **"a member of the same group"** means a company which is from time to time a holding company of which the transferor company is a subsidiary or a subsidiary of the transferor company or of any holding company of which the transferor company is a subsidiary; and

9.3.2 the expression **"Relevant Shares"** means and includes (so far as the same remain from time to time held by the transferee company) the Shares originally transferred to the transferee company and any additional Shares issued or transferred to the transferee company by virtue of the holding of the Relevant Shares or any of them.

9.4 Each Investor may transfer any Shares to its respective Investor Group members provided that, in the event of any such transferee ceasing to be a member of the Investor Group controlled directly or indirectly by such ultimate holding company or by such Member and immediately prior to it so ceasing, such Shares shall be transferred to another body corporate so controlled by the ultimate holding company or by such Member (as the case may be).

9.5 Any Member who is an individual may transfer any Shares:

9.5.1 to the trustees of a pension fund set up wholly or partly for the benefit of such Member provided always that the said trustees shall be deemed to hold the Shares for the benefit of the Member, and in the event of the pension fund ceasing to exist or to be for the benefit of such member, such Shares shall be transferred back to the Member from whom such Shares were transferred and in default thereof the pension fund trustees shall be deemed immediately to have given a Transfer Notice in respect of all their Relevant Shares and the provisions of Article 10.2 shall have effect in respect of such shares (or the relevant proportion thereof);.

9.5.2 to the trustees of a family trust set up wholly or partly for the benefit of relatives of such Member and of which the said Member is settlor, provided that if and whenever any such Shares cease to be held upon a family trust or there cease to be any beneficiaries of that family trust other than a charity or charities the trustees shall be deemed immediately to have given a Transfer Notice in respect of all their



Relevant Shares and the provisions of Article 10 2 shall have effect in respect of such shares (or the relevant proportion thereof). .

9.6 For the purposes of Article 9.5 the expression "**Relevant Shares**" means and includes (so far as the same remain from time to time held by the trustees) the Shares originally transferred to the trustees and any additional Shares issued or transferred to the trustees by virtue of the holding of the Relevant Shares or any of them.

9.7 Subject to the Investment Agreement, any Member may transfer any Shares to any person with the prior consent in writing of holder of Shares (other than the Transferring Shareholder) entitled to cast 75% of the votes exercisable on a poll at a general meeting of the Company (excluding the votes of the proposed transferor).

## 10 PRE-EMPTION RIGHTS

10.1 Except for a transfer of Shares which is permitted under these Articles as mentioned in Article 8.1, no share shall be transferred until the following conditions of this Article are complied with.

10.2 Any Member proposing to transfer a share (the "**Transferring Shareholder**") shall give notice in writing ("**Transfer Notice**") to the Directors that the Transferring Shareholder desires to transfer such share. In the Transfer Notice the Transferring Shareholder shall specify:

10.2.1 the number and class of Shares which the Transferring Shareholder wishes to transfer (the "**Transfer Shares**") (which may be all or part only of the Shares then held by the Transferring Shareholder);

10.2.2 the price at which the Transferring Shareholder wishes to sell the Transfer Shares; and

10.2.3 the identity of any person who has indicated a willingness to purchase the Transfer Shares at such price.

10.3A Transfer Notice shall also state whether the Transferring Shareholder wishes to impose a Total Transfer Condition (meaning a condition that unless all of the Transfer Shares are sold pursuant to the following provisions of this Article none shall be so sold), but in the absence of such a statement the Transfer Notice shall be deemed not to contain a Total Transfer Condition. Any two or more Members shall be entitled to serve a joint Transfer Notice (meaning a notice signed by each of them specifying the Shares which they wish together to transfer) containing a Total Transfer Condition and such notice shall for all the purposes of this Article take effect as if it were a single Transfer Notice and the Total Transfer Condition related to all the Shares the subject of the joint Transfer Notice, but the obligations of those members thereunder or in respect thereof shall be several only in proportion to the number of Transfer Shares which they hold respectively.

10.4 The Transfer Notice shall constitute the Company (by its Board) as the agent of the Transferring Shareholder empowered to sell the Transfer Shares (together with all rights attaching thereto at the date of the Transfer Notice or at any time thereafter) at the Transfer Price (as hereinafter defined) on the terms of this Article. Once given a Transfer Notice may not be revoked save with the prior written consent of all the other Members. If a Transferring Shareholder revokes a Transfer Notice he may not subsequently transfer the Shares the subject of the Transfer Notice (or any interest therein) otherwise than in accordance with these Articles and the Investment Agreement.

