

221954

**THE COMPANIES ACT**

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**COMPANY LIMITED BY SHARES**

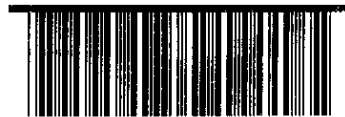
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**NEW ARTICLES OF ASSOCIATION**

**of**

**KYNDAL INTERNATIONAL LIMITED**

(Adopted by Special Resolution passed on 14 October 2001  
and amended by Special Resolution passed on 10 December 2001)



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COMPANIES HOUSE 20/12/01

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Company Number 221954  
THE COMPANIES ACT 1985  
A PRIVATE COMPANY LIMITED BY SHARES  
NEW  
ARTICLES OF ASSOCIATION  
OF  
KYNDAL INTERNATIONAL LIMITED

(adopted by special resolution passed on 14 October 2001  
and amended by Special Resolution passed on December 2001)

**1 PRELIMINARY**

None of the regulations contained or incorporated in Table A shall apply to the Company. For the purposes of these Articles, Table A means Table A in the Schedule to the Companies (Tables A to F) Regulations 1985, as amended by the Company (Tables A to F) (Amendment) Regulations 1985.

**2 INTERPRETATION**

**2.1** In these Articles the following expressions shall have the following meanings:

<b>“Accounts”</b>	the audited balance sheet and profit and loss account of the Company or, if at the relevant time the Company has any subsidiary undertaking(s), a consolidation of the audited balance sheets and profit and loss accounts of the Company and its subsidiary undertaking(s), for each financial year, to be prepared under the historical cost convention and in accordance with generally accepted accounting principles and all relevant accounting standards, Statements of Standard Accounting Practice, Financial Reporting Standards and Statements of Recommended Practice;
<b>“A Directors”</b>	means the directors of the Company appointed under Article 30.2 (or their respective alternates) and “A Director” shall mean any one of them;
<b>“A Shareholder Consent”</b>	means the written consent or approval of the holder of a majority of the A Shares;
<b>“A Shares”</b>	means A ordinary shares of £0.01 each in the capital of the Company and “A Shareholder” means a holder of any of them;

<b>“A Warrants”</b>	means the warrants to subscribe for up to 399,999 A Shares (subject to adjustment) constituted by an A Share Warrant Instrument dated 13 October 2001;
<b>“Act”</b>	means the Companies Act 1985 including any statutory modification or re-enactment of it for the time being in force;
<b>“Articles”</b>	means these Articles of Association, as from time to time altered or replaced;
<b>“ABS Ltd”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“Auditors”</b>	means the auditors for the time being of the Company;
<b>“B Directors”</b>	means the directors of the Company appointed under Article 30.4 (or their respective alternates) and <b>“B Director”</b> shall mean any one of them;
<b>“B Shareholder Consent”</b>	means the written consent or approval of the holder of a majority of the B Shares;
<b>“B Shares”</b>	means B ordinary shares of £0.01 each in the capital of the Company and <b>“B Shareholder”</b> means a holder of any of them;
<b>“B Warrants”</b>	means the warrants to subscribe for up to 344,999 B Shares (subject to adjustment) constituted by a B Warrant Instrument dated 13 October 2001;
<b>“Bad Leaver”</b>	has the meaning ascribed to it in Article 11;
<b>“Board” or “directors”</b>	means the board of directors of the Company;
<b>“Business Day”</b>	means any day (other than a Saturday or Sunday) on which banks are open for general business in London, England and Glasgow, Scotland;
<b>“clear days”</b>	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;
<b>“Deferred Shares”</b>	means the deferred ordinary shares of £0.01 in the capital of the Company and a <b>“Deferred Shareholder”</b> means a holder of any of them;

<b>“Employee Trust”</b>	means any trust established to enable or facilitate the holding of Shares by or for the benefit of the bona fide employees of the Group;
<b>“equity share”</b>	means any share other than a share which, either as respects dividends or as respects capital, only carries the right to participate up to a specified amount in a distribution;
<b>“executed”</b>	includes any mode of execution;
<b>“Executive Directors”</b>	means the directors of the Company appointed under Article 30.3 (or their respective alternates) and “Executive Director” shall mean any one of them;
<b>“Fair Price”</b>	has the meaning ascribed to it in Article 11.7.6;
<b>“Family Trust”</b>	means a trust (whether arising under a settlement or testamentary disposition or on an intestacy) under which no immediate beneficial interest in the shares in question is for the time being vested in any person other than a Manager Shareholder or a Privileged Relation of a Manager Shareholder or of the former Manager Shareholder who transferred the shares to the Family Trust or (as the case may be) under whose testamentary disposition or intestacy the shares were vested;
<b>“Finance Documents”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“Finance Period”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“Good Leaver”</b>	has the meaning ascribed to it in Article 11.2;
<b>“Group”</b>	means the Company and its subsidiaries from time to time and “Group Company” means any of them;
<b>“Leaver”</b>	has the meaning ascribed to it in Article 11.2;
<b>“Leavers’ Shares”</b>	means all the Shares held by a Leaver, or to which he (or any person to whom he has transferred Shares in accordance with Article 8 is entitled), on the Leaving Date and any Shares acquired by a Leaver or any such permitted transferee after the Leaving Date under an employee share scheme;

<b>“Leaving Date”</b>	means the date on which the relevant person becomes a Leaver;
<b>“Listing”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“Majority A Equity Holders”</b>	means those holders of A Shares and A Warrants who, or who would on exercise of the A Warrants held by them, hold a majority of the A Shares in issue (assuming exercise in full of all the A Warrants);
<b>“Majority A Equity Holder Consent”</b>	means the written consent or approval of the Majority A Equity Holders;
<b>“Manager Shareholders”</b>	those Shareholders who are employees of any member of the Group and a “ <b>Manager Shareholder</b> ” shall mean any one of them;
<b>“Option Pool”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“Ordinary Shares”</b>	means ordinary shares of £0.01 each in the capital of the Company and an “ <b>Ordinary Shareholder</b> ” means a holder of any of them;
<b>“Outstanding Amount”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“paid up”</b>	includes credited as paid up;
<b>“Privileged Relation”</b>	means the spouse of a Manager Shareholder and the Manager Shareholder’s children and grandchildren (including step and adopted children and their issue) provided always that each such person is over the age of 18 years;
<b>“Remuneration Committee”</b>	the remuneration committee of the Company from to time;
<b>“Registered Office”</b>	means the registered office of the Company as provided in Section 287 of the Act;
<b>“Rotch Group”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“seal”</b>	means any common seal of the Company or any official seal or securities seal which the Company may have or be permitted to have under the Act;
<b>“secretary”</b>	means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a

	joint, assistance or deputy secretary;
<b>“Securitisation Facility”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“Senior Management”</b>	means Brian Megson, Ian Palmer, Ron MacEachran, Iain Gilchrist and Alan Mackie;
<b>“Senior Facility Agreement”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“Shareholder”</b>	a person who is registered in the Company’s register of members as the holder of any Share;
<b>“Shareholders’ Agreement”</b>	means the agreement to be dated on or around 15 October 2001 made between the Company, Meadfine Limited, Ravensmere Limited, Westdeutsche Landesbank Girozentrale, London Branch and the Executives (as defined therein), as the same may be amended from time to time;
<b>“Shares”</b>	means the Ordinary Shares, the A Shares and the B Shares and the Deferred Shares and any other shares in issue from time to time;
<b>“United Kingdom”</b>	means the United Kingdom of Great Britain and Northern Ireland;
<b>“Warrantholders”</b>	means the holders of the Warrants from time to time;
<b>“Warrants”</b>	means the A Warrants and the B Warrants;
<b>“WestLB Group”</b>	has the meaning ascribed to it in the Shareholders’ Agreement; and
<b>“Wholly-Owned Group”</b>	in relation to a company, means that company, all its wholly-owned subsidiaries, all holding companies of which it is a wholly-owned subsidiary and all other wholly-owned subsidiaries of each of those holding companies.

**2.2** Unless the context otherwise requires, words and expressions defined in or having a meaning provided by the Act as at the date of adoption of these Articles shall have the same meaning in these Articles.

**2.3** Unless the context otherwise requires, references in these Articles to:-

**2.3.1** any of the masculine, feminine and neuter genders shall include other genders;

**2.3.2** the singular shall include the plural and vice versa;



- 2.3.3 a person shall include a reference to any natural person, body corporate, unincorporated association, partnership, firm or trust;
  - 2.3.4 save where used in the definition of “**Employee Trust**”, employees shall be deemed to include consultants, and references to contracts of employment and to commencement or cessation of employment shall be deemed to include contracts for consultancy and commencement or cessation of consultancy;
  - 2.3.5 any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted; and
  - 2.3.6 any class of Shareholder giving a written direction, written consent or written notice shall, unless these Articles expressly provide otherwise, mean the giving of such a direction, consent or notice by Shareholders of not less than 75% in nominal value of such class of Shares in issue from time to time.
- 2.4 The headings in these Articles are for convenience only and shall not affect their meaning.
- 2.5 In these Articles a reference to the “**transfer**” of any Share or any interest in or any right to acquire (whether by purchase, exchange or allotment) shall mean the transfer of either or both of the legal and beneficial ownership or any right (such as the right to vote or to receive income or capital to exchange for other securities) in such Share, interest or right and/or the grant of an option to acquire either or both of the legal and beneficial ownership in such Share, interest or right and/or any pledge, charge, lien or other encumbrance or security interest in any Share and the following shall be deemed (but without limitation) to be a transfer of a Share, interest or right:-
- 2.5.1 any direction (by way of renunciation or otherwise) by a Shareholder entitled to an allotment or issue of any Share that such Share be allotted or issued to some person other than himself;
  - 2.5.2 any sale or other disposition of any legal or equitable interest in a Share (including any voting right attached thereto) and whether or not by the registered holder thereof and whether or not for consideration or otherwise and whether or not effected by an instrument in writing; and
  - 2.5.3 any grant of a legal or equitable mortgage or charge or pledge or other lien, encumbrance or security interest over any Share, interest or right.
- 2.6 Unless otherwise specifically provided, where any notice, resolution or document is required by these Articles to be signed by any person, the reproduction of the signature of such person by means of facsimile shall suffice, provided that confirmation by first class letter is despatched by the close of business on the next following business day, in which case the effective notice, resolution or documents shall be that sent by facsimile, not the confirmatory letter.
- 3 SHARE CAPITAL**
- 3.1 The authorised share capital of the Company at the date of adoption of these Articles is £10,300 divided into 280,000 Ordinary Shares, 400,000 A Shares and 350,000 B Shares.

