

Company Number: 4516079



THE COMPANIES ACTS 1985 & 1989

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**COMPANY LIMITED BY SHARES**

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**RESOLUTION OF**  
**OXFORD IMMUNOTEC LIMITED**

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**PASSED 27<sup>th</sup> July 2005**

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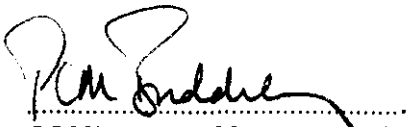
Pursuant to Sections 381A and 381B and paragraph 5 of Part 2 of Schedule 15A to the Companies Act 1985, the following resolution was passed as a written resolution by the members of the Company for the time being entitled to attend and vote at General Meetings of the Company

**WRITTEN RESOLUTION**

**THAT:-**

- (1) the authorised share capital of the Company, be and is hereby increased from £2,903.22 to £5,003.22 by the creation of 2,000,000 'D' Preferred Ordinary Shares of 0.1p each and 100,000 'D' Ordinary Shares of 0.1p each, each having the rights and restrictions as set out in the Articles of Association to be adopted pursuant to paragraph 5 below;
- (2) 1,960 'B' Ordinary Shares of 0.1p each in the capital of the Company held by Staffan Paulie, 1,960 'B' Ordinary Shares of 0.1p each in the capital of the Company held by Robert Taylor and 20,000 'C' Ordinary Shares of 0.1p each in the capital of the Company held by Iain Rae be and are hereby converted into Ordinary Shares of 0.1p each having the rights and restrictions as set out in the Articles of Association to be adopted pursuant to paragraph 5 below;
- (3)
  - (A) the Directors shall have unconditional authority to allot, grant options over, offer or otherwise deal with or dispose of any relevant securities (within the meaning of Section 80 of the Act of the Company on and subject to such terms as the Directors may determine. The authority hereby conferred shall subject to Section 80 of the Act be for the period expiring on 1<sup>st</sup> July 2010 unless renewed varied or revoked by the Company in General Meeting and the maximum amount of relevant securities which may be allotted pursuant to such authority shall be £2,768.07;
  - (B) the Directors shall be entitled under the authority conferred by paragraph (A) of this Resolution or under any renewal thereof to make at any time prior to the expiry of such authority any offer or agreement which would or might require relevant securities of the Company to be allotted after the expiry of such authority;

- (4) the Directors shall be empowered for a period expiring on 1<sup>st</sup> July 2010 to allot equity securities (within the meaning of Section 94(2) of the Act) of the Company pursuant to the authority conferred by paragraph (3) (A) as if Section 89(1) of the Act did not apply to such allotment and the Directors shall be entitled to make at any time prior to the expiry of the power hereby conferred any offer or agreement which would or might require equity securities to be allotted after the expiry of such power. Provided that such power shall, subject as aforesaid cease to have effect when the said authority is revoked or would, if not renewed, expire but if that authority is renewed the said power may also be renewed for a period of not longer than that for which the authority is renewed by a Special Resolution of the Company passed in General Meeting;
- (5) the draft Articles of Association attached to this Written Resolution be adopted as the Articles of Association of the Company in substitution for and to the exclusion of the existing articles of association; and
- (6) in accordance with Article 3.2 of the Articles of Association adopted pursuant to paragraph 5 above, the provisions contained in the aforementioned Article 3.2 shall be disapplied in relation to any issue of shares in the capital of the Company which are to be issued pursuant to a Subscription & Shareholders' Agreement to be entered into between the Company (1), Quester VCT 4 Plc (2), Quester VCT 5 Plc (3), Quester Venture Partnership (4), The Isis College Fund No.1 Limited Partnership (5), The Isis College Fund No.2 Limited Partnership (6), Prelude Trust Plc (7), Prelude Ventures Limited (8), Top Technology Ventures IV LP (9), Nordea Invest Engros Internationale Aktier (10), The Dow Chemical Company (11), Mabtech AB (12), Vitabiotics Limited (13), The Chancellor, Masters and Scholars of the University of Oxford (14), Isis Innovation Limited (15), The Wellcome Trust Limited (16), Robert Taylor (17), Ronald Cox (18), Iain Rae (19), Staffan Paulie (20), Ajit Lalvani (21) Peter Wrighton-Smith (22) and Christopher Granger (23).



**COMPANY SECRETARY**

For and on behalf of

ALDWYCH SECRETARIES LIMITED

# **NEW ARTICLES OF ASSOCIATION OXFORD IMMUNOTEC LIMITED**

**The Companies Act 1985 and 1989  
Company Limited by Shares**  
(as adopted by Written Resolution passed on 27 July 2005)



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THE COMPANIES ACTS 1985 AND 1989

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COMPANY LIMITED BY SHARES

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NEW  
ARTICLES OF ASSOCIATION  
of  
OXFORD IMMUNOTEC LIMITED

(as adopted by Written Resolution passed on 27 July 2005)

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**1 { TC "1 Preliminary" \ 1 } Preliminary**

1.1 The regulations contained in Table A as prescribed by the regulations made under the Act in force at the date of the adoption of these Articles of Association (hereinafter referred to as "Table A") shall apply to the Company in so far as these Articles do not exclude or modify Table A. A reference herein to any regulation is to that regulation as set out in Table A.

1.2 In these Articles the following words and expressions shall have the meanings set out below:

'A' Ordinary Shares	'A' Ordinary Shares of £0.001 each in the capital of the Company having the rights set out in Article 2.2
'A' Preferred Ordinary Shares	convertible 'A' preferred ordinary shares of £0.001 each in the capital of the Company having the rights set out in Article 2.2
the Act	the Companies Act 1985 including every statutory modification or re-enactment thereof for the time being in force
Anti-Dilution Shares	any shares in the capital of the Company issued to the holders of 'D' Preferred Ordinary Shares pursuant to the terms of the Subscription Agreement
Arrears	in relation to any share, all accruals, deficiencies and arrears of any dividend payable in respect of such share, whether or not earned or declared and irrespective of whether or not the Company has had at any time sufficient distributable profits to pay such dividend together with all interest and other amounts payable thereon
the Auditors	the auditors for the time being of the Company
'B' Preferred Ordinary Shares	convertible 'B' preferred ordinary shares of £0.001 each in the capital of the Company having the rights set out in Article 2.2
Bad Leaver	has the meaning set out in Article 8.6
the Board	the board of Directors for the time being
'D' Preferred Ordinary Shares	convertible 'D' preferred ordinary shares of £0.001 each in the capital of the Company having the rights set out in Article 2.2

Compulsory Purchase Notice	a notice served by the directors pursuant to Article 5.10 requiring that the Shares specified therein be sold to the Company at the Prescribed Price
'D' Ordinary Shares	'D' ordinary shares of £0.001 each in the capital of the Company having the rights set out in Article 2.2
the Directors	the directors for the time being of the Company or a quorum of such directors present at a meeting of the directors
Dow	The Dow Chemical Company of 2030 Dow Centre, Midland, Michigan 48674, USA
Employee Trust	a trust established by the Company for the benefit of its employees and former employees from time to time and the wives, husbands, widows, widowers, children and step-children under the age of eighteen of such employees and former employees
Family Trusts	as regards any particular individual member or deceased or former individual member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than that individual and/or Privileged Relations of that individual; and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is or may become liable to be transferred or paid or applied or appointed to or for the benefit of such person or any voting or other rights attaching thereto are or may become liable to be exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons
Investment Fund	any person, company, trust, limited partnership or fund holding shares for investment purposes and not being a member of the Company by virtue of being a Relevant Member
Investors	Quester, Prelude, Top Technology and Dow or any person who shall have acquired (by virtue of one or more transfers) a majority of shares in the capital of the Company subscribed or acquired by the aforementioned investors and, where the context permits, any trustee, nominee or custodian of the aforementioned investors