10.5 Where a Transfer Notice is given in respect of more than one class of Share it shall be deemed for the purposes of this Article to comprise a number of separate transfer notices, one in respect of each such class. However, where the Transferring Shareholder simultaneously serves transfer notices in respect of more than one class of Shares he may stipulate in such notices by reference to this Article 10.5 that any Total Transfer Condition shall apply to all of such Shares and not merely to one class only.

10.6 Within seven days after the receipt of any Transfer Notice the Directors shall serve a copy of that Transfer Notice on all the members other than the Transferring Shareholder. In the case of a deemed Transfer Notice in Article 11 the Directors shall similarly serve notice on all the Members (including the Transferring Shareholder), notifying them that the same has been deemed to have been given, within 1 month

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after (i) the date of the event giving rise to the deemed Transfer Notice or (ii) (if later) the date on which the Directors (as a whole) actually became aware of such event.

10.7 Subject as provided otherwise in these Articles or in the Investment Agreement the Transfer Shares shall be offered for purchase (as hereinafter provided) at a price per Transfer Share (the "**Transfer Price**") determined in accordance with Article 10.8.

#### 10.8

10.8.1 If the Transfer Notice is not a deemed Transfer Notice the Transfer Price shall be the price specified by the Transferring Shareholder in the Transfer Notice; or

10.8.2 If the Transfer Notice is a deemed Transfer Notice the Transfer Price shall be such price as shall be agreed in writing between the Transferring Shareholder and the Board (other than the Transferring Shareholder, if he be a Director) or in the absence of such agreement (whether by reason of disagreement, absence, death or otherwise) within 21 days after the service of notices pursuant to Article 10.8.3 the Transfer Price will be determined either by the Auditors or (if they are unwilling or unable to act) by an independent Chartered Accountant of not less than ten years' standing (the "**Expert**") who shall be nominated by agreement between the Transferring Shareholder and the Board (other than the Transferring Shareholder, if he be a Director) or failing such nomination within 14 days after the request of any Member to the others therefor nominated at the request of any member by the Chairman from time to time of the Ulster Branch of the Institute of Chartered Accountants of Ireland. The Expert shall act as an expert and not as an arbitrator and his written determination shall be final and binding on the Members.

10.8.3 The Expert will certify the open market value of the Transfer Shares as at the date of the Transfer Notice on the following assumptions and bases:

10.8.3.1 valuing the Transfer Shares as on an arm's length sale between a willing vendor and a willing purchaser;

10.8.3.2 that the Transfer Shares are capable of being transferred without restriction;

10.8.3.3 valuing the Transfer Shares as a rateable proportion of the total value of all

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the issued shares of the Company without any premium or discount being attributable to the class of the Transfer Shares or the percentage of the issued share capital of the Company which they represent; and

10.8.3.4 that the Transfer Shares have voting rights.

10.8.4 If any difficulty shall arise in applying any of the foregoing assumptions or bases then such difficulty shall be resolved by the Expert in such manner as he shall in his absolute discretion think fit.

10.8.5 The Transfer Price shall be a sum equal to the open market value of the Transfer Shares determined as aforesaid divided by the number of Transfer Shares. The Company will use all reasonable endeavours to procure that the Expert determines the Transfer Price within 21 days of being requested so to do.

10.8.6 If the determination of the Transfer Price is referred to the Expert the date of determination of the Transfer Price (the "**Determination Date**") shall be the date on which the Directors receive the Expert's determination of the Transfer Price in writing. If the Transfer Price is determined by written agreement between the Transferring Shareholder and the Board as aforesaid then the Determination Date shall be the date on which such agreement is made. If the Transfer Price is determined pursuant to Article 10.8.1 then the Determination Date shall be the date on which the directors receive the Transfer Notice.

10.8.7 Subject to Article 12.4, the costs and expenses of the Expert in determining the Transfer Price and of his appointment shall be borne by the Transferring Shareholder. In the case of default by the Transferring Shareholder in paying the costs and expenses the Company may pay such sum in his stead and any payment made in so doing shall be recoverable from the defaulter as a debt payable on demand.

10.9 Within 7 days after the Determination Date the Transfer Shares shall be offered for purchase at the Transfer Price by the Directors to those Members who at the date of the offer are registered as the respective holders of Shares of the same class as the Transfer Shares (other than the Transferring Shareholder) in proportion to the number of Shares of that class then held by them respectively. Every such offer shall be made

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in writing and shall specify (a) the total number of Transfer Shares and price; (b) the number of Transfer Shares offered to the member ("**Pro-Rata Entitlement**"); (c) whether or not the Transfer Notice contained a Total Transfer Condition and (d) a period (being not less than 14 days and not more than 21 days) within which the offer must be accepted or shall lapse, and shall be accompanied by a form of application for use by the member in applying for his Pro-Rata Entitlement and for any Shares in excess of such entitlement which he wishes to purchase.