- 3.2** Subject to any direction to the contrary which may be given by ordinary or other resolution of the Company and subject to any statutory provisions and without prejudice to any rights attached to any existing Shares, the unissued Shares (whether forming part of the present or any increased share capital from time to time) shall be at the disposal of the Board who are hereby generally and unconditionally authorised for the purposes of section 80 of the Act to allot relevant securities up to the maximum amount and for the period set out in Article 3.3 below.
- 3.3** The maximum amount of relevant securities that may be the subject of allotment under the authority provided in Article 3.2 shall be the amount by which the nominal amount of the authorised share capital of the Company exceeded the nominal amount of the issued share capital of the Company immediately after the adoption of these Articles. Unless renewed, such authority shall expire on the date five years from the date immediately preceding that on which the resolution adopting these Articles was passed save that the Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the Board may allot the relevant securities in pursuance of such offer or agreement accordingly.
- 3.4** Subject to any statutory provisions, Shares may be issued which are to be redeemed or are liable to be redeemed at the option of the Company or the holder on such terms and in such manner as may be provided in the Articles.

## **4 ALTERATION OF SHARE CAPITAL**

### **4.1 The Company may by ordinary resolution:**

- 4.1.1** increase its share capital by new shares of such amount as the resolution prescribes;
- 4.1.2** consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- 4.1.3** subject to the provisions of the Act, sub-divide its shares, or any of them, into shares of smaller amount and the resolution may determine that, as between the shares resulting from the sub-division, any of them may have any preference or advantage as compared with the others; and
- 4.1.4** cancel shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.

### **4.2** Whenever as a result of a consolidation and division or sub-division of Shares any Shareholders would become entitled to fractions of a Share, the Board may on behalf of any Shareholder who would become entitled to a fraction of a Share deal with such fractions in such a way as they shall determine. In particular, the Board may, on behalf of those Shareholders, sell the Shares representing the fractions for the best price reasonably obtainable to any person (including, subject to the provisions of the Act, the Company) and distribute the net proceeds of sale in due proportion among those Shareholders (subject to retention by the Company of amounts not exceeding £3 in due proportion among those Shareholders), and the Board may authorise some person to execute an instrument of transfer of the Shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase

money nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

- 4.3 Subject to the provisions of the Act and Article 5 hereof, the Company may by special resolution reduce its share capital, any capital redemption reserve and any share premium account in any way.

## **5 VARIATION OF SHARE RIGHTS**

- 5.1 Whenever the capital of the Company is divided into different classes of Shares, all or any of the rights for the time being attached to any class of Shares in issue may from time to time (whether or not the Company is being wound up) be varied with the consent in writing of Shareholders of a majority in nominal value of the issued Shares of that class or with the sanction of an extraordinary resolution passed at a separate general meeting of a majority of the Shareholders having a right to attend and vote at the meeting who are present and voting either in person or by proxy at such meeting.
- 5.2 All the provisions of these Articles relating to general meetings of the Company or to the proceedings at general meeting shall apply, *mutatis mutandis*, to every such separate general meeting, except that:
- 5.2.1 the necessary quorum at any such meeting (other than an adjourned meeting) shall be such number of people holding or representing by proxy at least one-third in nominal amount of the issued Shares of the class;
  - 5.2.2 at an adjourned meeting the necessary quorum shall be one person holding Shares of the class or his proxy;
  - 5.2.3 every Shareholder of the class shall, on a poll, have one vote in respect of every Share of the class held by him; and
  - 5.2.4 a poll may be demanded by any one Shareholder of the class whether present in person or by proxy.
- 5.3 Unless otherwise expressly provided by the terms of their issue the rights attached to any class of Shares shall not be deemed to be varied by:
- 5.3.1 the creation or issue of further Shares ranking *pari passu* with them or in priority to them; or
  - 5.3.2 any alteration to these Articles made condition upon, or otherwise in connection with, a Listing which does not adversely affect any income, voting or capital rights attaching to them.

## **6 RESTRICTIONS IN THE FINANCE DOCUMENTS**

Notwithstanding anything else contained in these Articles, during the Finance Period the declaration or payment of dividends or other distributions on any Shares and the redemption or repurchase by the Company of its Shares shall not be declared or paid or made without Majority A Equity Holder Consent and then only to the extent permitted under the Finance Documents or any other finance or credit agreement or any securitisation documents in place from time to time.

## **7 TRANSMISSION OF SHARES**

- 7.1** If a Shareholder dies the survivor or survivors where he was a joint Shareholder, and his personal representatives where he was a sole Shareholder or the only survivor of joint Shareholders, shall be the only persons recognised by the Company as having any title to his interest; but nothing in these Articles shall release the estate of a deceased member from any liability in respect of any Share which had been jointly held by him.
- 7.2** A person becoming entitled to a Share in consequence of the death or bankruptcy of a Shareholder may, upon such evidence being produced as the Board may properly require, elect either to become the Shareholder or to have some person nominated by him registered as the transferee. If he elects to become the Shareholder he shall give notice to the Company to that effect. If he elects to have another person registered he shall execute an instrument of transfer of the Share to that person. All the provisions of these Articles relating to the transfer of Shares shall apply to the notice or instrument of transfer as if it were an instrument of transfer executed by the member and the death or bankruptcy of the Shareholder had not occurred.
- 7.3** A person becoming entitled to a Share in consequence of the death or bankruptcy of a Shareholder shall have the rights to which he would be entitled if he were the Shareholder, except that he shall not, before being registered as the Shareholder, be entitled in respect of it to attend or vote at any meeting of the Company or at any separate meeting of the holders of any class of Shares in the Company.

## **8 PERMITTED TRANSFERS**

- 8.1** The following transfers of Shares (each a **"Permitted Transfer"**) may be made free of the restrictions in Article 10:
- 8.1.1** a transfer by an individual to the trustees of his Family Trust;
  - 8.1.2** a transfer (or by will bequeath or otherwise dispose of on death) to a Privileged Relation;
  - 8.1.3** a transfer by the trustees of a Family Trust of Shares held by them in that capacity to any new trustees of that Family Trust;
  - 8.1.4** a transfer by the trustees of a Family Trust of Shares held by them in that capacity to a person who has an immediate beneficial interest under the Family Trust or to the settlor;
  - 8.1.5** a transfer of Shares by a Shareholder to a person who is to hold such shares as his nominee, but any transfer by such nominee shall be subject to the same restrictions as though it was a transfer by the original Shareholder himself;
  - 8.1.6** a transfer of Shares by a nominee to the beneficial owner of such shares or to another nominee of the same beneficial owner;
  - 8.1.7** a transfer of Shares by a corporate member to another member of its Wholly-Owned Group;

**8.1.8** a transfer of Shares held by or on behalf of an investment fund (including investment trusts, limited partnerships, unit trusts and co-investment schemes) to:

- (a) any person to hold on behalf of that same investment fund (whether as nominee, trustee, custodian, general partner or otherwise);
- (b) by way of a distribution in kind or otherwise under the documentation or laws governing that fund to any of the participants in that fund or their nominees;
- (c) to, or to any person to be held on behalf of, any other investment fund which has the same manager or investment adviser; and

**8.1.9** a transfer made with Remuneration Committee consent by or to the trustees (acting in that capacity) of a trust established for the benefit of employees and/or officers of the Group (subject always to Article 11.4),

but a trustee of a Family Trust may not transfer shares subject to that trust to a Privileged Relation of his except where permitted under Articles 8.1.3 or 8.1.4 provided that the directors will be required to be satisfied that any Permitted Transfers of Shares are made in accordance with Article 8.1 and any Shareholder making a transfer shall give notice in writing to the directors prior to such transfer detailing the identity and address of the person to whom the transfer is to be made with reasons why it is a Permitted Transfer and the directors shall be entitled to such other evidence as the directors may reasonably require to show the right of the transferor to make the Permitted Transfer. The directors shall be entitled at any time to request written confirmation and any other evidence as the directors may reasonably require that any person who has acquired Shares has remained a permitted transferee pursuant to this Article 8 and in the absence of a reasonable response to such request, such Shareholder shall be deemed to have served the Company a Transfer Notice in respect of all those Shares.

**8.2** If any Family Trust whose trustees hold Shares ceases to be a Family Trust, the trustees shall without delay notify the Company that such event has occurred and, with or without such notification, if the Board with Majority A Equity Holder Consent so resolves that the cessation has occurred then in the absence of a transfer to another Family Trust, they shall be deemed to have served the Company a Transfer Notice in respect of all those Shares.

**8.3** Any Shares may be transferred or transmitted to the personal representative of a deceased member where under the provisions of his will or on his intestacy all the persons beneficially entitled to any such Shares is a Privileged Relation or trustees of a Family Trust. Where Shares are transferred in accordance with this Article 8.3 and the persons beneficially entitled to such shares cease to be a Privileged Relation or trustees of a Family Trust of the deceased member, the personal representatives shall be deemed to have served the Company a Transfer Notice in respect of all those Shares.

**8.4** If any person has acquired Shares as a Privileged Relation by way of one or more Permitted Transfers and that person ceases to be a Privileged Relation that person shall forthwith transfer all the Shares then held by that person back to that Shareholder for such consideration as they agree, within 21 days of the cessation of, failing such transfer within that period, shall during the remainder of the 28 day period after the cessation, be deemed to have served the Company a Transfer Notice in respect of all those Shares.

- 8.5 If a corporate member holding Shares ceases to be a member of the same Wholly-Owned Group as the original corporate member who held such Shares, the corporate member then holding those Shares shall without delay notify the Company that such event has occurred and, with or without such notification, if the Board with Majority A Equity Holder Consent so resolves that the cessation has occurred, it shall be deemed to have served the Company a Transfer Notice in respect of all those Shares.
- 8.6 If there is a change in control (or, if more than one, any of them) of a corporate member, or of any holding company of a corporate member, then that member shall notify the Company that such event has occurred and, with or without such notification, if the Board with Majority A Equity Holder Consent so resolves that the cessation has occurred, it shall be deemed to have served the Company a Transfer Notice in respect of all the shares registered in its name. For the purposes of this paragraph there is “control” of a corporate member if he has the power or ability to direct the management or the policies of the corporate member, whether through the ownership of voting capital, by contract or otherwise.
- 8.7 If a member, or other person entitled to a Share by transmission, at any time purports to transfer a Share otherwise than in accordance with these Articles he shall, unless the Board with Majority A Equity Holder Consent shall otherwise resolve, be deemed immediately before the attempt to have served the Company with a Transfer Notice in respect of those Shares.
- 8.8 If a Transfer Notice is deemed to have been served on the Company, the provisions of Article 10 shall apply to the relevant Shares. The Specified Price shall be the Fair Price as at such date as the Board may, with Majority A Equity Holder Consent, specify and the Board shall give notice under Article 10 as soon as the Specified Price is ascertained.

## **9 PRE-EMPTION ON ALLOTMENT**

- 9.1 Subject to Article 9.8, if the Company proposes to allot any Shares or any securities convertible into or exchangeable for Shares, the Company shall forthwith give notice in writing of such proposal to each Shareholder and Warrantholder (the “Allotment Notice”). Each Allotment Notice shall:-
- 9.1.1 relate to one class of Shares or securities only;
  - 9.1.2 specify the number and class of Shares (or rights to shares) or securities which the Company proposes to allot (the “Allotment Shares”);
  - 9.1.3 specify the identity of any person to whom the Company proposes to allot the Allotment Shares (the “Proposed Allottee”);
  - 9.1.4 specify the price per Share (the “Subscription Price”) at which the Company proposes to allot the Allotment Shares; and
  - 9.1.5 not be varied or cancelled.
- 9.2 The Allotment Notice shall specify that the Shareholders shall have a period of 30 Business Days from the date of such notice within which to apply for some or all of the Allotment Shares.