Leaver	any person whose contract of employment with the Company or with any subsidiary of the Company terminates, for any reason, or any person whose consultancy agreement with the Company or any subsidiary of the Company terminates, for any reason, or, in the case of a person who is neither an employee of, or a consultant to the Company or any subsidiary of the Company, a person who ceases to be a director of the Company or any subsidiary of the Company
Liquidation Surplus	such cash, shares, loan stock or other assets or a combination thereof as remain on a liquidation, a winding up or a reduction of capital of the Company after all its liabilities (including costs and expenses in connection with the aforementioned) have been paid or provided for
Listing	a successful application being made in relation to all or any of the Ordinary Share Capital of the Company for admission to listing to the United Kingdom Listing Authority and admission to trading to the London Stock Exchange or a successful application being made to any other recognised investment exchange or overseas investment exchange (as such expressions are defined in the Financial Services and Markets Act 2000) which has been approved by a Preferred Majority for all or any of the Ordinary Share Capital of the Company to be admitted to trading on such exchange
Majority	as regards members of a class or classes of shares, a majority by reference to the number of shares of such class or classes held and not by reference to the number of members holding shares of such class or classes
a Member of the same Group	as regards any company, a company which is for the time being a holding company or a subsidiary of that company or of any such holding company
the Ordinary Share Capital	collectively, the Preferred Ordinary Shares, the 'A' Ordinary Shares, the 'D' Ordinary Shares and the Ordinary Shares and (except as otherwise expressly provided) for the purposes of these Articles, such shares shall be treated as separate classes
Option Scheme	the Share Option Scheme(s) (as defined in the Subscription Agreement)
Ordinary Shares	ordinary shares of £0.001 each in the capital of the Company having the rights set out in Article 2.2
Permitted Transfer	a transfer of shares authorised by Article 4
Permitted Transferee	a person, firm or unincorporated association to whom or which shares have been transferred pursuant to a Permitted Transfer
Preferred Majority	the prior written consent of such of the holders of Preferred Ordinary Shares who hold not less than 70% in nominal amount of the issued Preferred Ordinary Shares

Preferred Ordinary Shares	the 'A' Preferred Ordinary Shares, the 'B' Preferred Ordinary Shares and the 'D' Preferred Ordinary Shares and (except as otherwise expressly provided) for the purposes of these Articles, such shares shall be treated as separate classes
Prelude	Prelude Trust plc (registered no. 3285603) and Prelude Ventures Limited (registered no. 1869933) both of Sycamore Studios, New Road, Over, Cambridge, CB4 5PJ
Privileged Relation	in relation to an individual member or deceased or former individual member, the husband or wife or the widower or widow of such member and all the lineal descendants in direct line of such member and the brothers and sisters of such member and a husband or wife or widower or widow of any of the above persons and for the purposes aforesaid a step-child or adopted child or illegitimate child of any person shall be deemed to be his or her lineal descendant
Qualifying Holding	as such term is defined in Schedule 28B to ICTA
Quester	QUESTER VCT 4 PLC, a company incorporated in incorporated in England and Wales (registered no. 4063505) whose registered office is at 29 Queen Anne's Gate, London, SW1H 9BU, QUESTER VCT 5 PLC, a company incorporated in England and Wales (registered no.4282877) whose registered office is at 29 Queen Anne's Gate, London, SW1H 9BU, QUESTER VENTURE PARTNERSHIP, a limited partnership registered in England and Wales under the Limited Partnership Act 1907 with registered number LP7736 having its principal place of business at 6 <sup>th</sup> Floor, 29 Queen Anne's Gate, London, SW1H 9BU acting by its manager Quester Capital Management Limited, a company registered in England and Wales under number 2454345 whose registered office is at 6 <sup>th</sup> Floor, 29 Queen Anne's Gate, London, SW1H 9BU, THE ISIS COLLEGE FUND NO.1 LIMITED PARTNERSHIP a limited partnership with registered number LP6582, acting by its general partner Quester Venture Managers Limited whose registered office is at 29 Queen Anne's Gate, London, SW1H 9BU and THE ISIS COLLEGE FUND NO.2 LIMITED PARTNERSHIP a limited partnership with registered number LP6583, acting by its general partner Quester Venture Managers Limited whose registered office is 29 Queen Anne's Gate, London, SW1H 9BU
Relevant Executive	a director or employee of, or a consultant to, the Company or any subsidiary of the Company
Relevant Member	a member who is a Relevant Executive, or (unless a Preferred Majority agrees otherwise) a member who shall have acquired shares directly or indirectly from a Relevant Executive pursuant to one or more Permitted Transfers (including where such shares were subscribed by such member and that member would have been entitled to receive a Permitted Transfer from the Relevant Executive)



the Relevant Shares	(so far as the same remain for the time being held by the trustees of any Family Trusts or by any Transferee Company) the shares originally acquired by such trustees or Transferee Company and any additional shares issued to such trustees or Transferee Company by way of capitalisation or acquired by such trustees or Transferee Company in exercise of any right or option granted or arising by virtue of the holding of such shares or any of them or the membership thereby conferred
Remuneration Committee	the Remuneration Committee of the Board appointed in accordance with the Subscription Agreement
Sale	the sale of any part of the Ordinary Share Capital to any person resulting in that person together with any person acting in concert (within the meaning given in the City Code on Takeovers and Mergers as in force at the date of the adoption of these Articles) with such person holding more than 50% of the issued Ordinary Share Capital
Sale Amount	the aggregate value of all consideration received by all shareholders on a Sale, and where all or any of such consideration is otherwise than cash the value shall be taken as the market value of such consideration on the date of the Sale or the sale by the Company of all or substantially all of the assets of the Company
Service Agreement	includes any written or other contract of employment or for services
Share	a share in the capital of the Company for the time being in issue
Shareholder	a holder of a Share
Subscription Agreement	the subscription and shareholders' agreement dated the date of adoption of these Articles and made between the Company and certain of the members relating, inter alia, to the subscription of shares in the Company, as varied and supplemented for the time being
Subscription Price	in relation to any share, the amount paid up or credited as paid up thereon (including the full amount of any premium at which such share was issued whether or not such premium is applied for any purpose thereafter)
Top Technology	Top Technology Ventures IV L.P. acting by its general partner TIV IV, GP of Warwick Court, 5 Paternoster Square, London EC4M 7BP and Nordea Invest Engros Internationale Aktier acting by Nordea Invest Fund Management A/S of Nyropsgade 17, DK-1602, Copenhagen V, Denmark
Transferee Company	a company for the time being holding shares in consequence, directly or indirectly, of a transfer or series of transfers of shares between Members of the same Group (the relevant Transferor Company in the case of a series of such transfers being the first transferor in such series)

Transferor Company	a company (other than a Transferee Company) which has transferred or proposes to transfer shares to a Member of the same Group
Transfer Notice	a notice in accordance with Article 5 that a member desires to transfer his shares
University	the Chancellor, Masters and Scholars of the University of Oxford

## 2 { TC "2 Share Capital" 1 } **Share Capital**

### 2.1 Authorised Share Capital

The share capital of the Company at the date of adoption of these Articles is £5,003.22 divided into 903,220 'A' Preferred Ordinary Shares, 362,020 'B' Preferred Ordinary Shares, 2,000,000 'D' Preferred Ordinary Shares, 79,750 'A' Ordinary Shares, 100,000 'D' Ordinary Shares, and 1,558,230 Ordinary Shares each of £0.001 each.