10.10 Upon the expiry of the said offer period, the Directors shall allocate the Transfer Shares in the following manner:

10.10.1 to each Member who has agreed to purchase Shares, his Pro-Rata Entitlement or such lesser number of Transfer Shares for which he may have applied;

10.10.2 if any Member has applied for less than his Pro-Rata Entitlement, the excess shall be allocated to the Members who have applied for any part of such excess in proportion to the number of Shares of the class then held by them respectively (but without allocating to any Member a greater number of Transfer Shares than the maximum number applied for by him) and any remaining excess shall be apportioned by applying this Article 10.10.2 without taking account of any Member whose application has already been satisfied in full.

10.11 If and to the extent that the Transfer Shares are not accepted by a Member or Members holding Shares of the same class as the Transfer Shares within the time limited for acceptance or if there are no other holders of Shares of that class the Directors shall (in the former case) within 7 days after the expiration of such time as aforesaid (and in the latter case immediately), offer the Transfer Shares or so many thereof as have not been accepted as aforesaid (as the case may be) to Members holding Shares of the other class or classes and the provisions of Article 10.10 shall apply mutatis mutandis to such offer (save that in the case of competition the Transfer Shares shall be sold to the acceptors in proportion to the aggregate nominal value of the Shares then held by each of them respectively).

10.12 If any of the Transfer Shares shall not be capable of being offered or allocated as aforesaid without involving fractions, the same shall be offered to or allocated amongst the Members, or some of them, in such proportions as may be determined

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by lots drawn in respect thereof, and the lots shall be drawn in such manner as the Directors shall think fit.

#### 10.13

10.13.1 If by the foregoing procedure the Directors shall not receive acceptances from Members in respect of all of the Transfer Shares within the period(s) of the aforesaid offer(s) they shall forthwith give notice in writing of that fact to all the Members, whereupon the Board shall be entitled within 14 days of the date of service of that notice to nominate (by giving notice in writing to the Directors signed by each such holder or on his behalf and which may consist of several notices in the like form) any person or persons (whether or not a Member) who has expressed his willingness in writing to purchase all or any of those Transfer Shares in respect of which acceptances have not been received at the Transfer Price as the purchaser(s) of such Transfer Shares (and the Directors shall be deemed to have made an offer of such Shares accordingly); Provided that if any such nominated purchaser shall fail to complete any such purchase in accordance with this Article or to perform or discharge any of his other obligations hereunder the Members (other than those who did not sign the aforesaid notice(s)) shall be jointly and severally liable to complete such purchase in place of that nominated purchaser and to perform and discharge all such other obligations.

10.13.2 If the Transfer Notice in question contained a Total Transfer Condition then no offer of Transfer Shares made by the Directors pursuant to this Article shall be capable of acceptance until all of the Transfer Shares shall have been accepted by the Members (or any of them) or any person or persons nominated pursuant to Article 10.13. If by the foregoing procedure the Directors shall not receive acceptances in respect of all the Transfer Shares within the period(s) of the aforesaid offer(s) they shall forthwith give notice in writing of that fact to the Transferring Shareholder and none of the Transfer Shares will be sold to the Members or any person or persons nominated as aforesaid (except as mentioned below) pursuant to this Article. The Transferring Shareholder may within a period of 3 months after the date of the Directors' said notice sell all (but not some only) of the Transfer Shares to the person identified in the Transfer Notice at any price which is not less than the Transfer Price (after deducting, where appropriate, any net dividend or other distribution to be retained by the Transferring Shareholder).

10.14 If, by the foregoing procedure, the Directors shall receive acceptances (or nominations) in respect of all of the Transfer Shares the Directors shall forthwith give notice in writing as hereinafter mentioned to the Transferring Shareholder and to the Member or Members who have agreed to purchase the same (or to the person or persons nominated pursuant to Article 10.13.1 ("**purchaser**" or "**purchasers**") and the Transferring Shareholder shall thereupon become bound upon payment of the Transfer Price to the Transferring Shareholder (whose receipt shall be a good discharge to the purchaser, the Company and the Directors therefor none of whom shall be bound to see to the application thereof) to transfer to each purchaser those Transfer Shares accepted by him. Every such notice shall state the name and address of each purchaser, the number of Transfer Shares agreed to be purchased by him and the place and time appointed by the Directors for the completion of the purchase (being not less than 7 days nor more than 28 days after the date of the said notice and not being at a place outside Northern Ireland). Subject to the giving of such notice the purchase shall be completed at the time and place appointed by the Directors.