- 9.3 It shall be a term of the offer pursuant to Article 9.2 that, if there is competition within any eligible class of Shareholder for the Allotment Shares treated as having been offered to that class, such Allotment Shares shall be treated as offered among such eligible class of Shareholder in proportion (as nearly as may be) to their existing holdings of Shares (or which would be held by them had they exercised in full the Warrants held by them) of the class to which the offer is treated as having been made (the “**Proportionate Allocation**”). However, in an application for Allotment Shares a Shareholder may, indicate that he would be willing to purchase a particular number of Shares in excess of his Proportionate Allocation (“**Extra Shares**”).
- 9.4 In respect of each of the categories of offeree referred to in Article 9.3, the Company shall allocate the Allotment Shares as follows:-
- 9.4.1 if the total number of Allotment Shares applied for is equal to the available number of Allotment Shares, each Shareholder shall be allocated the number applied for in accordance with the application; or
- 9.4.2 if the total number of Allotment Shares applied for is greater than the available number of Allotment Shares, each Shareholder shall be allocated the Proportionate Allocation or such lesser number of Allotment Shares for which has been applied and applications for Extra Shares shall be allocated in accordance with such applications or, in the event of competition among those Shareholders applying for Extra Shares, in such proportions as equal (as nearly as may be) the proportions of all the Shares of the same class held by such Shareholders.
- 9.5 Allocations of Allotment Shares made by the Company pursuant to this Article shall constitute the acceptance by the persons to whom they are allocated of the offer to subscribe for those Allotment Shares on the terms offered to them, provided that no person shall be obliged to take more than the maximum number of Allotment Shares indicated to the Company he is willing to subscribe.
- 9.6 The Company shall forthwith upon allocating any Allotment Shares give notice in writing (an “**Allocation Notice**”) to each person to whom Allotment Shares have been so allocated of the number of Allotment Shares so allocated and the aggregate price payable therefor. Completion of the subscription for those Allotment Shares in accordance with the Allocation Notice shall take place within five Business Days of the date of the Allocation Notice whereupon the Company shall, upon payment of the price due in respect thereof, issue those Allotment Shares specified in the Allocation Notice to the persons to whom they have been allocated and deliver the relevant Share certificates.
- 9.7 If all the Allotment Shares are not allotted by reference to the provisions of Articles 9.2 to 9.6 (inclusive), the Company shall, within three months of the exhaustion of such provisions, allot to the Proposed Allottee any unallotted Allotment Shares at any price not less than the Subscription Price.
- 9.8 Article 9.1 shall not apply to the Option Pool or the Outstanding Amount and any issues or allotments pursuant thereto may be made without first offering such shares or rights to the Shareholders.
- 9.9 Any A Shares which are allotted to a B Shareholder (whether by Allotment Shares or otherwise) shall immediately convert and be redesignated as B Shares.

## 10 TRANSFER OF SHARES

- 10.1 Except as otherwise provided in these Articles no Shareholder, or person entitled to Shares by transmission, shall be entitled to transfer his Shares without first offering them pursuant to this Article. The offer may be in respect of all or part only of the Shares held by the proposing transferor (the “**Vendor**”) and shall be made by the Vendor by notice in writing to the Company with a copy to the Remuneration Committee (a “**Transfer Notice**”). No Manager Shareholder may voluntarily issue a Transfer Notice before the third anniversary of that person becoming a member and thereafter no such Transfer Notice may be issued without Majority A Equity Holder Consent.
- 10.2 The Transfer Notice shall specify the Shares offered (the “**Offered Shares**”) and the price at which they are offered (the “**Specified Price**”). The Transfer Notice shall constitute the directors as the agent of the Vendor for the sale of the Offered Shares. The Transfer Notice may contain a provision that, unless all the Offered Shares are sold under this Article, none shall be sold. The Transfer Notice may not be revoked unless the directors, with Majority A Equity Holder Consent, otherwise decide.
- 10.3 Any Offered Shares comprising Ordinary Shares shall, in the discretion of the Remuneration Committee be first offered for sale to new employees of the Group or other employees of the Group or an Employee Trust. Any Ordinary Shares not sold under this Article within 60 Business Days of such offer will be offered for sale to the Shareholders as set out below.
- 10.4 As soon as Offered Shares become available they shall be forthwith offered for sale by the Company as follows:
- 10.4.1 in the case of Ordinary Shares to all holders of Ordinary Shares (other than the Vendor) pro rata as nearly as may be to the respective number of Ordinary Shares held by such Shareholders;
  - 10.4.2 in the case of A Shares to all holders (or deemed holders) of A Shares (other than the Vendor) pro rata as nearly as may be to the respective number of A Shares held by such Shareholders;
  - 10.4.3 in the case of B Shares to all holders (or deemed holders) of B Shares (other than the Vendor) pro rata as nearly as may be to the respective number of B Shares held by such Shareholders;

Any offer made by the Company under this Article shall invite each such person to state in writing to the Company whether he is willing to purchase any, and if so, what maximum number of the Offered Shares and such offer will remain open for 21 Business Days (the “**First Offer Period**”).

- 10.5 If at the end of the First Offer Period there are any Offered Shares offered which have not been allocated, the Company shall offer such shares to such Shareholders as have stated in writing their willingness to purchase all the Offered Shares previously offered to them. This offer will invite each such person to state in writing the maximum number of Offered Shares they wish to purchase. If there are insufficient Offered Shares to meet the demand then the directors will allocate the Offered Shares pro rata as nearly as may be in proportion to the number of Ordinary Shares, A Shares or B Shares (as the case may be, held or deemed to be held by the relevant Shareholders. This further offer will remain open for a further period of 21 Business Days (the “**Second Offer Period**”).



**10.6** If at the end of the Second Offer Period there are any Offered Shares which have not been allocated the Company will offer such shares as follows:

**10.6.1** in the case of Ordinary Shares, to all holders (or deemed holders) of A Shares and B Shares (other than the Vendor, if applicable) pro rata as nearly as may be to the respective number of A Shares and B Shares held (or deemed to be held) by such Shareholders;

**10.6.2** in the case of A Shares, to all holders (or deemed holders) of B Shares (other than the Vendor, if applicable) pro rata as nearly as may be to the respective number of B Shares held (or deemed to be held) by such Shareholders and

**10.6.3** in the case of B Shares, to all holders of A Shares (or deemed holders) (other than the Vendor, if applicable) pro rata as nearly as may be to the respective number of A Shares held (or deemed to be held) by such Shareholders.

The Company shall invite each such person to state in writing to the Company within 21 Business Days from the date of the relevant notice whether he is willing to purchase any, and if so, what maximum number of the Offered Shares (the “**Third Offer Period**”).

**10.7** If, at the end of the Third Offer Period, there are any Offered Shares which have not been allocated the Company shall offer such shares to such holders of Shares (or deemed holders) of whatever class as have stated in writing their willingness to purchase all the shares previously offered to them. Such remaining shares shall be offered pro rata as nearly as may be to the respective number of Ordinary Shares, A Shares or B Shares (as the case may be) then held (or deemed to be held) by such Shareholders with such offer remaining open for a fourth period of 21 Business Days (the “**Fourth Offer Period**”).

**10.8** A Shareholder who expresses a willingness to purchase Offered Shares is referred to below as a “**Purchaser**”.

**10.9** On the allocation being made, the directors shall give details of the allocation in writing to the Vendor and each Purchaser and, on the fourteenth day after such details are given, the Purchasers to whom the allocation has been made shall be bound to pay the purchase price for, and to accept a transfer of, the Offered Shares allocated to them respectively and the Vendor shall be bound, on payment of the purchase price, to transfer the Offered Shares to the respective Purchasers to whom the allocation has been made.

**10.10** If after becoming bound to transfer any Offered Shares the Vendor fails to do so, the Company may receive the purchase price and the directors may appoint a person to execute an instrument of transfer of those Offered Shares in favour of the Purchasers to whom the allocation has been made and shall cause the names of the Purchasers to be entered in the register of members of the Company as the holders of the Offered Shares and shall hold the purchase price in trust for the Vendor. The receipt of the Company shall be a good discharge to the Purchasers and, after their names have been entered in the register of members of the Company under this provision, the validity of the transactions shall not be questioned by any person.

**10.11** If following the expiry of the Fourth Offer Period any of the Offered Shares have not been allocated under that Article, the Vendor may at any time within a period of 90 days after the expiry of the 14 day period transfer the Offered Shares not allocated to any person and at any price (being not less than the Specified Price) provided that:

- (a) if the Transfer Notice contained a provision that, unless all the Offered Shares are sold under this Article, none shall be sold, he shall not be entitled to transfer any of the Offered Shares unless all the Offered Shares are so transferred; and
  - (b) the directors may require to be satisfied that those shares are being transferred under a bona fide sale for the consideration stated in the transfer without any deduction, rebate or allowance to the Purchaser and, if not so satisfied, may refuse to register the instrument of transfer.
- 10.12** The directors shall refuse to register a proposed transfer not made under or permitted by these Articles or the Shareholders' Agreement.
- 10.13** The directors shall (unless he is already a party to the Shareholders' Agreement) also refuse to register an allottee or transferee of, or person entitled by transmission to Shares unless he has executed an undertaking (in the form specified in the Shareholders' Agreement) whereby such allottee or transferee undertakes to adhere to and be bound by the provisions of the Shareholders' Agreement.
- 10.14** The directors may refuse to register a transfer of a Share on which the Company has a lien. They may also refuse to register a transfer unless:
- (a) it is lodged at the Registered Office or at such other place as the directors may appoint and is accompanied by the certificate for the Shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer;
  - (b) it is in respect of only one class of Shares; and
  - (c) it is in favour of not more than four transferees.
- 10.15** If the directors refuse to register a transfer of a Share, they shall within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.
- 10.16** The instrument of transfer of a Share may be in any usual form or in any other form which the directors may approve and shall be executed by or on behalf of the transferor and, unless the Share is fully paid, by or on behalf of the transferee.
- 10.17** A person executing an instrument of transfer of a Share is deemed to remain the holder of that Share until the name of the transferee is entered in the register of members of the Company in respect of it.
- 10.18** The registration of transfers of Shares or of transfers of any class of Shares may be suspended at such times and for such periods (not exceeding 30 days in any year) as the directors may determine.
- 10.19** No fee shall be charged for the registration of any instrument of transfer or other document relating to or affecting the title to any share.
- 10.20** The Company shall be entitled to retain any instrument of transfer which is registered, but any instrument of transfer which the directors refuse to register shall be returned to the person lodging it when notice of the refusal is given.