### 2.2 The Shares shall entitle the holders thereof to the following rights:

- (a) as regards dividend:
  - (i) the Company shall to the extent it has sufficient profits apply any profits which the directors resolve to distribute in any year in paying a dividend to the holders of the Ordinary Share Capital pro rata on the basis of number of shares held and ranking *pari passu* in all respects as to dividend;
  - (ii) no dividend payment shall be due to a member if as a result of such dividend payment (when aggregated with any dividend payments which would otherwise be due to persons connected with that member pursuant to section 839 ICTA) being due, any shareholding is thereby prevented from being or ceases to be a Qualifying Holding, but provided that if any part of the dividend payment which is due to such member can be paid without the holding being prevented from being or ceasing to be a Qualifying Holding, so much of the dividend payment shall be paid as is possible without prejudicing the Qualifying Holding status of the relevant shares. Any dividend payment not paid to such member as a result of this Article 2.2(a)(ii) shall, subject to the terms of this Article, be distributed amongst the other members rateably in proportion to the number of shares held by them respectively.
- (b) as regards capital:
  - (i) If on a return of assets on a liquidation, reduction of capital or otherwise the Liquidation Surplus is less than £27,000,000, then such Liquidation Surplus shall be distributed in the following order of priority:
    - (A) first, in paying to the holders of the 'D' Preferred Ordinary Shares the aggregate Subscription Price for such shares (in proportion to the aggregate number of such shares held by each of them);
    - (B) second, in paying to the holders of 'A' Preferred Ordinary Shares the aggregate Subscription Price for such Shares (in proportion to the aggregate number of such shares held by each of them);
    - (C) third, in paying to the holders of 'B' Preferred Ordinary Shares who held such shares on the date of adoption of these Articles of Association the aggregate Subscription Price for such shares (in

proportion to the aggregate number of such shares held by each of them)

- (D) thereafter, in paying the balance pro rata and pari passu to the holders of the Ordinary Share Capital as if the same constituted one class of share (in proportion to the number of such shares held by each of them);

- (ii) If on a return of assets on a liquidation, reduction of capital or otherwise the Liquidation Surplus is £27,000,000 or more but less than £33,000,000, then such Liquidation Surplus shall be distributed in the following order of priority:

- (A) first, in paying to the holders of the 'D' Preferred Ordinary Shares, the aggregate Subscription Price for such shares (in proportion to the aggregate number of such shares held by each of them);
- (B) second, in paying to the holders of the 'A' Preferred Ordinary Shares and to the 'B' Preferred Ordinary Shares who held such shares on the date of adoption of these Articles of Association (as if the same constituted one class of shares), a percentage of the aggregate Subscription Price for such shares (in proportion to the aggregate number of such shares held by each of them), such percentage being calculated in accordance with the following formula:

$$\frac{(\pounds33,000,000 - X)}{\pounds6,000,000} \times 100\%$$

where X is the aggregate amount of the Liquidation Surplus; and

- (C) thereafter, in paying the balance pro rata and pari passu to the holders of the Ordinary Share Capital as if the same constituted one class of share (in proportion to the number of such shares sold by each of them);

- (iii) If on a return of assets on a liquidation, reduction of capital or otherwise the Liquidation Surplus is £33,000,000 or more but less than £60,000,000, then such Liquidation Surplus shall be distributed in the following order of priority:

- (A) first in paying to the holders of the 'D' Preferred Ordinary Shares, the aggregate Subscription Price for such shares (in proportion to the aggregate number of such shares held by each of them); and
- (B) thereafter, in paying the balance pro rata and pari passu to the holders of the Ordinary Share Capital as if the same constituted one class of share (in proportion to the aggregate number of such shares held by each of them);

- (iv) If on a return of assets on a liquidation, reduction of capital or otherwise the Liquidation Surplus is £60,000,000 or more but less than £70,000,000, then such Liquidation Surplus shall be distributed in the following order of priority:

- (A) first in paying to the holders of the 'D' Preferred Ordinary Shares, a percentage of the aggregate Subscription Price for such shares (in proportion to the aggregate number of such shares held by each of them), such percentage being calculated in accordance with the following formula:

$$\frac{(\pounds 70,000,000 - X)}{\pounds 10,000,000} \times 100\%$$

where X is the aggregate amount of the Liquidation Surplus; and

- (B) thereafter, in paying the balance pro rata and pari passu to the holders of the Ordinary Share Capital as if the same constituted one class of share (in proportion to the aggregate number of such shares held by each of them);
- (v) If on a return of assets on a liquidation, reduction of capital or otherwise the Liquidation Surplus is equal to or greater than £70,000,000 then such Liquidation Surplus shall be distributed to the holders of the Ordinary Share Capital as if the same constituted one class of share (in proportion to the number of such shares held by each of them).
- (vi) No payment shall be due to a member if as a result of such payment (when aggregated with any payments which would otherwise be due to persons connected with that member pursuant to section 839 ICTA) being due, any shareholding is thereby prevented from being or ceases to be a Qualifying Holding, but provided that if any part of the payment which is due to such member can be paid without the holding being prevented from being or ceasing to be a Qualifying Holding, so much of the payment shall be paid as is possible without prejudicing the Qualifying Holding status of the relevant shares. Any payment not paid to such member as a result of this Article 2.2(b)(vi) shall, subject to the terms of this Article, be distributed amongst the other holders of Preferred Ordinary Shares to the greatest extent possible and thereafter amongst the other members rateably in proportion to the number of shares held by them respectively;
- (c) as regards sale:
  - (i) If in the event of a Sale (and whether the consideration of such Sale is to be satisfied in cash, shares, loan stock or a combination thereof or otherwise) the proceeds of such Sale shall comprise a Sale Amount of less than £27,000,000 then such Sale Amount shall be reallocated between the holders of the Shares who participated in the Sale so as to ensure the following order of application of the Sale Amount:
    - (A) first, in paying to the holders of the 'D' Preferred Ordinary Shares an amount per share equal to the Subscription Price paid or credited as paid per 'D' Preferred Ordinary Share (in proportion to the aggregate number of such shares sold by each of them);
    - (B) second, in paying to the holders of 'A' Preferred Ordinary Shares an amount per share equal to the aggregate Subscription Price paid or credited as paid per 'A' Preferred Ordinary Share (in proportion to the aggregate number of such shares sold by each of them);
    - (C) third, in paying to those holders of 'B' Preferred Ordinary Shares who held such shares on the date of adoption of these Articles of Association an amount per share equal to the aggregate Subscription Price paid or credited as paid per 'B' Preferred Ordinary Share (in proportion to the aggregate number of such shares sold by each of them)

- (D) thereafter, any balance shall be paid to the holders of the Ordinary Share Capital *pari passu* and *pro rata* to the number of Shares sold by each of them (as if they together constituted one class of share);
- (ii) If in the event of a Sale (and whether the consideration of such Sale is to be satisfied in cash, shares, loan stock or a combination thereof or otherwise) the proceeds of such Sale shall comprise a Sale Amount of £27,000,000 or more but less than £33,000,000 then such Sale Amount shall be reallocated between the holders of the Shares who participated in the Sale so as to ensure the following order of application of the Sale Amount:
- (A) first, in paying to the holders of the 'D' Preferred Ordinary Shares, the aggregate Subscription Price for such shares (in proportion to the aggregate number of such shares sold by each of them);
- (B) second, in paying to the holders of 'A' Preferred Ordinary Shares and to the 'B' Preferred Ordinary Shares who held such shares on the date of adoption of these Articles of Association (as if the same constituted one class of shares), a percentage of the aggregate Subscription Price for such shares (in proportion to the aggregate number of such shares held by each of them), such percentage being calculated in accordance with the following formula:
- $$\frac{(\pounds 33,000,000 - X)}{\pounds 6,000,000} \times 100\%$$
- where X is the aggregate amount of the Sale Amount; and
- (C) thereafter, in paying the balance *pro rata* and *pari passu* to the holders of the Ordinary Share Capital as if the same constituted one class of share (in proportion to the number of such shares held by each of them);
- (iii) If in the event of a Sale (and whether the consideration of such Sale is to be satisfied in cash, shares, loan stock or a combination thereof or otherwise) the proceeds of such Sale shall comprise a Sale Amount of £33,000,000 or more but less than £60,000,000 then such Sale Amount shall be reallocated between the holders of the Shares who participated in the Sale so as to ensure the following order of application of the Sale Amount:
- (A) first in paying to the holders of the 'D' Preferred Ordinary Shares, the aggregate Subscription Price for such shares (in proportion to the aggregate number of such shares held by each of them); and
- (B) thereafter, in paying the balance *pro rata* and *pari passu* to the holders of the Ordinary Share Capital as if the same constituted one class of share (in proportion to the aggregate number of such shares sold by each of them);
- (iv) If in the event of a Sale (and whether the consideration of such Sale is to be satisfied in cash, shares, loan stock or a combination thereof or otherwise) the proceeds of such Sale shall comprise a Sale Amount of £60,000,000 or more but less than £70,000,000 then such Sale Amount shall be reallocated between the holders of the Shares who participated in the Sale so as to ensure the following order of application of the Sale Amount:

- (A) first in paying to the holders of the 'D' Preferred Ordinary Shares, a percentage of the aggregate Subscription Price for such shares (in proportion to the aggregate number of such shares held by each of them), such percentage being calculated in accordance with the following formula:

$$\frac{(\pounds 70,000,000 - X)}{\pounds 10,000,000} \times 100\%$$

where X is the aggregate amount of the Sale Amount; and

- (B) thereafter, in paying the balance pro rata and pari passu to the holders of the Ordinary Share Capital as if the same constituted one class of share (in proportion to the aggregate number of such shares sold by each of them);
- (v) If, in the event of a Sale, (and whether the consideration of such Sale is to be satisfied in cash, shares, loan stock or a combination thereof or otherwise) the proceeds of such sale shall comprise a Sale Amount equal to or greater than £70,000,000, then such Sale Amount shall be distributed to the holders of the Ordinary Share Capital who participated in the Sale pari passu and pro rata to the number of shares sold by each of them (as if they together constituted one class of shares);
- (vi) The figures specified in this Article 2.2(c) have been calculated upon the assumption that all Shares will be the subject of the Sale. If this is not the case then such figures shall be adjusted to reflect the smaller number of Shares which are the subject of the Sale;
- (d) as regards voting in general meetings:
- the Shareholders shall be entitled to receive notice of, to attend and to vote at, general meetings of the Company; every Shareholder who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy, shall have one vote on a show of hands and on a poll, every Shareholder so present shall have one vote for each Share held by him;
- (e) as regards conversion:
- (i) the Preferred Ordinary Shares shall automatically be converted into and redesignated as fully paid Ordinary Shares: (A) immediately before the completion of a Listing which has been approved by a Preferred Majority or (B) by notice in writing signed by the holders of 70% of the Preferred Ordinary Shares (as if all Preferred Ordinary Shares constituted one and the same class). The rate of conversion of Preferred Ordinary Shares into Ordinary Shares shall be an one for one basis but subject to adjustment on the occurrence of any consolidation, sub-division, reduction or other reorganisation of the Company's share capital.

Notice of a Listing shall be given to the holders of the Preferred Ordinary Shares by the Company at least 10 but not more than 60 days prior to the expected completion of the Listing and such notice may designate the expected date of completion of the Listing or immediately prior thereto as the date for conversion provided that, for the avoidance of doubt, if the Listing referred to in Article 2.2(e)(i) shall not have completed within 30 days after the expected

completion date, such conversion and re-designation of Preferred Ordinary Shares into Ordinary Shares shall be null and void;

- (ii) the Ordinary Shares arising on conversion and redesignation shall rank pari passu with the Ordinary Shares then in issue and fully paid up and shall entitle the holders of Ordinary Shares arising on conversion to all dividends and other distributions declared, made or paid on the Ordinary Shares by reference to any record date occurring after the conversion;
- (iii) the holder of any Preferred Ordinary Shares shall either: (i) within 10 days of giving notice to the Company or receipt of the notice given by the Company pursuant to Article 2.2(e)(i) deliver to the Company the certificates for the relevant Preferred Ordinary Shares and upon such delivery there shall be issued to him a certificate for the number of Ordinary Shares resulting from the conversion and redesignation referred to in Article 2.2(e)(i) provided that such certificates shall be returned by the Company or the holder, as appropriate, in the event that the Listing shall not have completed within the period specified in Article 2.2(e)(i);
- (iv) the Company shall procure that at all times the nominal value of the Preferred Ordinary Shares and the Ordinary Shares remains equal.

2.3 The Company shall procure that each of its subsidiaries and, so far as it is able, each of its subsidiary undertakings which has profits available for distribution shall from time to time declare and pay to the Company such dividends to the extent possible as are necessary to permit lawful and prompt payment by the Company of any dividend and any Arrears in accordance with these Articles. Any dividend declared and not paid shall be a debt due by the Company and be payable in priority to any other dividend.

### **3 { TC "3 Issue of Shares" \ 1 } Issue of Shares**

3.1 Subject to the provisions of the Act and Article 3.2, all unissued shares of the Company from time to time shall be at the disposal of the Directors and they may allot, grant rights, options or warrants to subscribe or otherwise dispose of them to such persons, at such times, and on such terms as they think proper as if sections 80(1), 89(1) and 90(1) to (6) (inclusive) of the Act did not apply to the Company.

3.2 Other than where an issue has been authorised by special resolution of the Company, any unissued shares or other equity securities or shares to be issued (excepting equity securities to be issued (i) upon a Listing; or (ii) pursuant to an Option Scheme; (iii) as consideration for the purchase of the shares or assets of another company (iv) for the issue of any Anti-Dilution Shares ("New Shares") shall not be allotted to any person unless the Company has, in the first instance offered such New Shares to all members of the Company on the same terms and at the same price as such New Shares are being offered to such other person on a pari passu and pro rata basis to the number of shares held by such persons on the terms that in the case of competition the New Shares shall be allotted to the acceptors of any such offer in proportion (as nearly as may be without involving fractions or increasing the number allotted to any member beyond that applied for by him) to their existing holdings of Ordinary Share Capital. Such offer(s):

- (a) shall stipulate a time not exceeding 21 days within which it must be accepted or in default will lapse; and
- (b) may stipulate that any members who desire to subscribe for a number of New Shares in excess of the proportion to which each is entitled shall in their acceptance state how many excess New Shares they wish to subscribe for and any shares not accepted by other members shall be used for satisfying such requests for excess New Shares at each

stage pro rata to the number of existing shares held by such members at the time of such acceptance making such requests and thereafter, any excess New Shares shall be offered to any other person at the same price and on the same terms as the offer to members.

Any New Shares shall rank pari passu with existing shares in the same class then in issue.

**4 { TC "4 Transfer of Shares" \ 1 } Transfer of Shares**

4.1 Subject to the provisions of Regulation 24 any shares (other than any shares in respect of which the holder shall have been required by the Directors under these Articles to give a Transfer Notice or shall have been deemed to have given a Transfer Notice) may at any time be transferred:

- (a) to any person with the prior consent in writing of holders of shares entitled to cast 90% of the votes exercisable on a poll at a general meeting of the Company (which consent may be granted unconditionally or subject to terms or conditions and in the latter case any share so transferred shall be held subject to such terms and conditions notified in writing to the transferee prior to registration of the transfer); or
- (b) by any individual member (not being in relation to the shares concerned a holder thereof as a trustee of any Family Trusts) to a Privileged Relation of such member; or
- (c) by any such individual member to trustees to be held upon Family Trusts related to such individual member; or
- (d) by any member being a company (not being in relation to the shares concerned a holder thereof as a trustee of any Family Trusts) to a Member of the same Group as the Transferor Company; or
- (e) by any person entitled to shares in consequence of the death or bankruptcy of an individual member to any person or trustee to whom such individual member, if not dead or bankrupt, would be permitted hereunder to transfer the same; or
- (f) by a holder of Preferred Ordinary Shares which is an Investment Fund or by its trustee, custodian or nominee:
  - (i) to any trustee, nominee or custodian for such fund and vice versa;
  - (ii) to any unitholder, shareholder, partner, participant, manager or adviser (or an employee of such manager or adviser) in any such fund;
  - (iii) to any other Investment Fund, or its trustee, nominee or custodian, managed or advised by the same manager or adviser as any such fund; or
- (g) to a trustee, nominee, custodian or to a Member of the same Group of any of the persons referred to in sub-paragraphs (i), (ii) or (iii) of paragraph (f) above;
- (h) where any Shares are held by trustees under an Employee Trust:
  - (i) to the new trustees of that Employee Trust on any change of trustees; or
  - (ii) to any beneficiary of that Employee Trust.