10.15 If the Transfer Notice in question did not contain a Total Transfer Condition and if by the foregoing procedure the Directors shall receive acceptances (or nominations) in respect of none or part only of the Transfer Shares within the period(s) of the aforesaid offer(s) they shall forthwith give notice in writing of that fact to the Transferring Shareholder, and the Transferring Shareholder:

10.15.1 shall thereupon become bound upon payment of the Transfer Price to transfer to each purchaser (if any) those Transfer Shares accepted by him and the provisions of Article 10.14 shall apply mutatis mutandis thereto;

10.15.2 may within a period of 3 months after the date of the Directors' said notice sell all or any of those Transfer Shares which have not been accepted as aforesaid to the person identified in the Transfer Notice at any price which is not less than the Transfer Price (after deducting, where appropriate, the amount of any net dividend or other distribution to be retained by the Transferring Shareholder).

10.16 If a Transferring Shareholder, having become bound to transfer any Transfer Shares pursuant to this Article, makes default in transferring the same the Directors may authorise some person (who is (as security for the performance of the

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Transferring Shareholder's obligations) hereby irrevocably and unconditionally appointed as the attorney of the Transferring Shareholder for the purpose) to execute the necessary instrument of transfer of such Transfer Shares and may deliver it on his behalf and the Company may receive the purchase money and shall thereupon (subject to such instrument being duly stamped with any necessary stamp duty) cause the transferee to be registered as the holder of such Transfer Shares and shall hold such purchase money on behalf of the Transferring Shareholder. The Company shall not be bound to earn or pay interest on any money so held and shall not pay such money to the Transferring Shareholder until he shall have delivered his share certificates (or an appropriate indemnity in respect of any lost certificates) to the Company. The receipt of the Company for such purchase money shall be a good discharge to the transferee who shall not be bound to see to the application thereof, and after the name of the transferee has been entered in the register of members in purported exercise of the aforesaid power the validity of the proceedings shall not be questioned by any person.

10.17 The Directors may require to be satisfied that any shares being transferred by the Transferring Shareholder pursuant to either Article 10.13.2 or Article 10.15.2 are being transferred in pursuance of a bona fide sale for the consideration stated in the transfer and if not so satisfied may refuse to register the instrument of transfer.

## **11 DEEMED TRANSFER NOTICE**

Subject to the provisions of the Investment Agreement in any case where a Member:

11.1 who is an individual:

11.1.1 ceases to be connected with the Company; and for these purposes an individual shall be treated as connected with the Company if but only if and so long as he is a director or employee of the Company or of any subsidiary of the Company; or

11.1.2 dies, becomes ill or suffers a personal injury which prohibits him from working in the Company and/or any of its subsidiaries; or

11.1.3 becomes bankrupt or makes any arrangements or composition with his creditors generally; or



11.1.4 suffers from mental disorder or may be, suffering from mental disorder and either he is detained for treatment within the meaning of article 12(5) of the Mental Health (Northern Ireland) Order 1986 or an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental health disorder for his detention or for the appointment of a controller, receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or

11.1.5 purports to transfer the beneficial interest in any Shares (save as permitted pursuant to these Articles);

11.2 being a body corporate:

11.2.1 a receiver, manager, administrative receiver or administrator is appointed of such member or over a material part of its undertaking or assets; or

11.2.2 such member entering into liquidation (other than voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction),

there shall be deemed to have been served a Transfer Notice pursuant to Article 10.2 in respect of all the Shares as shall then be registered in the name of such Member

## **12 GOOD LEAVER/BAD LEAVER**

12.1 The following provisions of this Article shall not apply to the Investors.

### **Bad Leaver**

12.2 If any Member ceases to hold employment with the Company or a subsidiary for any reason other than one or more of the following:

12.2.1 Retirement on reaching 65 years or at any other age at which he/she is bound to retire in accordance with the terms of his/her contract of employment; or

12.2.2 Dismissal on the grounds of injury, ill health or disability; or

- 12.2.3 Dismissal by reason of redundancy (as defined in the Employment Rights (Northern Ireland) Order 1996); or
- 12.2.4 Unlawful dismissal as determined by a court of law or tribunal of competent jurisdiction (which shall include unfair dismissal, constructive dismissal and wrongful dismissal);
- 12.2.5 A termination by the Company of employment and/or office of Mr Noel McKenna and/or Mr Jonathon McClintock on or after 31 May 2008 for failure to achieve performance targets for the Company and any subsidiary, or deterioration in the Company/any subsidiary's trading and/or financial position (provided that Noel McKenna or, as the case may be, Jonathon McClintock and the Company are able to agree that the provisions of Article 12.2.4 above do not apply to the termination);
- 12.2.6 Death; or
- 12.2.7 any other termination of employment where the Board determines after consideration of what they consider to be all the relevant circumstances and with the consent of the Investors, that the person shall not be regarded as a Bad Leaver,

such Member shall for the purposes of this Article 12 be a **"Bad Leaver"** and the provisions of Articles 12.3 and 12.4 shall immediately apply to such Bad Leaver.