## **11 LEAVERS**

**11.1** The provisions of this Article shall apply to any Leaver and to any Leaver's Shares. For the purposes of this Article 11 "Group Company" shall mean the Company or any 51 per cent. subsidiary (as defined in Section 838 of the Income and Corporation Taxes Act 1988).

**11.2** In these Articles:-

**11.2.1** a "Relevant Employee" shall mean:-

- (a) an employee of any Group Company; and/or
- (b) a director of any Group Company (other than the A Directors or the B Directors);

**11.2.2** a "Leaver" shall mean:-

- (a) any Shareholder who ceases, or has ceased, to be a Relevant Employee;
- (b) any Shareholder (not being the Rotch Group nor the WestLB Group holding Shares as a result of a transfer made after the date of the adoption of these Articles by a person in relation to whom such Shareholder was a permitted transferee under the provisions of Article 8 who ceases to be a permitted transferee in relation to such person;
- (c) any person who becomes entitled to any Shares:-
  - (i) on the death of a Shareholder;
  - (ii) on the bankruptcy of a Shareholder (if an individual) or the receivership, administrative receivership, administration, liquidation or other arrangement for the winding-up (whether solvent or insolvent) of a Shareholder (if a company), in either case such Shareholder not being the Rotch Group nor the WestLB Group; or
  - (iii) on the exercise of an option after ceasing to be a Relevant Employee;
- (d) any Shareholder not being Rotch Group nor the WestLB Group holding Shares as a nominee for any person who ceases, or who has ceased, to be a Relevant Employee;

**11.2.3** a Leaver shall be deemed to be a "Good Leaver" in circumstances where the relevant person is not a Bad Leaver; and

**11.2.4** a Shareholder shall be deemed to be a "Bad Leaver" in circumstances where the relevant person:-

- (a) is summarily dismissed in accordance with his contract of employment; or

- (b) has voluntarily resigned as an employee of any Group Company without the consent of the Board (and, in the case of Senior Management, the consent of the Remuneration Committee) and has not been constructively dismissed.
- 11.3 Within the period commencing on the relevant Leaving Date and expiring at midnight on the first anniversary of such date, the Remuneration Committee may direct the Company immediately to serve a notice on the Leaver notifying him that he is, with immediate effect, deemed to have served a notice in writing to the Company (the “**Deemed Transfer Notice**”) that he wishes to transfer all his Leaver’s Shares and the Company shall copy the Deemed Transfer Notice to the A Directors within 2 Business Days of its deemed receipt. Each Deemed Transfer Notice shall be deemed to constitute the Company as the Leaver’s agent for the sale of all of his Leaver’s Shares at the price (the “**Sale Price**”) to be determined in accordance with Article 11.7.
- 11.4 The Leaver’s Shares shall within 60 days of receipt of the Deemed Transfer Notice be offered at the Sale Price to (i) a person or persons intended to take the place of the Leaver, (ii) the remaining Manager Shareholders, (iii) at the sole discretion of the Remuneration Committee other employees of the Group or (iv) at the sole discretion of the Remuneration Committee an Employee Trust, in each case on a pre-emptive basis pursuant to Article 10.
- 11.5 In the event that any of the Leaver’s Shares shall not be acquired pursuant to the offer(s) made under Article 11.4 within 30 Business Days of such offer(s), the A Directors may direct the Company immediately to offer at the Sale Price such number of Leaver’s Shares in accordance with the provisions of Article 10 and the provisions of Articles 10.3-10.7 (inclusive) shall apply, *mutatis mutandis*, to the allocation of the Leaver’s Shares, provided that for these purposes:
- 11.5.1 references to the Transfer Notice shall be treated as references to the Deemed Transfer Notice;
- 11.5.2 references to the Offered Shares shall be treated as references to the Leaver’s Shares; and
- 11.5.3 references to the Specified Price shall be treated as references to the Sale Price.
- Completion of sale and purchase of such Leaver’s Shares shall take place at the Registered Office within 5 Business Days of (i) the date of deemed receipt of the Deemed Transfer Notice or (ii) if the Fair Price is payable in respect of any of the Leaver’s Shares, such later date as the Fair Price shall be determined whereupon the Leaver shall, upon payment of the price due in respect thereof, transfer those Leaver’s Shares to the persons to whom they have been allocated and deliver the relevant Share certificates.
- 11.6 If the Leaver defaults in transferring any Leaver’s Shares pursuant to Article 11.4 or 11.5, the Company may receive such purchase money and may nominate some person to execute an instrument of transfer of such Leaver’s Shares in the name and on behalf of the Leaver and thereafter, when such instrument has been duly stamped, the Company shall cause the name of the proposed transferee to be entered in the register of members as the holder of such Leaver’s Shares and shall hold the purchase money on trust (without interest) for the Leaver. The receipt of the Company for the purchase money shall be a good discharge to the proposed transferee (who shall not be bound to see to the

application thereof) and, after his name has been so entered in the register of members, the validity of the proceedings shall not be questioned by any person.

**11.7 In this Article 11:-**

- 11.7.1** in the case of any Leaver, if the Leaving Date is on or before the first anniversary of the date on which such Leaver first became a holder of Shares in the Company, the Sale Price shall be the lower of the issue price of the Leaver's Shares and the Fair Price;
- 11.7.2** in the case of a Good Leaver, if the Leaving Date is after the first anniversary of the date on which such Leaver first became a holder of Shares in the Company, the Sale Price shall be the Fair Price;
- 11.7.3** in the case of a Bad Leaver (except where Article 11.7.4 applies), if the Leaving Date is on or before the date falling on the fifth anniversary of the date on which such Leaver first became a holder of Shares in the Company, the Sale Price shall be the lower of the issue price of the Leaver's Shares and the Fair Price;
- 11.7.4** in the case of a Bad Leaver at any time in circumstances where the relevant person is summarily dismissed in accordance with their contract of employment for fraud, the Sale Price shall be the lower of the issue or acquisition price of the Leaver's Shares and the Fair Price;
- 11.7.5** in the case of any Leaver (except where Article 11.7.4 applies) if the Leaving Date is after the date falling on (1) the fifth anniversary of the date on which such Leaver first became a holder of Shares in the Company or (2) the fifth anniversary of such Leaver having been employed by a Group Company whichever shall occur last the Sale Price shall be the Fair Price; and
- 11.7.6** the "Fair Price" shall be such price as the transferor and the Remuneration Committee shall agree within 20 Business Days of the date of the Deemed Transfer Notice or, failing such agreement, such price as the Auditors shall determine pursuant to Article 11.8.

**11.8 If the Fair Price falls to be determined by the Auditors:**

- 11.8.1** the Company shall immediately instruct the Auditors to determine the Fair Price on the basis which, in their opinion, represents a fair price for the Leaver's Shares at the Leaving Date as between a willing seller and a willing buyer and, in making such determination, the Auditors shall take account of the impact of the Leaver's departure on the prospects of the Group but shall not take account of (i) whether the Leaver's Shares comprise a majority or minority interest in the Company and the fact that their transferability is restricted by these Articles; or (ii) the fact that such Leaver's Shares can be subject to the compulsory transfer requirements of Articles 11 (Leavers) and 15 (Drag Along));
- 11.8.2** the Auditors shall certify the Fair Price as soon as possible after being instructed by the Company and in so certifying the Auditors shall be deemed to be acting as experts and not as arbitrators and the UK Arbitration Act 1996 shall not apply;

11.8.3 the certificate of the Auditors shall, in the absence of fraud or manifest error, be final and binding; and

11.8.4 the Company shall procure that any certificate required hereunder is obtained with due expedition and the cost of obtaining such certificate shall be borne by the Company unless (i) such an arrangement would not be permitted by the Act or (ii) the Fair Price as determined by the Auditors is the same as, or within 10% of, that price (if any) which the Company had previously notified to the Leaver as being in its opinion the Fair Price, in which event the cost shall be borne by the Leaver.

11.9 If within 12 months after the sale and purchase of a Leaver's Shares, a Leaver who was summarily dismissed can demonstrate to the satisfaction of the Remuneration Committee that he was summarily dismissed in contemplation of an Exit (as defined in Article 17 (Ratchet)) within such 12 month period, the Leaver shall be entitled to such additional sum in respect of the Leaver's Shares, if any, which would reflect 90 per cent. of the Exit Equity Value (as defined in Article 17) in the Sale Price if this had not been taken into account by the relevant parties in determining such Sale Price.

## 12 COMPLIANCE

12.1 For the purpose of ensuring compliance with the transfer provisions of these Articles, the Company shall require any Shareholder to procure that:

12.1.1 he; or

12.1.2 any Proposed Transferee; or

12.1.3 such other person as is reasonably believed to have information and/or evidence relevant to such purpose

provides to the Company any information and/or evidence relevant to such purpose and until such information and/or evidence is provided the Company shall refuse to register any relevant transfer (otherwise than with Majority A Equity Holder Consent).

## 13 ATTORNEY

Each Shareholder hereby irrevocably appoints the Company as his attorney (with the power to appoint any member of the Board as a substitute and to delegate to that substitute all or any powers hereby conferred, other than this power of substitution, as if he had been originally appointed by this Power of Attorney) to give effect to the provisions of these Articles.

## 14 CHANGE OF CONTROL

14.1 In these Articles a "Qualifying Offer" shall mean a *bona fide* arms-length offer in writing by or on behalf of any person (the "Offeror") for the entire equity share capital in the Company not already owned by the Offeror or persons connected with the Offeror.

14.2 Subject to Article 15 and the rights of pre-emption in Article 10, if the Majority A Equity Holders have indicated in writing that they wish to accept a Qualifying Offer in respect of all of their Shares, then the provisions of this Article shall apply.

- 14.3 Subject to Article 15 and the rights of pre-emption in Article 10, if the Majority A Equity Holders give notice to the other holders of the equity share capital then in issue (the **"Other Shareholders"**) of its wish to accept the Qualifying Offer, the Majority A Equity Holders shall not transfer any Shares to the Offeror unless the terms and conditions of the Qualifying Offer shall contain an offer to the Other Shareholders on the same terms and conditions as the proposed sale to the Offeror by the Majority A Equity Holders and any Other Shareholder may (conditionally or otherwise) accept such offer by furnishing written notice of such acceptance to the Majority A Equity Holders and the Offeror.
- 14.4 For the avoidance of doubt (and notwithstanding any conflicting or contrary terms contained in any option agreement or arrangement), whenever options have been granted over any Shares including the Warrants:
- 14.4.1 in Article 14.1, the Qualifying Offer shall include an offer for the underlying Share entitlements of such optionholders including the Warrantholders (assuming that such options and Warrants can be validly exercised in such circumstances);
- 14.4.2 in Article 14.3, the Majority A Equity Holders shall also be required to give written notice to such optionholders and Warrantholders and the option to accept the Qualifying Offer shall be deemed to apply to such optionholders and Warrantholders on exercise of their options; and
- 14.4.3 the provisions of Article 14.4 shall be deemed to apply to such optionholders and Warrantholders.