4.2 Where shares have been issued to trustees of Family Trusts or transferred under Article 4.1 or under paragraphs (a) or (b) of this Article to trustees of Family Trusts, the trustees and their successors in office may (subject to the provisions of Article 4.1) transfer all or any of the Relevant Shares:

- (a) to the trustees for the time being of the Family Trust concerned on any change of trustees;



- (b) to the trustees for the time being of any other trusts being Family Trusts in relation to the same individual member or deceased or former member pursuant to the terms of such Family Trusts or to any discretion vested in the trustees thereof or any other person; or
- (c) to the Relevant Member or former member or any Privileged Relation of the Relevant Member or deceased or former member who has thereby become entitled to the shares proposed to be transferred on the total or partial termination of or pursuant to the terms of the Family Trust(s) concerned or in consequence of the exercise of any such power or discretion as aforesaid.

- 4.3 If and whenever any of the Relevant Shares come to be held otherwise than upon Family Trusts, except in circumstances where a transfer thereof is authorised pursuant to Article 4.2 to be and is to be made to the person or persons entitled thereto, it shall be the duty of the trustees holding such shares to notify the Directors in writing that such event has occurred and the trustees shall be bound, if and when required in writing by the Directors so to do, to give a Transfer Notice in respect of the shares concerned.
- 4.4 If a person to whom shares have been transferred pursuant to Article 4.1(b) shall cease to be a Privileged Relation, such person shall be bound, if and when required in writing by the Directors so to do, to give a Transfer Notice in respect of the shares concerned.
- 4.5 If a Transferee Company ceases to be a Member of the same Group as the Transferor Company from which (whether directly or by a series of transfers under Article 4.1(d)) the Relevant Shares derived, it shall be the duty of the Transferee Company to notify the Directors in writing that such event has occurred and (unless the Relevant Shares are thereupon transferred to the Transferor Company or a Member of the same Group as the Transferor Company, any such transfer being deemed to be authorised under the foregoing provisions of this Article) the Transferee Company shall be bound, if and when required in writing by the Directors so to do, to give a Transfer Notice in respect of the Relevant Shares.
- 4.6 For the avoidance of doubt, any change in the partners, managers or advisers, participants, shareholders or unitholders in any member which is an Investment Fund shall not be regarded as a transfer of shares or any interest in shares for the purposes of these Articles.

## **5 { TC "5 Pre-emption on Transfer" \ 1 } Pre-emption on Transfer**

- 5.1 Except in the case of a Permitted Transfer or a transfer pursuant to Article 7.5 or Article 8.8, the right to transfer shares or any interest in shares in the Company shall be subject to the following restrictions and provisions. References in this Article 5 to transferring shares or Sale Shares shall include any interest in and grant of contractual rights or options over or in respect of shares.
- 5.2 Any person ("the Proposing Transferor") proposing to transfer any shares in the capital of the Company ("the Sale Shares") shall be required before effecting, or purporting to effect the transfer, to give a notice in writing to the Company (a "Transfer Notice") that he desires to transfer the Sale Shares and shall state in the Transfer Notice the identity of the person (if known) to whom the Proposing Transferor desires to transfer the beneficial interest in the Sale Shares. The Transfer Notice shall constitute the Company his agent for the sale of the Sale Shares (together with all rights then attached thereto) at the Prescribed Price (as determined in accordance with Articles 5.3 and/or 5.4) during the Prescribed Period (as defined in Article 5.5) to any member or to any other person selected or approved by the Directors on the basis set out in the following provisions of these Articles and shall include such other details of the proposed transfer as the Directors may in their absolute discretion determine and shall not be revocable except with the consent of the Directors.
- 5.3 The Prescribed Price (subject to the deduction therefrom where the Prescribed Price has been agreed with the Directors of any dividend or other distribution declared or made after such

agreement and prior to the date on which the Transfer Notice was given (or deemed to have been given) ("the Notice Date")) shall be whichever is applicable of:

- (a) the price per Sale Share agreed not more than one month before the Notice Date between the Proposing Transferor and the Directors as representing the fair value thereof; or
- (b) if no such agreement has been reached by the Notice Date, the price contained in a bona fide offer received from a third party by the Proposing Transferor not more than one month before the Notice Date and which remains open for acceptance in respect of the Sale Shares until at least seven days after the last date for compliance with the pre-emption provisions contained in this Article 5 (but subject to the right of the Directors to satisfy themselves that such offer is bona fide, for the consideration stated in the offer without any deduction, rebate or allowance whatsoever to the purchaser or other arrangement or agreement and so open for acceptance).

5.4 If, prior to the Notice Date, the Prescribed Price shall not have been agreed or determined in accordance with Article 5.3 or if the Transfer Notice has been given (or deemed to have been given) because of a requirement to do so by virtue of any provision of these Articles other than this Article 5 and in such circumstances, the Directors and the Proposing Transferor have been unable to reach agreement as to the "fair value" of the relevant shares, upon the giving of the Transfer Notice, the Directors shall refer the matter to the Auditors and the Auditors shall determine and certify the sum per share considered in their opinion to be the fair value thereof on the basis set out in Article 5.16 as at the Notice Date and the sum per share so determined and certified shall be the Prescribed Price. At the time of referral to the Auditors, each of the Proposing Transferor and the Board shall submit to the Auditors the amount which they consider to be the fair value of the relevant shares and the costs and expenses of the Auditors shall be borne by the party whose submission is furthest from the amount finally determined by the Auditors to be the "fair value" thereof. The Auditors shall act hereunder as experts and not as arbitrators and their determination shall be final and binding on all persons concerned and, in the absence of fraud, they shall be under no liability to any such person by reason of their determination or certificate or by anything done or omitted to be done by them for the purpose thereof or in connection therewith.

5.5 If the Prescribed Price was agreed or determined as provided in Article 5.3, the Prescribed Period shall commence on the Notice Date and expire 12 weeks thereafter. If the Prescribed Price is to be determined in accordance with Article 5.4, the Prescribed Period shall commence on the Notice Date and shall expire two months after the date on which the Auditors shall have notified the Directors of their determination of the Prescribed Price. Pending such determination the Directors shall defer the making of the offer mentioned in Article 5.6.

5.6 All shares included in any Transfer Notice shall by notice in writing be offered by the Company forthwith on receipt (subject to Article 5.5) of the relative Transfer Notice to all members (other than the holder of the Sale Shares) for purchase at the Prescribed Price on the terms that in case of competition the Sale Shares shall be sold to the acceptors in proportion (as nearly as may be without involving fractions or increasing the number sold to any member beyond that applied for by him) to their existing holdings of Shares. Such offer:

- (a) shall stipulate a time not exceeding 28 days within which it must be accepted or in default will lapse; and
- (b) may stipulate that any members who desire to purchase a number of Sale Shares in excess of the proportion to which each is entitled shall in their acceptance state how many excess Sale Shares they wish to purchase and any shares not accepted by other members shall be used for satisfying the requests for excess Sale Shares pro rata to the existing shares respectively held by such members making such requests.