- 12.3 Upon the occurrence of any Bad Leaver ceasing to hold office or employment for any reason other than those specified in Article 12.2 (unless the Investors resolve otherwise) a Transfer Notice shall be deemed to have been given and the provisions of Article 10 above shall apply mutatis mutandis and (1) the price to be paid for the Bad Leaver's Transfer Shares shall be the lesser of the open market value as determined by the Expert in Article 10 and the subscription price paid for the Transfer Shares; (2) the Transfer Notice shall not be treated as containing a Total Transfer Condition; and (3) the costs and expenses of the Expert shall be borne by the Bad Leaver.

#### **Good Leaver**

12.4 If any Member ceases to hold employment with the Company for any of the reasons specified in Article 12.2 (a "**Good Leaver**") the provisions of Article 10 above shall apply mutatis mutandis and (1) the price to be paid for the Good Leaver's Transfer Shares shall be the open market value as determined by the Expert in Article 10; (2) the Transfer Notice shall not be treated as containing a Total Transfer Condition; and (3) and the costs and expenses of the Expert shall be borne by the Company.

### **13 Third Party Acquisitions**

#### **13.1 Tag Along**

13.1.1 Except in the case of transfers permitted by Article 9 above, before a Transferring Shareholder of Transfer Shares makes any transfer of his shares pursuant to Articles 10.13.2 and 10.15.2, the following procedure shall first be implemented:

13.1.1.1 the Transferring Shareholder shall notify each of the other Members in writing, of the number of Transfer Shares proposed to be transferred together with the price, the identity of the transferee and the terms and conditions on which the Transferring Shareholder is proposing to transfer such Transfer Shares;

13.1.1.2 within 28 days of the date of the notice in Article 13.1.1.1, each of the other such Members shall notify the Transferring Shareholder if they elect to transfer all or any of their Shares. If any of such Members fail to notify the Transferring Shareholder within the prescribed time such Member shall be deemed to have waived its rights under this Article in respect of such transfer; and

13.1.1.3 each of such Members shall have the right to sell to the relevant third party or third parties at the same price and on the same terms and conditions as those applicable to the Transferring Shareholder such proportion of their Shares owned by them which equals the proportion that such Transfer Shares being transferred bears to the Transferring Shareholder's total holding of the Shares immediately prior to such a transfer of the Transferring Shareholder's Transfer Shares to be transferred.

#### **13.2 Not Used**

### 13.3 Drag Along

#### 13.3.1 Third party acquisition of 75 per cent of Ordinary Shares

13.3.1.1 In the event of a bona fide third party offer (the "**Offer**") by or invitation (the "**Invitation**") to any person (the "**Purchaser**") to acquire shares comprising 75% or more of the Shares of the Company the recipient of the Offer or the maker of the Invitation (as the case may be) will immediately notify the Investors thereof. The Investors will advise the Board which will in turn give to each holder of Shares a written notice containing:

13.3.1.1.1 the name and address of proposed Purchaser;

13.3.1.1.2 the price per share offered;

13.3.1.1.3 the terms of payment and other material terms; and

13.3.1.1.4 the terms and conditions of the proposed Purchaser's offer.

13.3.1.2 If such Offer or Invitation is in terms acceptable to the Investors and to such other Members who together with the Investors hold in aggregate 51% or more of the Ordinary Shares ("**Accepting Shareholders**") then notwithstanding anything contained in these Articles, the Investors shall have the option to require those other Members not being Accepting Shareholders ("**Non-Accepting Shareholders**" and each a "**Non-Accepting Shareholder**"), to transfer the same proportion of Shares then held by them to the Purchaser, or as the Purchaser directs, to any other party who proposes to acquire Shares (the person to whom Shares are to be transferred being hereinafter referred to as the "**Acquirer**"), as the proportion of the Shares in the Company held by the Investors and/or any member of the Investors' Groups as is being sold to such person at the same price per Share as is being offered to the Investors for Shares by giving notice to that effect to such Non-Accepting Shareholders.