## 15 DRAG ALONG/TAG ALONG AND CO-SALE

- 15.1 During the Finance Period, if any one or more of the Shareholders (together the **"Selling Shareholders"**) wish to transfer (other than by way of a Permitted Transfer pursuant to Article 8) any interest in 51 per cent. or more of the Shares and Warrants in a bona fide arm-length offer the provisions of Article 15.2 and 15.3 shall apply.
- 15.2 During the Finance Period, the Selling Shareholders shall have the option (the **"Drag Along Option"**) to require all other holders of Shares and Warrantholders to transfer all their Shares and/or Warrants to the Offeror (or his nominee) in accordance with the provision of this Article 15. The Selling Shareholders may exercise the Drag Along Option by giving written notice (a **"Drag Along Notice"**) to the other holders of Shares and Warrantholders (the **"Called Shareholders"**) at any time after the Selling Shareholders have agreed to transfer the Shares and Warrants held by them. A Drag Along Notice shall specify that the Called Shareholders are required to transfer their Shares and/or Warrants to the Offeror (or his nominee) on no less favourable terms overall than those upon which the Selling Shareholders shall have accepted and to transfer their Shares and/or Warrants to the Offeror (or his nominee) with full title guarantee on the date specified by the Selling Shareholders and any such transfers shall be free of all rights of pre-emption.
- 15.2A If at any time an offeror for shares in the Company, having made offers to all the Shareholders of the Company which are acceptable to the holders of 80% of A Shares and 80% of B Shares and 80% of Ordinary Shares (together the **"Accepting Proportion"**) receives valid acceptances which would, on completion, result in such offeror becoming the holder of not less than the Accepting Proportion, then:

- 15.2A.1 such offeror may give notice to any non-accepting holder of Ordinary Shares, A Shares and B Shares requiring him to accept the offer within 21 days and stating that, failing such acceptance, he shall be deemed to have accepted such offer in respect of all Ordinary Shares, A Shares and B Shares held by him and irrevocably to have waived any pre-emption rights he may have in relation to any Shares the subject of such offer;
- 15.2A.2 upon the expiry of such notice each recipient thereof shall be obliged to deliver to the offeror (or as he may direct) an executed share transfer form and share certificate(s) in respect of the shares which were the subject of the notice together with an executed waiver of pre-emption rights, if appropriate;
- 15.2A.3 if any Shareholder fails to deliver executed share transfer form(s), share certificate(s) and pre-emption waiver(s) (if appropriate) as set out above he shall be deemed to have appointed any director of the Company to be his attorney to execute such documents on his behalf and, against receipt by the Company (on trust for such Shareholder) of the appropriate purchase moneys, to deliver such executed transfer(s) and pre-emption waiver(s) (if appropriate) to the offeror and it shall be no impediment to completion of the transfer that such Shareholders' share certificate(s) has/have not been produced; and
- 15.2A.4 after such offeror or his nominee has been registered as the holder of shares transferred in accordance with this article the validity of such transaction shall not be questioned by any person.
- 15.3 If any Called Shareholders shall not, within five Business Days of being required to do so, execute and deliver transfers in respect of the equity shares held by them and deliver the certificate(s) in respect of the same (or a suitable indemnity in lieu thereof), then the Selling Shareholders shall be entitled to authorise and instruct such person as it thinks fit to execute, the necessary transfer(s) and indemnities on the Called Shareholders' behalf and, against receipt by the Company (on trust for each such Called Shareholder) of the consideration payable for the relevant Shares deliver such transfer(s) and certificate(s) or indemnities to the Offeror (or his nominee) and register such Offeror (or his nominee) as the holder thereof and, after such registration, the validity of such proceedings shall not be questioned by any person.
- 15.4 If at any time any Shareholder proposes to sell (other than by way of a Permitted Transfer pursuant to Article 8 or in the case of the Majority A Equity Holders Article 14.3 does not apply), any of its Shares or Warrants ("**Selling Shareholder**"), the provisions of this Article 15 shall apply (subject always to the rights of pre-emption).
- 15.5 The Selling Shareholder shall give written notice (the "**Proposed Sale Notice**") to all of the other holders of Shares and Warrantholders of such intended sale at least 10 Business Days prior to the date thereof. The Proposed Sale Notice shall set out, to the extent not described in any accompanying documents, the identity of the proposed buyer (the "**Proposed Buyer**"), the purchase price and other terms and conditions of payment, the proposed date of sale (the "**Proposed Sale Date**") and the number of Shares and/or Warrants proposed to be purchased by the Proposed Buyer (together the "**Proposed Sale Shares**").



15.6 Any other holder of equity share capital and/or Warrantholder in the Company shall be entitled, by written notice given to the Selling Shareholder within 5 Business Days of receipt of the Proposed Sale Notice, to sell such proportion of his Shares and/or Warrants as is equal to the proportion which the Shares and/or Warrants sold by the Selling Shareholder bears to all Shares and/or Warrants held by the Selling Shareholder to the Proposed Buyer on the same terms and conditions as those set out in the Proposed Sale Notice. The notice will take effect so that the proposed purchaser is not required to acquire more securities, but the number of securities being sold by the Selling Shareholder shall be reduced accordingly.

15.7 Subject to Article 15.5, if any other holder of equity share capital and/or Warrantholder in the Company is not given the rights accorded him by the provisions of this Article, the Selling Shareholder shall be required not to complete its sale and the Company shall be bound to refuse to register any transfer intended to carry such a sale into effect.

## 16 SHARE CERTIFICATES

16.1 Every Shareholder, upon becoming the holder of any shares, shall be entitled without payment to one certificate for all the shares of each class held by him (and, upon transferring a part of his holding of shares of any class, to a certificate for the balance of such holding) or several certificates each for one or more of his shares upon payment for every certificate after the first of such reasonable sum as the Board may determine. Every certificate shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid up thereon. The Company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint Shareholder shall be a sufficient delivery to all of them.

16.2 If a share certificate is defaced, worn-out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and payment of the expenses reasonably incurred by the Company in investigating evidence as the Board may determine but otherwise free of charge, and (in the case of defacement or wearing-out) on delivery up of the old certificate.

## 17 RATCHET

17.1 Immediately prior to an Exit that takes place at any time after the fourth anniversary of Completion, the auditors of the Company shall calculate the anticipated Exit Enterprise Value and anticipated Exit Equity Value on behalf of the Investors and shall confirm in writing the amount of such matter to the Investors and to the Senior Management on behalf of the Ordinary Shareholders (the “**Certificate of Value**”), such Certificate of Value shall be conclusive except in the absence of fraud or manifest error.

17.2 If the Certificate of Value shows that the Minimum Exit Proceeds by reference to column 1 of the Ratchet Table will not be met by the anticipated Exit Enterprise Value then the provisions of this Article 17 shall not apply. If the Certificate of Value shows that the anticipated Exit Enterprise Value shall meet or exceed the Minimum Exit Proceeds by reference to Column 1 of the Ratchet Table, immediately prior to and conditional only upon the Exit (the “**Conversion Date**”) the A Shares and the B Shares shall be converted into and re-designated into Ordinary Shares and Deferred Shares in accordance with formula set below (calculated to 5 decimal places).

17.3	Where	V	=	the aggregate number of A Shares in issue (which shall be deemed to include the underlying A Share entitlements of A Warrantholders).
		W	=	the aggregate number of B Shares in issue (which shall be deemed to include the underlying B Share entitlements of B Warrantholders).
		X	=	the aggregate number of A Shares and B Shares in issue (which shall be deemed to include the underlying Share entitlements of Warrantholders).
		Y	=	the aggregate number of Ordinary Shares then in issue (which shall be deemed to include the exercise in full of any options for Ordinary Shares which shall be exercisable on or immediately after the Exit).
		Z	=	the total aggregate number of Shares in issue (which shall be deemed to include the underlying Share entitlements of the Warrantholders and the exercise in full of any options for Ordinary Shares which shall be exercisable on or immediately after the Exit).
		D	=	Additional Management Value
		E	=	Exit Equity Value
Step 1:		F	=	$\left( \left( \frac{Y}{Z} \times E \right) + D \right) \div Y$
Step 2:		G	=	$\left( \left( \frac{X}{Z} \times E \right) - D \right) \div F$
Step 3:		H	=	$\left( \frac{X - G}{X} \right) \times V$
Step 4:		I	=	$\left( \frac{X - G}{X} \right) \times W$

Where “*H*” shall in the case of the A Shareholders, be such number of A Shares to be converted into Deferred Shares and any such remaining A Shares (*V-H*) shall be converted into Ordinary Shares and, in the case of the B Shareholders, “*I*” shall be such number of B Shares to be converted into Deferred Shares and any such remaining B Shares (“*W-I*”) shall be converted into Ordinary Shares.

#### 17.4 In this Article 17:

**“Additional Management Value”** means the additional return (in £ sterling million) to Manager Shareholders by reference to the Exit Time and the Exit Enterprise Value as set forth in the column headed (2)

	in the Ratchet Table;
<b>“Exit”</b>	means a Sale or Listing;
<b>“Exit Enterprise Value”</b>	means the Exit Equity Value and all debt of the Group assumed on a Sale or Listing and any pre-sale dividend;
<b>“Exit Equity Value”</b>	means the Market Capitalisation at the time of such Listing or in the case of a Sale the total share consideration received together with any monies received on exercise of any options;
<b>“Exit Time”</b>	means the time of Exit as set forth in the Ratchet Table which shall be no earlier than after the fourth anniversary of the date of adoption of these Articles;
<b>“Listing”</b>	has the meaning ascribed to it in the Shareholders’ Agreement;
<b>“Market Capitalisation”</b>	<p>means in the case of a Listing, the aggregate value of the Shares (or the shares representing such Shares following any sub-division, consolidation or other reorganisation of capital in connection with such Listing) as at completion of the Listing being the multiple of:</p> <ul style="list-style-type: none"> <li>(a) the price per share at which shares are offered to subscribers or purchasers pursuant to such Listing; and</li> <li>(b) the number of Shares (or such shares representing the Shares) in issue (and including for this purpose: (i) all Shares subject to options which are, or will as at completion of the Listing be, vested and exercisable; and (ii) all Shares redeemed or cancelled or to be redeemed or cancelled pursuant to or for the purposes of this Article 17, or (in either case) the shares representing such Shares) but excluding for the avoidance of doubt:- <ul style="list-style-type: none"> <li>(i) any additional shares issued or to be issued at such time pursuant to or for the purposes of this Article (and whether as a result of a conversion or otherwise); and</li> <li>(ii) any new shares issued or to be issued at such time in connection with such Listing; and</li> </ul> </li> </ul>
<b>“Minimum Exit Proceeds”</b>	means the target Exit Enterprise Value (in £ Sterling million) as shown at the relevant Exit Time as set forth in the column headed (1) in the Ratchet Table.