- 5.7 Any shares not accepted by any of the members pursuant to the foregoing provisions of these Articles by the end of the period stipulated in Article 5.6 may be offered by the Directors to such persons as they may think fit for purchase at the Prescribed Price, provided that no shares in the Company may be sold to a person who is not then already a member, in the circumstances described in Article 5.14(c), except in accordance with the provisions of that Article.
- 5.8 If the Company shall within the Prescribed Period find members or such other persons as aforesaid (each such person being hereinafter called "a Purchaser") to purchase the Sale Shares or any of them and give notice in writing thereof to the Proposing Transferor he shall be bound, upon payment to him of the Prescribed Price, to transfer such shares to the respective Purchaser(s), provided that, if the Transfer Notice shall state that the Proposing Transferor is not willing to transfer some only of the Sale Shares (which he shall not be entitled to do if he is required by virtue of any provision of these Articles other than this Article 5 to give a Transfer Notice), this provision shall not apply unless the Company shall have found Purchasers for all of the Sale Shares. Every notice given by the Company under this Article 5.8 shall state the name and address of each Purchaser and the number of Sale Shares agreed to be purchased by him and the purchase shall be completed at a place and time to be appointed by the Directors not being less than three days nor more than ten days after the date of the notice.
- 5.9 If a Proposing Transferor shall fail or refuse to transfer any Sale Shares to a Purchaser(s) hereunder the Directors may authorise some person to execute and deliver on his behalf the necessary transfer and the Company may receive the purchase money in trust for the Proposing Transferor and cause the Purchaser(s) to be registered as the holder of such shares. The receipt of the Company for the purchase money shall constitute a good discharge to the Purchaser(s) (who shall not be bound to see to the application thereof) and after the Purchaser(s) has been registered in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person. The Company shall not pay the purchase money to the Proposing Transferor until he shall have delivered his share certificate(s) or a suitable indemnity and the necessary transfers to the Company.
- 5.10 If the Company shall not within the Prescribed Period find Purchasers willing to purchase any or all of the Sale Shares, or if the Board shall resolve that it has no prospect of finding Purchasers within the Prescribed Period, the Board, in respect of any shares that are the subject of a Transfer Notice served or deemed to be served by a Proposing Transferor, may resolve to recommend that the Company should purchase such Shares and, if it shall so resolve, shall serve upon the Proposing Transferor a Compulsory Purchase Notice no later than 14 days after the end of the Prescribed Period.
- 5.11 If the Board shall serve a Compulsory Purchase Notice upon the Proposing Transferor pursuant to Article 5.10 it shall:
- (a) draw up a draft contract of purchase which provides for completion at the Company's registered office of the purchase of the relevant Sale Shares on the expiration of seven days after the passing of the special resolution hereinafter mentioned; and
  - (b) convene a meeting (or request the passing of a written resolution) of the members to consider a special resolution to authorise such contract for purchase, such meeting to be held not later than 30 days after the date on which the Compulsory Purchase Notice was served.
- 5.12 The Proposing Transferor is deemed, by virtue of his having become a member of the Company, to have agreed:
- (a) to the terms of any contract which is drawn up by the Board following the service upon him of a Compulsory Purchase Notice;

- (b) to have appointed any person nominated by the Board to execute such contract on his behalf; and
- (c) to transfer the relevant Sale Shares to the Company at completion of the contract of purchase. If the relevant Proposing Transferor makes default in so doing a director or some other person duly nominated by a resolution of the Board for that purpose, shall forthwith be deemed to be the duly appointed attorney of the Proposing Transferor with full power to execute complete and deliver in the name and on behalf of the Proposing Transferor a transfer of the relevant Sale Shares to the Company. The directors shall forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such money in trust for the Proposing Transferor until he shall deliver up his certificates for the relevant Sale Shares to the Company when he shall there upon be paid the purchase money.

5.13 In the event that the Board does not serve a Compulsory Purchase Notice within the period stipulated in Article 5.10, or the requisite resolution is not passed the Company shall provide notice of such fact to the Proposing Transferor and the provisions contained in Articles 5.14 and 5.15 will apply.

5.14 Following receipt of a notice pursuant to Article 5.13 above, the Proposing Transferor at any time during a period of 45 days after the end of the Prescribed Period shall be at liberty (subject only to the provisions of Regulation 24 and any relevant restrictions in the Subscription Agreement) to transfer those Sale Shares for which the Company has not within the Prescribed Period given notice that it has found (or has given notice that it has no prospect of finding) Purchasers to any person by way of a bona fide sale at any price not being less than the Prescribed Price (after deducting, where appropriate, any dividend or other distribution declared or made after the date of the Transfer Notice and to be retained by the Proposing Transferor) provided that:

- (a) if the Transfer Notice shall state that the Proposing Transferor is not willing to transfer part only of the Sale Shares he shall only be entitled to transfer all the unsold Sale Shares under this Article; and
- (b) the Directors may require to be satisfied that the Sale Shares are being transferred under this Article pursuant to a bona fide sale for the consideration stated in the Transfer Notice without any deduction, rebate or allowance whatsoever to the purchaser and if not so satisfied may refuse to register the instrument of transfer;
- (c) in the case of any transfer of Sale Shares (not being a Permitted Transfer) the Proposing Transferor will not sell any such Sale Shares under this Article unless the proposed purchaser(s) of such shares:
  - (i) shall have offered to purchase from each such other holder (at the Prescribed Price, in the case of shares of the same class as the Sale Shares, and such price as shall be determined in accordance with Article 5.4, in the case of shares of a different class to the Sale Shares) such proportion of each class of the Ordinary Share Capital held by each such other holder as is equal to the proportion which the shares being sold by the Proposing Transferor under this Article bears to the total holding of the Ordinary Share Capital (including the shares to be sold) held by the Proposing Transferor; and
  - (ii) shall, in respect of any holder of shares which wishes to take up the offer referred to in paragraph (i) above, acquire from such holder the shares in question at the relevant price simultaneously with the acquisition from the Proposing Transferor of the Sale Shares to be sold; and

5.15 Article 5.14(c) shall operate without prejudice to Article 2.2(c) (Sale Preference), so that Article 2.2(c) may be applied to reallocate the Sale Amount resulting from the application of Article 5.14(c).

5.16 If the Auditors are required to determine the fair value of the Sale Shares in accordance with Article 5.4 they shall do so by reference to the value of the business of the Company (and that of any subsidiary of the Company) as a going concern as at the date upon which the Transfer Notice was served or deemed to have been served and on the basis that the transaction shall be deemed to be an arm's length transaction as between a willing vendor and a willing purchaser. In determining the fair value, the Auditors shall value the Sale Shares as a rateable proportion of the total value of all issued shares of the Company of that class which value shall not be discounted or enhanced by reference to the number of Sale Shares.

## **6 { TC "6 Bare Nominees" \ 1 }Bare Nominees**

For the avoidance of doubt and without limitation, no share (other than any share so held on the date of adoption of these Articles) shall be held by any member as a bare nominee for, and no interest in any share shall be sold to, any person unless a transfer of such share to such person would rank as a Permitted Transfer. If the foregoing provision shall be infringed the holder of such share shall be bound to give a Transfer Notice in respect thereof.

## **7 { TC "7 Compulsory Transfers - General" \ 1 }Compulsory Transfers - General**

7.1 A person entitled to a share in consequence of the bankruptcy of a member shall be bound at any time, if and when required in writing by the Directors so to do, to give a Transfer Notice in respect of such share and the price per share shall be determined in accordance with Article 5.

7.2 If a share remains registered in the name of a deceased member for longer than one year after the date of his death the Directors may require the legal personal representatives of such deceased member either to effect a transfer of such shares (including for such purpose an election to be registered in respect thereof) being a Permitted Transfer or to show to the satisfaction of the Directors that a Permitted Transfer will be effected before or promptly upon the completion of the administration of the estate of the deceased member or (failing compliance with either of the foregoing within one month or such longer period as the Directors may allow for the purpose) to give a Transfer Notice in respect of such share.

7.3 If a member which is a company or a Permitted Transferee of such member, either suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it or any material part of its assets, such member or Permitted Transferee shall forthwith at the request of the Directors be required to give a Transfer Notice in respect of all of the shares held by such member and/or such Permitted Transferee.

7.4 If there is a change in control (as control is defined in section 840 of the Income and Corporation Taxes Act 1988) of any member which is a company or a Permitted Transferee of such a member (other than any member which is an Investment Fund or nominee or custodian for an Investment Fund), it and each of its Permitted Transferees shall be bound at any time, if and when required in writing by the Directors so to do, to give (or procure the giving in the case of a nominee) a Transfer Notice in respect of all the shares registered in its and their names and their respective nominees' names.