13.3.1.3 The Accepting Shareholders and the Non-Accepting Shareholders shall become obliged to sell their Shares to the Acquirer provided that payment in full by the Acquirer is made to the Company (as agent for the Accepting Shareholders and the Non-Accepting Shareholders) for all such Shares.

### 13.3.2 Sale or Listing

13.3.2.1 It is agreed that the Members other than the Investors will upon a Listing undertake, in the underwriter's standard form, not to sell their Shares or a proportion of their Shares for a period following the Listing, in the manner, to the extent and for such period as shall be recommended by the Board subject to the advice of the underwriter of the Listing or in default thereof for not less than 180 days following the Listing.

13.3.2.2 In the event that the Company shall not have completed a Sale or Listing by 31 May 2010, the Investors shall have the right at any time to require the Board and the Members to take all actions the Investors deem necessary to procure a Sale or Listing including (in the case of the Members) but not limited to selling their Shares to a third party identified by the Investors but subject always to the proceeds of Sale being distributed in accordance with these Articles. The cost of such actions shall be borne by the Company. Unless otherwise agreed by the Investors no Member who is also an employee of the Company shall participate directly or indirectly in a management buy-out of the Company after 31 May 2010.

13.3.2.3 The Investors will advise the Board which will in turn give to each holder of Shares a written notice containing:

13.3.2.3.1 the name and address of the third party transferee;

13.3.2.3.2 the price per Share;

13.3.2.3.3 the terms of payment and other material terms; and

13.3.2.3.4 the terms and conditions of the third party's offer.

13.3.2.4 Each Member shall, in further of a Sale of shares under Article 13.3.2.2, be obliged to sell his/its Shares on such terms and conditions and within the period(s) as may be directed by the Investors, provided that these terms and price are the same as those accepted by the Investors for their Shares.

**13.3.3 Provisions applicable to Article 13.3 generally**

In the event of a Member failing to carry out the sale of any of his/its Shares as required by this Article 13.3, the Board may authorise some person (who is (as security for the performance of that Member's obligations) hereby irrevocably and unconditionally appointed as the attorney of that Member for the purpose) to execute a transfer of the Shares in question and the Company may give a good receipt for the proceeds of sale of such Shares and may register the person(s) acquiring such Shares as holder(s) thereof and issue to them certificates for the same whereupon the person acquiring such Shares shall become indefeasibly entitled thereto. The affected Member shall in such case be bound to deliver up his certificate for the Shares in question to the Company, whereupon the Member shall be entitled to receive the proceeds of sale which shall in the meantime be held by the Company on trust for the Member but without interest. If such certificate shall comprise any Shares which the Member has not become bound to transfer as aforesaid, the Company shall issue to the Member a balance certificate for such Shares.

**14 MODIFICATION OF RIGHTS**

Whenever the capital of the Company is divided into different classes of Shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up with the consent in writing of the holders of three-fourths of the issued shares of the class or with the sanction of an extraordinary resolution passed at a separate meeting of the holders of that class but not otherwise. To every such separate meeting all the provisions of these Articles relating to general meetings of the Company or the proceedings thereat shall mutatis mutandis apply.

**15 PROCEEDINGS AT GENERAL MEETINGS**

15.1 Regulation 37 of Table A shall be modified by the deletion of the words "within the United Kingdom".

15.2 An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or an elective resolution or a resolution appointing a person as a Director shall be called by at least 21 clear days' notice. All other

extraordinary general meetings shall be called by at least 14 days' notice but a general meeting, other than one called for the passing of an elective resolution, may be called by shorter notice if it is so agreed:

15.2.1 in the case of an annual general meeting, by all the members entitled to attend and vote thereat; and

15.2.2 in the case of any other meeting, by a majority in number of the members having a right to attend and vote, being a majority together holding not less than 90 per cent. in nominal value of the Ordinary Shares giving that right or such lesser percentage, not being less than 90 per cent., as may be specified in or pursuant to any elective resolution passed by the Company.

15.3 The notice shall specify the time and place of the meeting, the general nature of the business to be transacted and the terms of any resolution to be proposed at it and, in the case of an annual general meeting, shall specify the meeting as such.

15.4 Subject to the provisions of these Articles and to any restrictions imposed on any Shares, the notice shall be given to all Members, to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the Directors and the auditors.

15.5 No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Three Members present in person or by proxy shall be a quorum, two of which shall be or represent the Investors (one Member separately for each Investor). Regulation 40 of Table A shall not apply.