RATCHET TABLE

Minimum Starting Date		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Date	300	1	310	2	320	3	330	4	340	5	350	6	360 +	8					
	320	3	330	4	340	5	350	6	360	8	370	10	380 +	12					
	350	5	360	7	370	9	380	10	390	12	400	14	410	16	420 +	18			

By way of illustration only a worked example of the Ratchet is set forth below:

Exit Enterprise Value = £310m

Debt or pre-sale dividend = £160m

Exit Equity Value ("E") = £150m

Additional Management Value ("D") = £2m

$$V = 400,000$$

$$W = 350,000$$

$$X = 750,000$$

$$Y = 250,000$$

$$Z = 1,000,000^*$$

$$\begin{aligned}\text{Step 1: } F &= \left( \left( \frac{250,000}{1,000,000} \times £150m \right) + £2m \right) \div 250,000 \\ &= \underline{\underline{£158}}\end{aligned}$$

$$\begin{aligned}\text{Step 2: } G &= \left( \left( \frac{750,000}{1,000,000} \times £150m \right) - £2m \right) \div £158 \\ &= \underline{\underline{699,367}}\end{aligned}$$

$$\begin{aligned}\text{Step 3: } H &= \left( \frac{750,000 - 699,367}{750,000} \right) \times 400,000 \\ &= \underline{\underline{27,004}}\end{aligned}$$

$$\begin{aligned}\text{Step 4: } I &= \left( \frac{750,000 - 699,367}{750,000} \right) \times 350,000 \\ &= \underline{\underline{23,629}}\end{aligned}$$

According to the worked example above, the A Shareholders shall have 27,004 A Shares converted into Deferred Shares and 372,996 A Shares converted into Ordinary Shares and the B Shareholders shall have 23,629 B Shares converted into Deferred Shares and 326,371 B Shares converted into Ordinary Shares.

**17.5** Conversion of such A Shares and B Shares as are due to be converted as aforesaid on any Conversion Date (such shares being called in this Article 17, the "Relevant Shares") shall

**1.1** \_\_\_\_\_

\* This worked example assumes that the aggregate number of shares in issue is 1,000,000 and ignores the Option Pool.

be effected in such manner as the Board may determine and as the law may allow. Any fractional entitlements to Ordinary Shares arising on conversion shall not be allotted to the holders of the Relevant Shares otherwise entitled thereto. All Ordinary Shares, including fractions thereof, issuable upon conversion of more than one Relevant Share by a single holder thereof shall be aggregated for purposes of determining whether conversion would result in the issuance of any fractional share.

- 17.6** The Board may determine to effect conversion by means of consolidation and subdivision. In such case the requisite consolidation and subdivision may be effected by consolidating into one share all the nominal amount and any premium paid up on the Relevant Shares at the Conversion Date held by the Shareholder and subdividing such consolidated share into shares (of such nominal amount as may be appropriate as a result of any other consolidation or subdivision of Ordinary Shares) of which an appropriate number shall be re-designated as Ordinary Shares (fractional entitlements being disregarded) and the balance shall be re-designated as Deferred Shares of equivalent nominal value so that when the aggregate nominal value of such Deferred Shares is taken together with the aggregate nominal value of the Ordinary Shares resulting from such subdivision and conversion, the total aggregate nominal value of such Deferred Shares and such Ordinary Shares is equal to the nominal amount of the consolidated share as is being so subdivided.
- 17.7** The Board may determine to effect conversion by redeeming the Relevant Shares on the relevant Conversion Date 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 and/or grant rights to subscribe therefor. A holding of Relevant Shares shall confer on the holder thereof the right to subscribe for the relevant number of Ordinary Shares calculated in accordance with the provisions of this Article. A holding of Relevant Shares shall confer on the holder thereof the right to subscribe, and shall authorize any person appointed for the purpose by the Board to subscribe as agent on the holder's behalf, for the relevant number of Ordinary Shares calculated in accordance with the provisions of this Article.
- 17.8** On or after conversion of any Relevant Shares into Deferred Shares pursuant to this Article 17, the Board may consolidate and/or subdivide and/or convert the authorised Deferred Shares existing as a consequence of conversion into shares of any other class of share capital into which the authorised share capital of the Company is or may at that time be divided of a like nominal amount (as nearly as may be) as the shares of such class then in issue or into unclassified shares.
- 17.9** Allotments of Ordinary Shares arising from conversion shall be effected within 14 days of the Conversion Date. Within 28 days after the Conversion Date, but subject always to receipt of the certificate for the Relevant Shares or an indemnity in favour of the Company in respect of a lost certificate, the Company shall forward to each holder of the Relevant Shares by post to the address shown in the Register, at such holder's own risk, free of charge, a definitive certificate for the appropriate number of fully paid Ordinary Shares comprised in such surrendered certificate(s). In the meantime transfers of Ordinary Shares shall be certified against the Register. Upon any conversion of any Relevant Shares, the accrued or declared and unpaid dividends owing in respect of such Relevant Shares shall, without any resolution or further action of the Board or of the Company in general meeting, become a debt due and immediately payable by the Company.
- 17.10** The rights attaching to the Deferred Shares shall be as follows:

- 17.10.1** The Deferred Shares shall not entitle the holders to receive any dividends or other distributions and the holders of the Deferred Shares shall not be entitled to any participation in the profits or assets of the Company.
- 17.10.2** On a return of assets on liquidation or a capital reduction or otherwise, the holders of the Deferred Shares shall be entitled out of the surplus assets of the Company to a return of the capital paid up on the Deferred Shares held by them but only after a total sum of £10,000 has been distributed on such liquidation or capital reduction or otherwise in respect of each of the shares of the Company other than the Deferred Shares.
- 17.10.3** The Deferred Shares shall not entitle the holders thereof to receive notice of or to attend or vote at any general meeting of the Company.
- 17.10.4** The creation or issue of Deferred Shares shall be deemed to confer irrevocable authority on the Company at any time thereafter to appoint any person to execute on behalf of the holder of such shares a transfer thereof and/or an agreement to transfer the same to such person or persons as the Company may determine as custodian thereof and/or purchase the same in accordance with the Act in any such case for not more than 1p for all the Deferred Shares registered in the name of any such holder without obtaining the sanction of such holder or holders and pending such transfer and/or purchase to retain the certificate (if any) in respect thereof.
- 17.10.5** For the avoidance of doubt the definition of “equity share” shall not extend to the Deferred Shares.

## **18 LIEN**

- 18.1** The Company shall have a first and paramount lien on every Share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that Share. The Board may at any time declare any Share to be wholly or in part exempt from the provisions of this Article. The Company’s lien on a share shall extend to any amount payable in respect of it.
- 18.2** The Company may sell, in such manner as the Board determine, any Shares on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen clear days after notice has been given to the Shareholder or to the person entitled to it in consequence of the death or bankruptcy of the Shareholder, demanding payment and stating that if the notice is not complied with the Shares may be sold.
- 18.3** To give effect to a sale the Board may authorise some person to execute an instrument of transfer of the Shares sold to, or in accordance with the directions of, the purchaser. The title of the transferee to the Shares shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- 18.4** The net proceeds of the sale, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable, and any residue shall (upon surrender to the Company for cancellation of the certificate for the shares sold and subject to a like lien for any moneys not presently payable as existed upon the Shares before the sale) be paid to the person entitled to the shares at the date of the sale.

## **19 CALLS ON SHARES AND FORFEITURE**

- 19.1** Subject to the terms of allotment, the Board may make calls upon the Shareholders in respect of any moneys unpaid on their Shares (whether in respect of nominal value or premium) and each Shareholder shall (subject to receiving at least fourteen clear days' notice specifying when and where payment is to be made) pay to the Company as required by the notice the amount called on his Shares. A call may, before receipt by the Company of any sum due under it, be revoked in whole or part and payment of a call may be postponed in whole or part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the Shares in respect of which the call was made.
- 19.2** A call shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed.
- 19.3** Joint Shareholders of a Share shall be jointly and severally liable to pay all calls in respect of it.
- 19.4** If a call remains unpaid after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the date it became due and payable until it is paid at the rate fixed by the terms of allotment of the Share or in the notice of the call or, if no rate is fixed, at the appropriate rate (as defined by the Act) but the Board may waive payment of the interest wholly or in part.
- 19.5** An amount payable in respect of a Share on allotment or at any fixed date, whether in respect of nominal value or premium or as an instalment or a call, shall be deemed to be a call and if it is not paid the provisions of the Articles shall apply as if that amount had become due and payable by virtue of a call.
- 19.6** Subject to the terms of allotment, the Board may make arrangements on the issue of shares for a difference between the Shareholders in the amounts and times of payment of calls on their Shares.
- 19.7** If a call remains unpaid after it has become due and payable the Board may give to the person from whom it is due not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued and all expenses that may have been incurred by the Company by reason of such non-payment. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the shares in respect of which the call was made will be liable to be forfeited.
- 19.8** If the notice is not complied with any Share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the Board and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.
- 19.9** Subject to the provisions of the Act, a forfeited Share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the Board may determine either to the person who was before the forfeiture the Shareholder or to any other person and at any time before sale, re-allotment or other disposition, the forfeiture may be cancelled on such terms as the Board thinks fit. Where for the purposes of its disposal a forfeited share is to be transferred to any person the Board may authorise some person to execute an instrument of transfer of the Share to that person.



- 19.10** A person any of whose Shares have been forfeited shall cease to be a Shareholder in respect of them and shall surrender to the Company for cancellation the certificate for the Shares forfeited but shall remain liable to the Company for all moneys which at the date of forfeiture were presently payable by him to the Company in respect of those Shares with interest at the rate at which interest was payable on those moneys before the forfeiture or, if no interest was so payable, at the appropriate rate (as defined in the Act) from the date of forfeiture until payment but the Board may waive payment wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal.
- 19.11** A statutory declaration by a director or the secretary that a Share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share and the declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the Share and the person to whom the Share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his title to the Share be affected by any irregularity in or invalidity of the proceedings in reference to the forfeiture or disposal of the share.

## **20 PURCHASE OF OWN SHARES**

Subject to the provisions of the Act, the Company may with Majority A Equity Holder Consent purchase its own shares (including any redeemable shares) and make a payment in respect of the purchase or redemption of its own shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares.

## **21 GENERAL MEETINGS**

- 21.1** The Board shall procure that an annual general meeting of Shareholders in respect of each financial year of the Company shall be convened to take place not later than 30 Business Days after the date of signing of the Auditors' report relating to the Accounts for the relevant financial year.
- 21.2** The Board shall cause to be laid before each such annual general meeting the Accounts for the relevant financial year, together with the respective reports therein of the directors and the Auditors.
- 21.3** All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 21.4** The directors or the A Directors may call general meetings and, on the requisition of Shareholders pursuant to the provisions of the Act, the Board shall forthwith proceed to convene an extraordinary general meeting for a date not later than eight weeks after receipt of the requisition. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any Shareholder of the Company may call a general meeting.
- 21.5** A general meeting or a meeting of any class of Shareholder of the Company may consist of a conference between Shareholders some or all of whom are in different places provided that each Shareholder who participates is able to hear each of the other participating Shareholders addressing the meeting; and if he so wishes, to address all of the other participating Shareholders simultaneously, whether directly, by conference telephone or by any other form of communications equipment (whether in use when these Articles are adopted or not) or by a combination of those methods. A quorum is deemed

to be present if those conditions are satisfied in respect of at least the number of Shareholders required to form a quorum. A meeting held in this way is deemed to take place at the place where the largest group of participating Shareholders is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates.