7.5 (a) If the holders of 75% of the issued Ordinary Share Capital as at the date of adoption of these Articles of Association (being [ ] July 2005) (for the purposes of this Article 7.5 ("the Sellers")) intend to sell all of their holding of Preferred Ordinary Shares and/or Ordinary Shares (as the case may be) (or any interest in such shares) (the shares to be sold by the Sellers being referred to as "Selling Shares") to a proposed purchaser(s) ("the Proposed Purchaser") who has made a bona fide offer on arm's length terms for the

entire issued Ordinary Share Capital, the Sellers shall have the right to give to the Company not less than 14 days' advance notice before selling the Selling Shares. That notice ("the Selling Notice") will include details of the Selling Shares and the proposed price for each Selling Share to be paid by the Proposed Purchaser, details of the Proposed Purchaser, the place, date and time of completion of the proposed purchase (being a date not less than 14 days from the date of the Selling Notice) ("Completion") and the terms and conditions of the offer which will be extended to the other shareholders for their shares (which for the avoidance of doubt may differ to those offered to the Sellers, and may require certain shareholders to provide warranties to the Proposed Purchaser).

- (b) Immediately upon receipt of the Selling Notice, the Company shall give notice in writing (a "Compulsory Sale Notice") to each of the members (other than the Sellers) (the "Other Members") giving the details contained in the Selling Notice, requiring each of them to sell to the Proposed Purchaser at Completion all of their holdings of shares on the terms contained in the Selling Notice.
- (c) Each member who is given a Compulsory Sale Notice shall sell all of his shares referred to in the Compulsory Sale Notice at the highest price for the same class per Selling Share to be sold to the Proposed Purchaser on Completion by the Sellers and on the terms set out in the Selling Notice. For these purposes only all shares in the Ordinary Share Capital shall be regarded as forming a single class of share.
- (d) If any of the member(s) ("the Defaulting Member(s)") fails to comply with the terms of a Compulsory Sale Notice given to him, the Company shall be constituted the agent of each Defaulting Member for the sale of his shares in accordance with the Compulsory Sale Notice (together with all rights then attached thereto) and the Directors may authorise some person to execute and deliver on behalf of each Defaulting Member the necessary transfer(s) and the Company may receive the purchase money in trust for each of the Defaulting Members and cause the Proposed Purchaser to be registered as the holder of such shares. The receipt of the Company for the purchase money, pursuant to such transfers, shall constitute a good and valid discharge to the Proposed Purchaser (who shall not be bound to see to the application thereof) and after the Proposed Purchaser has been registered in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person. The Company shall not pay the purchase money due to the Defaulting Member(s) until he shall, in respect of the shares being the subject of the Compulsory Sale Notice, have delivered his share certificates or a suitable indemnity and the necessary transfers to the Company. No member shall be required to comply with a Compulsory Sale Notice unless the Seller shall sell the Selling Shares to the Proposed Purchaser on Completion, subject at all times to the Sellers being able to withdraw the Selling Notice at any time prior to Completion by giving notice to the Company to that effect, whereupon each Compulsory Transfer Notice shall cease to have effect.
- (e) This Article 7.5 shall operate without prejudice to Article 2.2(c) (Sale Preference), so that Article 2.2(c) may be applied to reallocate the Sale Amount resulting from the application of this Article 7.5

**8 { TC "8 Compulsory Transfers - Management Shareholders" \ 1 } Compulsory Transfers - Management Shareholders**

- 8.1 If a Relevant Member holding 'A' Ordinary Shares or the Relevant Executive in relation to a Relevant Member holding 'A' Ordinary Shares becomes a Good Leaver at any time prior to 1 September 2006, then within 12 months of the date of such event (the "A' Ordinary Good Leaving

Date”), the Directors may serve notice on such Relevant Member requiring such Relevant Member to give a Transfer Notice (as defined in Article 5) in respect of 75% of the ‘A’ Ordinary Shares held by such Relevant Member and the price at which such ‘A’ Ordinary Shares shall be offered for purchase (in accordance with Article 5.6) shall be:

- (a) if the ‘A’ Ordinary Good Leaving Date is before 1 September 2005 66% of the fair value of such Shares (as determined pursuant to Article 5.4); and
- (b) if the ‘A’ Ordinary Good Leaving Date is between 1 September 2005 and 1 September 2006, 100% of the fair value of such Shares (as determined pursuant to Article 5.4).

8.2 For the purposes of Article 8.1 a person shall be a “Good Leaver” if he ceases to be an employee of the Company as a result of:

- (a) his having voluntarily terminated his employment with the Company; or
- (b) the Company having summarily terminated his employment with the Company in circumstances where it could have lawfully done so without exercising any right to make a payment in lieu of notice unless the reason for that summary termination is:
  - (i) that he is, in the reasonable opinion of the Remuneration Committee, permanently incapable by reason of ill health or injury of discharging his duties as an employee of the Company; or
  - (ii) fraud, dishonesty or gross misconduct.

8.3 If a Relevant Member holding ‘A’ Ordinary Shares or the Relevant Executive in relation to a Relevant Member holding ‘A’ Ordinary Shares becomes a Bad Leaver at any time then within 12 months of the date of such event (the “A’ Ordinary Bad Leaving Date”), the Directors may serve notice on such Relevant Member requiring such Relevant Member to give a Transfer Notice (as defined in Article 5) in respect of 75% of the ‘A’ Ordinary Shares held by such Relevant Member and the price at which such ‘A’ Ordinary Shares shall be offered for purchase (in accordance with Article 5.6) shall be the lower of the aggregate Subscription Price of such shares and the fair value of such Shares (as determined pursuant to Article 5.4).

8.4 For the purposes of Article 8.3 a person shall be a “Bad Leaver” if he ceases to be an employee of the Company as a result of the Company having summarily terminated his employment with the Company in circumstances where it could have lawfully done so without exercising any right to make a payment in lieu of notice by reason of the fraud, dishonesty or gross misconduct of such person.

8.5 If a Relevant Member holding ‘D’ Ordinary Shares or the Relevant Executive in relation to a Relevant Member holding ‘D’ Ordinary Shares becomes a Leaver at any time, then within 12 months of the date of such event the Directors may (with the prior written consent of a Preferred Majority) serve notice on such Relevant Member requiring such Relevant Member to give a Transfer Notice (as defined in Article 5) in respect of 100% of the ‘D’ Ordinary Shares held by such Relevant Member and the price at which such ‘D’ Ordinary Shares shall be offered for purchase (subject to Article 8.9, in accordance with Article 5) shall be the lower of the aggregate Subscription Price of such ‘D’ Ordinary Shares or the fair value of such ‘D’ Ordinary Shares. Fair value shall have the meaning determined pursuant to Article 5.4.

8.6 For the purposes of Articles 8.1, 8.3 and 8.5, the date upon which a Relevant Member or Relevant Executive becomes a Good Leaver or a Bad Leaver (as the case may be ) shall be:

- (a) where a contract of employment is terminated by the Company by giving notice to the employee of the termination of the employment, the date on which the notice expires;

- (b) where a contract of employment is terminated by the Company making a payment in lieu of notice, the date on which such payment is made;
- (c) where a contract of employment is terminated by the employee by giving notice to the Company of the termination of the employment, the date on which that notice expires;
- (d) where the Company on the one hand or the employee on the other hand, repudiates the contract of employment and the other accepts that the contract of employment has been terminated, the date of such acceptance;
- (e) where a contract of employment is terminated under the doctrine of frustration, the date of the frustrating event;
- (f) where a contract of employment is terminated for any reason other than in the circumstances set out in Articles (b) to (e) above, the date on which the action or event giving rise to the termination occurs; and
- (g) where the Relevant Member or Relevant Executive ceases to be a Director, the date on which he ceases to be a Director.

8.7 If a Transfer Notice is or is deemed to be given pursuant to Article 8.1, Article 8.3 or Article 8.5 then:

- (a) the Company shall forthwith give written notice of such occurrence (such notice to include details of all the shares to which such Transfer Notice relates) to the Remuneration Committee. If within 14 days of the giving of such notice by the Company, the Remuneration Committee requires by written notice to the Company (an "Employee Priority Notice") that all or any shares to which such Transfer Notice relates should be made or kept available either for any person or persons who is or are (an) existing director(s) and/or employee(s) of the Company or any subsidiary or a person (whether or not then ascertained) who it is proposed should be appointed as a director and/or employee of the Company or a subsidiary whether or not in place of the person by whom the relevant Transfer Notice was given ("a New Employee"), then the provisions of Article 8.8 below shall apply in priority to the procedure set out in Article 5; and
- (b) whether or not an Employee Priority Notice is given pursuant to paragraph (a) above, the Board may, with the consent of the Remuneration Committee, require the provisions of Article 8.8 to be applied in priority to the procedure set out in Article 5.