15.6 Regulation 41 of Table A shall apply as if there were added a second sentence reading

"If a quorum is not present within half an hour from the time appointed for resumption of the meeting, such meeting shall be deemed dissolved provided that if the Company has only a single member, the preceding provisions of this regulation as to adjournment shall not apply and, if within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall be dissolved and shall not be adjourned".

15.7 The instrument appointing a proxy to vote at a meeting shall be deemed also to confer authority to vote on a poll on the election of a Chairman and on a motion to adjourn the meeting. Regulation 43 of Table A shall be modified accordingly.

15.8 On a show of hands, every Member who is present (in person or by proxy or be duly authorised representative) shall have one vote, and on a poll, every member shall have one vote for every Ordinary Share of which he is the holder.

15.9 A poll may be demanded at any general meeting by the Chairman or by any member present in person or by proxy and entitled to vote. Regulation 46 of Table A shall be modified accordingly.

15.10 Regulation 53 of Table A shall be deemed amended by the deletion of all words after "convened and held" and the addition of a second sentence reading:

"Such resolution may consist of several documents in like form each signed by one or more members in which event the resolution shall be deemed passed upon notification (by any means) of signature to the registered office or the secretary of the Company. In the case of a joint holder of a share, the signature of any one of such joint holders shall be sufficient for the purposes of this regulation."

15.11 A resolution in writing in accordance with regulation 53 of Table A shall be deemed to have been duly executed by a corporation if signed by one of its directors or its secretary. In the case of a joint holder of a share the signature of any one of such joint holders shall be sufficient for the purposes of regulation 53 as aforesaid.

15.12 A proxy shall be entitled to vote on a show of hands and regulation 54 of Table A shall be modified accordingly.

15.13 An instrument appointing a proxy may, in the case of a corporation, be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative. Regulation 60 of Table A shall be modified accordingly.

15.14 Any written resolution of the members may, in the case of a corporation, be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative.



15.15 The Chairman of a general meeting shall not be entitled to a second or casting vote.

15.16 It shall not be necessary to give any notice of adjournment or of any business to be transacted at an adjourned meeting notwithstanding the length of such adjournment. Regulation 45 of Table A shall be deemed modified accordingly.

## **16 VOTES OF MEMBERS**

16.1 An instrument of proxy which has not been deposited as required by regulation 62 of Table A shall nonetheless be treated as valid if before the close of business of the meeting at which the person named in the instrument proposed to vote the instrument of proxy is produced to the Chairman of such meeting. Regulation 62 of Table A shall be deemed modified accordingly.

16.2 Regulation 57 of Table A shall apply as if there were added a second sentence reading:

"No moneys shall be payable by a member in respect of any share unless and until the Directors make a call upon that member in respect of that share in accordance with regulation 11 thereof".

## **17 NUMBER OF DIRECTORS**

17.1 Unless and until otherwise determined by the Company by Ordinary Resolution, the Directors shall be not less than two in number and shall not exceed seven. A sole Director may exercise all the powers and discretions given to the Directors by these Articles and the Order.

17.2 A Director shall not be required to hold any qualification shares in the Company.

## **18 DIRECTORS' INTERESTS**

Subject to the provisions of Part XI of the Order, a Director may be interested directly or indirectly in any contract or arrangement or in any proposed contract or arrangement with the Company or with any other company in which the Company may be interested and he may hold and be remunerated in respect of any office or place of profit (other than the office of auditor of the Company or any subsidiary thereof) under the Company or any

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such other company and he or any firm of which he is a member may act in a professional capacity for the Company or any such other company and be remunerated therefor. Notwithstanding his interest a Director may vote on any matter in which he has declared to the Board in writing that he is interested (whether or not such interest conflicts with that of the Company) and be included for the purpose of a quorum at any meeting at which the same is considered and he may retain for his own benefit all profits and advantages accruing to him from any such interest to the extent that such interest has been declared as aforesaid (regulations 85 and 94 of Table A shall be deemed modified accordingly).

## **19 APPOINTMENT, REMOVAL AND DISQUALIFICATION OF DIRECTORS**

19.1 The office of Director shall be vacated if the Director:

19.1.1 becomes bankrupt or makes any arrangements or composition with his creditors generally; or

19.1.2 dies, becomes ill or suffers a personal injury which prohibits him from working in the Company and/or any of its subsidiaries;

19.1.3 suffers from mental disorder or may be, suffering from mental disorder and either he is detained for treatment within the meaning of article 12(5) of the Mental Health (Northern Ireland) Order 1986 or an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental health disorder for his detention or for the appointment of a controller, receiver, curator bonis or other person to exercise powers with respect to his property or affairs;;

19.1.4 resigns his office by notice in writing to the Company; or

19.2 Any Director shall be at liberty from time to time to make such disclosure to his appointer(s) as to the business and affairs of the Company and its subsidiaries as he shall in his absolute discretion determine.