- 21.6** A resolution put to the vote of a meeting shall be decided by each Shareholder indicating to the chairman (in such manner as the chairman may direct) whether the Shareholder votes in favour of or against the resolution or abstains.
- 21.7** References in this Article to Shareholders shall include their duly appointed proxies, and in the case of corporate Shareholders, their duly authorised representatives.

## **22 NOTICE OF GENERAL MEETINGS**

- 22.1** An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least twenty-one clear days' notice. All other extraordinary general meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed:

**22.1.1** in the case of an annual general meeting, by all the Shareholders entitled to attend and vote at the meeting; and

**22.1.2** in the case of any other meeting by a majority in number of the Shareholders having a right to attend and vote being a majority together holding not less than ninety-five per cent. in nominal value of the shares giving that right.

- 22.2** The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such.
- 22.3** Subject to the provisions of these Articles and to any restrictions imposed on any Shares, the notice shall be given to all the Shareholders, to all persons entitled to a share in consequence of the death or bankruptcy of a Shareholder and to the directors and Auditors.
- 22.4** The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

## **23 PROCEEDINGS AT GENERAL MEETINGS**

- 23.1** No business shall be transacted at any meeting unless a quorum is present. Two members entitled to vote upon the business to be transacted present person or by proxy or by a duly authorised representative (in the case of a corporation), of whom at least one shall be or represent an A Shareholder and one a Manager Shareholder, shall be a quorum.
- 23.2** If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present for a period exceeding 10 minutes, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Shareholders present may decide and if at the adjourned meeting a quorum is not present within half an hour from the time

appointed for the meeting, the Shareholder or Shareholders present shall constitute a quorum.

- 23.3** The chairman, if any, of the Board or in his absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present and willing to act, he shall be chairman.
- 23.4** If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the Shareholders present and entitled to vote shall choose one of their number to be a chairman.
- 23.5** A director shall, notwithstanding that he is not a Shareholder, be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of shares in the Company.
- 23.6** The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
- 23.7** A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:
- 23.7.1** by the chairman; or
  - 23.7.2** by at least two Shareholders having the right to vote at the meeting; or
  - 23.7.3** by a Shareholder or Shareholders representing not less than one-tenth of the total voting rights of all the Shareholders having the right to vote at the meeting; or
  - 23.7.4** by a Shareholder or Shareholders holding shares conferring a right to vote at the meeting being Shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the Shares conferring that right; or
  - 23.7.5** by the Majority A Equity Holders,
- and a demand by a person as proxy for a Shareholder shall be the same as a demand by the Shareholder.
- 23.8** Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- 23.9** The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- 23.10** A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be Shareholders) and fix a time and place for declaring the result of a poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 23.11** In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall not be entitled to a casting vote in addition to any other vote he may have.
- 23.12** A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- 23.13** No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

## **24 SHAREHOLDERS RESOLUTIONS**

A resolution in writing executed by or on behalf of each Shareholder who would be entitled to vote on it if it had been proposed at a general meeting or at a meeting of any class of members of the Company shall be as valid and effectual as if it had been passed at a general meeting or at such class meeting (as the case may be) duly convened and held. The resolution may be contained in one document or in several documents in like form each stating the terms of the resolution accurately and signed by or on behalf of one or more of the Shareholders. With respect to any such resolution in writing, in the case of a corporation which holds a Share, the signature of any director or the secretary thereof shall be sufficient for the purposes of this Article.

## **25 VOTES OF MEMBERS**

- 25.1** Subject to any rights or restrictions attached to any shares, on a show of hands every Shareholder who (being an individual) is present in person or by a proxy appointed under section 372 of the Act or (being a corporation) is present by a duly authorised representative or by a proxy appointed under section 372 of the Act, shall have one vote for every Share of which he is the holder (provided that no person present shall be entitled to more than one vote on a show of hands) and on a poll every Shareholder shall have one vote for every share of which he is the holder.
- 25.2** In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders and seniority shall be determined by the order in which the names of the holders stand in the register of members.

- 25.3 A Shareholder in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, *curator bonis* or other person may, on a poll, vote by proxy.
- 25.4 No Shareholder shall vote at any general meeting or at any separate meeting of the holders of any class of Shares in the Company, either in person or by proxy, in respect of any Share held by him unless all moneys presently payable by him in respect of that Share have been paid.
- 25.5 No objection shall be raised to the qualification of any vote except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
- 25.6 Votes may be given either personally or by proxy. A Shareholder may appoint more than one proxy to attend on the same occasion.
- 25.7 An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointor shall be in the following form (or in a form as near to it as circumstances allow or in any other form which is usual or which the directors may approve):

“ PLC/Limited  
 I/We, , of , being a member of the above-named  
 Company, hereby appoint [ ] of [ ] , or failing him,  
 of , as my/our proxy to vote in my/our name[s] and  
 on my our behalf at the annual/extraordinary general meeting of the Company to be held  
 on , , and at any adjournment thereof.

Signed on , .”

- 25.8 Where it is desired to afford Shareholders an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the following form (or in a form as near to it as circumstances allow or in any other form which is usual is usual or which the directors may approve):

“ PLC/Limited  
 I/We, , of , being a member/members  
 of the above-named Company, hereby appoint  
 of , as my/our proxy to vote in my/our name[s] and on  
 my/our behalf at the annual extraordinary general meeting of the Company, to be held on  
 , , and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1 \*for\* against

Resolution No. 2 \*for\* against

\* Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed on , .”

**25.9** The instrument appointing a proxy and any authority under which it is executed (or such copy of the instrument or the authority or both as the Board may approve) may:

**25.9.1** be left or sent by post or by facsimile transmission to the Registered Office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting not less than one hour before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or

**25.9.2** in the case of a poll taken more than 48 hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or

**25.9.3** where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any director; or

**25.9.4** where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be deposited at the place appointed for the taking of the poll at any time within the 24 hour preceding the time appointed for the taking of the poll,

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

**25.10** A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Company at the Registered Office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

## **26 NUMBER OF DIRECTORS**

Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be less than five in number nor more than twelve.

## **27 ALTERNATE DIRECTORS**

**27.1** The A Directors and the B Directors (other than an alternate director) may appoint any person and any other director (other than an alternate director) may appoint any person who is willing to act, to be an alternate director and may remove from office an alternate director so appointed by him.

**27.2** An alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member, to attend and to vote at any meeting at which the director appointing him is not personally present, and at that meeting to exercise and discharge all the functions, powers and duties of his appointor as a director and for the purposes of proceedings at that meeting the provisions

of these Articles shall apply as if he was a director but he shall not be entitled to receive any remuneration from the Company for his services as an alternate director.

- 27.3** Every person acting as alternate director shall have one vote for each director for whom he acts as alternate, in addition to his own vote if he is also a director, but he shall count as only one for the purpose of determining whether a quorum is present.
- 27.4** Any person appointed as an alternate director shall vacate his office as an alternate director if the director by whom he has been appointed ceases to be a director or removes him or on the beginning of any event which, if he were a director, causes or would cause him to vacate that office.
- 27.5** Any appointment or removal of an alternate director shall be by notice to the Company signed by the director making or revoking the appointment or in any other manner approved by the directors.
- 27.6** An alternate director shall alone be responsible for his acts and defaults and shall not be deemed to be the agent of the director appointing him.

## **28 POWERS OF DIRECTORS**

- 28.1** Subject to the provisions of the Act, the memorandum and the Articles and to any directions given by special resolution, the business of the Company shall be managed by the directors who may exercise all the powers of the Company.
- 28.2** Without prejudice to any other of their powers, the directors may exercise any of the powers conferred by the Statutes to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the Company or any of its subsidiaries.
- 28.3** The directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

## **29 DELEGATION OF DIRECTORS' POWERS**

The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the Articles regulating the proceedings of directors so far as they are capable of applying.

## **30 APPOINTMENT AND RETIREMENT OF DIRECTORS**

- 30.1** The directors may, with A Shareholder Consent, appoint any person who is willing to act to be a director, either to fill a casual vacancy or as an additional director.
- 30.2** For as long as any A Warrants remain in issue, the holders of the A Warrants in issue for the time being may appoint any two persons as directors of the Company and remove

those persons from office and (if desired) appoint another in their place. If there are no B Warrants in issue, this right is exercisable by the majority of the A Shareholders.

- 30.3** The holders of the Ordinary Shares in issue for the time being may appoint five of the Senior Management (or persons intended to take the place of Senior Management) as directors of the Company and remove those persons from office and (if desired) appoint another in their place, subject to the candidates so proposed for appointment or removal being approved by the A Directors.
- 30.4** For so long as any B Warrants remain in issue, the holders of the B Warrants in issue for the time being may appoint any two persons who are employees of the Rotch Group or Asset Backed Securities Limited or Meadfine Limited as directors of the Company and remove those persons from office and (if desired) appoint another in their place. If there are no B Warrants in issue, this right is exercisable by the majority of the B Shareholders.
- 30.5** If, in the reasonable opinion of the majority of the A Shareholders, an executive director commits a material or repeated breach of the terms of his employment or consultancy agreement or of the Shareholders Agreement the majority of the A Shareholders may remove him from office and (if desired) appoint another person in his place.
- 30.6** Every appointment or removal under Articles 30.2, 30.4 and 30.5 shall be made in writing signed by or on behalf of relevant members of Warrantholders (as the case may be) and shall take effect on and from the date on which the note of appointment or removal is lodged at the Registered Office of the Company or produced at a meeting of the directors.
- 30.7** No director shall vacate his office or be ineligible for re-appointment as a director, nor shall any person be negligible for appointment as a director, by reason only of his having attained a particular age.
- 30.8** No special notice is required of any resolution appointing or approving the appointment of such a director nor is any notice required to state the age of the person to whom the resolution relates.

## **31 REMOVAL AND DISQUALIFICATION OF DIRECTORS**

### **31.1 The office of a director shall be vacated if:**

- 31.1.1** he ceases to be a director by virtue of any provision of the Act or he becomes prohibited by law from being a director; or
- 31.1.2** he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- 31.1.3** he becomes incapable by reason of mental disorder, illness or injury of managing and administering his property and affairs and the other directors resolve that his office is vacated;
- 31.1.4** he resigns his office by notice to the Company; or
- 31.1.5** 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 (provided that this provision shall not apply to the A Directors nor to the B Directors); or



**31.1.6** subject to Article 31.1.5, all the other directors so resolve (provided that this provision shall not apply to the A Directors nor to the B Directors).