8.8 If an Employee Priority Notice is given, then, in relation to the Shares the subject thereof ("the Employee Shares") the provisions of Article 5 shall be modified hereby and the Employee Shares shall either:

- (a) be offered to the person(s) (and, in the case of more than one, in the proportions) specified in the Employee Priority Notice (conditional, in the case of any prospective director and/or employee upon his taking up his proposed appointment with the Company or a subsidiary (if not then taken up)); or
- (b) if the relevant Employee Priority Notice so requires, be offered to persons designated by the Remuneration Committee (in the event of their acquiring the Employee Shares) upon trust for a New Employee as and when appointed.

8.9 The provisions of Articles 5.14(a) and (b) shall not apply to any transfer of shares made pursuant to this Article 8. If any Leaver's shares are not acquired by any of the members of the Company or by the Company itself (in accordance with Articles 5.6 to 5.13), the Company shall notify the relevant Leaver accordingly and such Leaver shall be entitled to retain his shares and in this instance only, any Transfer Notice given in respect of such shares shall be deemed cancelled. For



the avoidance of doubt, the provisions of Article 5.14(c) shall apply to any Leaver who is entitled to retain his shares pursuant to this Article 8.9.

**9 { TC "9 Information concerning shareholdings and transfers"\ 1 }Information concerning shareholdings and transfers**

9.1 For the purpose of ensuring that a transfer of shares is a Permitted Transfer or that no circumstances have arisen whereby a Transfer Notice is or may be required to be given hereunder or to be satisfied that any proposed sale is bona fide and on the terms stated in the Transfer Notice with no rebate or allowance, the Directors may from time to time require any member or the legal personal representatives of any deceased member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the Directors may think fit regarding any matter which they may deem relevant for such purpose. Failing such information or evidence being furnished to the satisfaction of the Directors within a reasonable time after such requirement being made, the Directors shall be entitled to refuse to register the transfer in question or (if no transfer is in question) to require by notice in writing that a Transfer Notice be given in accordance with Article 5 in respect of the shares concerned.

9.2 In a case where the Directors have duly required a Transfer Notice to be given in respect of any shares and such Transfer Notice is not duly given within a period of one month, or such longer period as the Directors may allow for the purpose, such Transfer Notice shall be deemed to have been given on such date after the expiration of the said period as the Directors may by resolution determine and the foregoing provisions of these Articles shall take effect accordingly.

9.3 From (and including) the date on which the Directors have duly required a Transfer Notice(s), all holders of shares the subject of such Transfer Notice(s) shall not transfer or encumber any of their shares or any interest in their shares (other than pursuant to such Transfer Notice(s)) until all proceedings pursuant to such Transfer Notice(s) have been finalised in accordance with these Articles.

**10 { TC "10 Proceedings at General Meetings"\ 1 }Proceedings at General Meetings**

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

10.2 A resolution in writing executed, or approved by email or facsimile, by or on behalf of the holders of all the issued Ordinary Share Capital shall be as valid and effectual as if the same had been duly passed at a general meeting and may consist of several documents in the like form, each executed or approved by or on behalf of one or more persons. In the case of a corporation, the resolution may be signed or approved on its behalf by a Director or the Secretary thereof or by its duly appointed attorney or duly authorised representative. Regulation 53 shall be modified accordingly.

**11 { TC "11 Alternate Directors"\ 1 }Alternate Directors**

11.1 Any Director (other than an alternate Director) may at any time by writing under his hand and served on the Company at its registered office, or delivered at a meeting of the Directors, appoint any other Director, or any other person approved by resolution of the Directors and willing to act, to be an alternate Director and may remove from office an alternate Director so appointed by him. The same person may be appointed as the alternate Director of more than one Director.

11.2 An alternate Director shall be entitled:

- (a) to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member, save that it shall not be necessary to give notice of such meeting to an alternate Director who is absent from the United Kingdom;

- (b) to attend, be counted in the quorum for and vote at any such meeting at which the Director appointing him is not personally present; and
- (c) generally at such meeting to perform all the functions of his appointor as a Director in his absence.

If an alternate Director is himself a Director or attends any such meeting as an alternate Director for more than one Director, then his voting rights shall be cumulative.

- 11.3 An alternate Director shall cease to be an alternate Director if his appointor ceases to be a Director; but, if a Director retires but is reappointed or deemed to have been reappointed at the meeting at which he retires, any appointment of an alternate Director made by him which was in force immediately prior to his retirement shall continue after his reappointment.
- 11.4 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.
- 11.5 An alternate Director shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him, except in relation to matters in which he acted (or failed to act) on the direction or at the request of his appointor.
- 11.6 Save as otherwise provided in these Articles, an alternate Director shall not have power to act as a Director nor shall he be deemed to be a Director for the purposes of these Articles. However, such an alternate Director shall owe the Company the same fiduciary duties and duty of care and skill in the performance of his office as are owed by a Director.
- 11.7 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent mutatis mutandis as if he were a Director but he shall not be entitled to receive from the Company in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.
- 11.8 Regulations 65 to 69 shall not apply.

## **12 { TC "12 Directors"\ 1 }Directors**

- 12.1 The Directors shall not be subject to retirement by rotation. Regulations 73 to 75 and the last two sentences of Regulation 79 shall not apply and Regulations 76, 77, 78 and 80 shall be modified accordingly.
- 12.2 Without prejudice to the first sentence of Regulation 89, a meeting of the Directors or of a committee of the Directors may consist of a conference between directors who are not all in one place, but where each is able (directly or by telephonic communication) to speak to each of the others, and to be heard by each of the others simultaneously; and the word "meeting" in these Articles shall be construed accordingly.
- 12.3 The quorum for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be four, which shall include any two Directors who have been appointed by the Investors pursuant to the Subscription Agreement or their duly appointed alternates provided that such Directors have been appointed and either the chairman or the chief executive officer of the Company. The first sentence of Regulation 89 will be modified accordingly.
- 12.4 A resolution in writing signed, or approved by email or facsimile, by all the directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held and may consist of several documents in the like form each signed or approved by one or more Directors; but a resolution signed or approved by an alternate Director need not also be signed or approved by his appointor and, if it is signed or approved by a Director who has appointed an

alternate Director, it need not be signed or approved by the alternate Director in that capacity. Regulation 93 shall not apply.

- 12.5 A Director may vote at a meeting of Directors or of a committee of Directors on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the Company. Regulation 94 shall be modified accordingly, provided that he has disclosed to the Directors the nature and extent of any material interest or duty.
- 12.6 In the case of an equality of votes at a meeting of the Directors, the chairman of the Company shall not have a second or casting vote. Regulation 88 shall be modified accordingly.
- 12.7 Subject to the provisions of the Subscription Agreement, the office of a Director shall be vacated if he shall be removed from office by notice in writing served upon him signed by a majority of his co-Directors.
- 13 { TC "13 Notices"\ 1 }Notices**
- Notices shall be given to a member whose registered address is outside the United Kingdom. Regulation 112 shall be modified accordingly.
- 14 { TC "14 Indemnity"\ 1 }Indemnity**
- 14.1 Subject to the provisions of the Act and without prejudice to any indemnity to which such officer may otherwise be entitled, every Director, Auditor, Secretary or other officer of the Company shall be entitled to be indemnified by the Company out of the assets of the Company against all costs, charges, losses, expenses, and liabilities incurred by him in the execution and discharge of his duties or in relation thereto including any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court. Regulation 118 shall not apply.
- 14.2 The Company may purchase and maintain for any Director, Secretary or other officer of the Company 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.