19.3 The Directors may exercise all the powers of the Company contained in clause [3] of the Memorandum of Association of the Company.

## **20 ALTERNATE DIRECTORS**

- 20.1 Any appointment or removal of an alternate Director made under Table A shall be delivered at the registered office of the Company. In regulation 65 of Table A the words "approved by resolution of the directors and" shall be deleted.
- 20.2 The appointment of an alternate Director shall determine on the happening of any event which, if he were a Director, would cause him to vacate such office or if his appointor ceases to be a Director.
- 20.3 If his appointor is for the time being absent from the United Kingdom or otherwise not available the signature of an alternate Director to any resolution in writing of the Directors shall be as effective as the signature of his appointor. An alternate Director shall be deemed to be a Director for the purpose (inter alia) of signing instruments of the Company.
- 20.4 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements with the Company and to be repaid expenses and to be indemnified to the same extent mutatis mutandis as if he were a Director, but he shall not be entitled to receive from the Company in respect of his appointment as alternate Director any remuneration, except only 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.
- 20.5 Regulation 66 of Table A shall be modified by the deletion of the second sentence thereof.

## **21 PROCEEDINGS OF DIRECTORS**

- 21.1 Subject to the Investment Agreement, the quorum for the transaction of the business of the Directors or any committee of the directors shall be three of which two shall be or represent the Investors (one Director separately representing each Investor).
- 21.2 In the event that at a duly convened meeting of the Directors or of any committee of the Directors the meeting is not so quorate, or if during the meeting such a quorum ceases to be present, the meeting shall be adjourned to the same day in the next

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week at the same time and place (or to such other time and place as the Investor's appointed Directors may agree in writing). If the Investor Directors are not present at such re-convened meeting their presence shall not be required to constitute a quorum.

21.3 It shall not be necessary for the purpose of a Directors' meeting that all participants be present at the same place provided that the Directors counted in the quorum are all in contact for the purpose of the meeting whether in person or by radio or telephone, facsimile transceiver, telegraph, computer or other instantaneous means of communication.

21.4 A resolution agreed by all the Directors by means of telephone communication, facsimile transceiver, telegraph, computer or other instantaneous means of communication shall be valid if such resolution is expressed to be passed pursuant to this provision.

21.5 The Directors shall establish and maintain in being a committee to act for the purposes described in Article 10.1 hereof and for such additional purposes as the Board may determine. The members of such committee shall be as determined by the Investment Agreement.

21.6 Any Director or member or a committee of the Board may participate in a meeting of the Directors or such committee by the means described in Article 23.3 and participation in a meeting in this matter shall be deemed to constitute presence in person at such meeting.

## **22 THE SEAL**

If the Company has a seal, it shall only be used with the authority of the Directors or 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 it shall be signed by a Director and by the secretary or second Director. The obligation under regulation 6 of Table A relating to the sealing of share certificates shall apply only if the Company has a seal.

## **23 NOTICES**

- 23.1 Every Director of the Company and every 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) in addition to the persons so entitled under the Statutes. The third sentence of regulation 112 shall be deleted.
- 23.2 Any notice required by these Articles to be given by the Company may be given by any visible form on paper, including facsimile and a notice communicated by such forms of immediate transmission shall be deemed to be given at the time it is transmitted to the person to whom it is addressed. Regulations 111 and 112 shall be modified accordingly.
- 23.3 In the first sentence of regulation 112 the words "(or at such other address, whether within or outside the United Kingdom, as he may supply to the company for that purpose)" shall be inserted after "registered address".
- 23.4 A notice posted to an address outside the United Kingdom shall be deemed, unless the contrary is proved, to be given at the expiration of 7 days after the envelope containing it was posted and regulation 115 shall be amended accordingly.
- 23.5 Regulation 116 shall be modified by the substitution of the words "the address, if any, whether within or outside the United Kingdom" for the words "the address, if any, within the United Kingdom" in the first sentence thereof.

## 24 INDEMNITY

Subject to the provisions of, and so far as may be consistent with, the Statutes, but without prejudice to any indemnity to which a Director may be otherwise entitled, every Director, auditor, secretary or other officer of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and/or discharge of his duties and/or the exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he

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is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court.

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NAME, ADDRESS AND DESCRIPTION OF SUBSCRIBER

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DATED this [ ]

WITNESS to the above Signature:

[ ]