## **32 REMUNERATION OF DIRECTORS**

Save for the A Directors and the B Directors, the directors shall be entitled to such remuneration as the company may by ordinary resolution determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

## **33 DIRECTORS' EXPENSES**

The directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings or separate meetings of Shareholders of any class of shares or of debentures of the Company or otherwise in connection with the discharge of their duties.

## **34 DIRECTORS' APPOINTMENTS AND INTERESTS**

**34.1** Subject to the provisions of the Act, the Board may appoint one or more of their number to the office of managing director or to any other executive office under the Company and may enter into an agreement or arrangement with any director for his employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the Board determine and they may remunerate any such director for his services as they think fit. Any appointment of a director to an executive office shall terminate if he ceases to be a director but without prejudice to any claim to damages for breach of the contract of service between the director and the Company.

**34.2** Subject to the provisions of the Act and, except in the case of the A Directors, to A Shareholder Consent and in the case of the B Directors to B Shareholder Consent, and provided that he has disclosed to the Board the nature and extent of any material interest of his, a director notwithstanding his office:

**34.2.1** may be a party to, or otherwise interest in, any transaction or arrangement with the Company or in which the Company is otherwise interested;

**34.2.2** may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and

**34.2.3** shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

**34.3** For the purposes of Article 34.2:

**34.3.1** a general notice given to the Board that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall

be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified; and

- 34.3.2 an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

### **35 DIRECTORS' GRATUITIES AND PENSIONS**

The Board may provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any director who has held but no longer holds any office or employment with the Company or with any body corporate which is or has been a subsidiary of the Company or a predecessor in business of the Company or of any such subsidiary, and for any member of his family (including a spouse and a former spouse) or any person who is or was dependent on him, and may (as well before as after he ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

### **36 PROCEEDINGS OF DIRECTORS**

- 36.1 Subject to the provisions of these Articles, the Board may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the Board. Notices of meetings of the Board shall be given to all directors and to any alternate directors appointed by them. At least 24 hours' notice shall be given unless in any particular case a majority of the directors (including the A Directors) agrees otherwise. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall not have a second or casting vote.
- 36.2 Unless Article 31.1.5 applies the quorum for the transaction of the business of the directors shall be two directors present throughout the meeting of whom at least one shall be an A Director and one shall be an Executive Director unless otherwise agreed in writing by the A Directors.
- 36.3 If a quorum is not present at the time for which the meeting was called or ceases to be present thereafter, the meeting (the "first meeting") shall be adjourned to a day being no more than ten days from the date of the first meeting at the same time and place. The Company shall give notice to each director who did not attend the first meeting requiring him either to attend the adjourned meeting of the Board or to state in writing his views on the matters to be discussed at that meeting. If any director having received such notice fails to attend such adjourned Board meeting (being at least three of whom at least one shall be, subject to Article 31.1.5, an A Director) who are present at such adjourned meeting shall constitute a quorum.
- 36.4 The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number but, if the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.
- 36.5 The Board with A Shareholder Consent may appoint one of their number to be the chairman of the Board and may at any time remove him from that office. Unless he is unwilling to do so, the director so appointed shall preside at every meeting of the Board at which he is present. But if there is no director holding that office, or if the director holding it is unwilling to preside or is not present within five minutes after the time

appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.

- 36.6** All acts done by the Board, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.
- 36.7** A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held. The resolution may be contained in one document or in several documents each stating the terms of the resolution accurately and signed by one or more directors; but a resolution signed by an alternate director need not also be signed by his appointor and, if it is signed by a director who has appointed an alternate director, it need not be signed by the alternate director in that capacity. In this Article references to a document being "signed" include it being "approved by letter or facsimile".
- 36.8** Any director or alternate director may validly participate in a meeting of the Board through the medium of conference telephone or similar form of communication equipment provided that all persons participating in the meeting are able to hear and speak to each other throughout such meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. Subject to the Act, all business transacted in such manner by the Board or a committee of the Board shall for the purpose of these Articles be deemed to be validly and effectively transacted at a meeting of the Board or a committee of the Board notwithstanding that a quorum of directors is not physically present in the same place. 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.
- 36.9** Save as otherwise provided by these Articles and the Shareholders' Agreement, provided that he has disclosed to the Board the nature and extent of any material interest of his, a director may vote as a director on any resolution concerning any matter in which he has, directly or indirectly, an interest or duty and, if he votes, his vote shall be counted and he shall be counted in the quorum when that resolution or matter is under consideration.
- 36.10** Where proposals are under consideration concerning the appointment of two or more directors to offices or employment with the Company or any body corporate in which the Company is interested the proposals may be divided and considered in relation to each director separately and (provided he is not for another reason precluded from voting) each of the directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.
- 36.11** If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any director other than himself shall be final and conclusive.

**37 SECRETARY**

Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

**38 MINUTES**

**38.1** The directors shall cause minutes to be made in books kept for the purpose:

**38.1.1** of all appointments of officers made by the directors; and

**38.1.2** of all proceedings at meetings of the Company, of the holders of any class of shares in the Company, and of the directors, and of committees of directors, including the names of the directors present at each such meeting.

**39 SEAL**

The seal shall only be used by the authority of the directors or of a committee of directors authorised by 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 by a second director.

**40 DIVIDENDS**

**40.1** Subject to the provisions of the Act and the other provision of these Articles, the Company may by ordinary resolution declare dividends in accordance with the respective rights of the Shareholders, but no dividends shall exceed the amount recommended by the Board.

**40.2** Subject to the provisions of the Act, the Board may pay interim dividends if it appears to them that they are justified by the profits of the Company available for distribution. If the share capital is divided into different classes, the directors may pay interim dividends on shares which confer deferred or non-preferred rights with regard to dividend as well as on shares which confer preferential rights with regard to dividend, but no interim dividend shall be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrears. The Board may also pay at intervals settled by them any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment. Provided the Board act in good faith they shall not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend or any shares having deferred or non-preferred rights.

**40.3** Except as otherwise provided by the rights attached to shares, all dividends shall be declared and paid according to the amounts paid up on the shares on which the dividend is paid. All dividends shall be apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any shares are issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.

**40.4** A general meeting declaring a dividend may, upon the recommendation of the Board, direct that it shall be satisfied wholly or partly by the distribution of assets and, where any difficulty arises in regard to the distribution, the Board may settle the same and in

particular may issue fractional certificates and fix the value for distribution of any assets and may determine that cash shall be paid to any Shareholder upon the footing of the value so fixed in order to adjust the rights of members and may vest any assets in trustees.

- 40.5** Any dividend or other moneys payable in respect of a Share may be paid by a cheque sent by post to the registered address of the person entitled or, if two or more persons are holders of the Share or are jointly entitled to it by reason of the death or bankruptcy of the holder, to the registered address of that one of those persons who is first named in the register of members or to such person and to such address as the person or persons entitled may be writing direct. Every cheque shall be made payable to the order of the person or persons entitled or to such other person as the person or persons entitled may in writing direct and payment of the cheque shall be a good discharge to the Company. Any joint holder or other person jointly entitled to a Share as aforesaid may give receipts for any dividend or other moneys payable in respect of the Share.
- 40.6** No dividend or other moneys payable in respect of a share shall bear interest against the Company unless otherwise provided by the rights attached to the share.
- 40.7** Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the directors so resolve, be forfeited and cease to remain owing by the Company.

#### **41 ACCOUNTS**

No Shareholder shall (as such) have any right of inspecting any accounting records or other book or document of the Company except as conferred by statute or authorised by the directors or by ordinary resolution of the Company.

#### **42 CAPITALISATION OF PROFITS**

- 42.1** The Board may with the authority of an ordinary resolution of the Company:

- 42.1.1** *subject as hereinafter provided, resolve to capitalise any undivided profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of the Company's share premium account or capital redemption reserve;*
- 42.1.2** appropriate the sum resolved to be capitalised to the Shareholders who would have been entitled to it if it were distributed by way of dividend and in the same proportions and apply such sum on their behalf either in or towards paying up the amounts, if any, for the time being unpaid on any shares held by them respectively or in paying up in full unissued shares or debentures of the Company of a nominal amount equal to that sum, and allot the shares or debentures credited as fully paid to those members, or as they may direct, in those proportions, or partly in one way and partly in the other: but the share premium account, the capital redemption reserve and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued shares to be allotted to Shareholders credited as fully paid;
- 42.1.3** make such provision by the issue of fractional certificates or by payment in cash or otherwise as they determine in the case of shares or debentures becoming distributable under this Article in fractions; and

- 42.1.4 authorise any person to enter on behalf of all the Shareholders concerned into an agreement with the Company providing for the allotment to them respectively, credited as fully paid, of any shares or debentures to which they are entitled upon such capitalisation any agreement made under such authority being binding on all such Shareholders.

## 43 NOTICES

- 43.1 Any notice to be given to or by any person pursuant to the Articles shall be in writing except that a notice calling a meeting of the directors need not be in writing.
- 43.2 The Company may give any notice to a Shareholder either personally or by sending it by prepaid airmail or first class post at his registered address or by leaving it at that address or by fax. 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.
- 43.3 A Shareholder present either in person or by proxy, at any meeting of the Company or of the holders of any class of shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 43.4 Every person who becomes entitled to a Share shall be bound by any notice in respect of that Share which, before his name is entered in the register of members, has been duly given to a person from whom he derives his title.
- 43.5 Proof that an envelope containing a notice was properly addressed, prepaid and posted (by airmail or first class post, where available) shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 24 hours after the envelope containing it was so posted or, in the case of facsimile transmission, when despatched.
- 43.6 If at any time by reason of the suspension or curtailment of postal services within the United Kingdom the Company is unable effectively to convene a general meeting by notices sent through the post, a general meeting may be convened by a notice advertised in at least one national daily newspaper and such notice will be deemed to have been duly served on all Shareholders entitled thereto at noon on the day when the advertisement appears. In any such case the Company will send confirmatory copies of the notice by post if at least seven days prior to the meeting the posting of notices to addresses again becomes practicable.
- 43.7 Any notice or document delivered or sent by post to or left at the registered address of any member in accordance with the terms of these Articles shall notwithstanding that such member be then dead or bankrupt, and whether or not the Company has notice of his death or bankruptcy, be deemed to have been duly served in respect of any Share registered in the name of such member as sole or joint holder, unless his name shall at the time of the service of the notice or document, have been removed from the Register of Shareholders as the holder of the Share, and such service shall for all purposes be deemed a sufficient service of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the Share.

#### **44 WINDING UP**

If the Company is wound up, the liquidator may, with the sanction of an extraordinary resolution of the Company and any other sanction required by the Act, divide among the Shareholders in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and determine how the division shall be carried out as between the Shareholders or different classes of Shareholders. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the members as he with the like sanction determines, but no Shareholder shall be compelled to accept any assets upon which there is a liability.

#### **45 INDEMNITY**

Subject to the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer of the Company shall be indemnified out of the assets of the Company against 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 in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

#### **46 INSURANCE**

The Board shall have the power to purchase and maintain for any director or other officer insurance against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company.