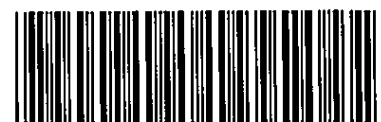


# **The Companies Act 1985**

## **Memorandum of Association of Allied Domecq Investments UK**

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- 1 The Company's name is "Allied Domecq Investments UK".
- 2 The Company's registered office is to be situate in England and Wales.
- 3 The Company's objects are:
  - 3.1 To carry on all or any of the businesses of manufacturers, importers, exporters, wholesalers, retailers, buyers, sellers, distributors and shippers of, and dealers in any products, goods, wares, merchandise and produce of any kind, general merchants and traders, cash, discount, mail order and credit traders, manufacturers' agents and representatives, insurance consultants and brokers, estate agents, mortgage brokers, financial agents, consultants, managers and administrators, hire purchase and general financiers; to participate in, undertake, perform and carry on all types of commercial, industrial, trading and financial operations and enterprises and all kinds of agency business; to carry on all or any of the businesses of marketing, business and management consultants, advertising agents, printers and publishers; railway, shipping and forwarding agents, storekeepers, warehousemen, haulage and transport contractors, garage proprietors, operators, hirers and letters on hire of, and dealers in motor or other vehicles, craft, plant, machinery, tools and equipment of all kinds.
  - 3.2 To carry on any other business or activity of any nature whatsoever which may seem to the Directors to be capable of being conveniently or advantageously carried on in connection or conjunction with any business of the Company herein before or hereinafter authorised or to be expedient with a view directly or indirectly to enhancing the value of or to rendering profitable or more profitable any of the Company's assets or utilising its skills, know-how or expertise.
  - 3.3 To subscribe, underwrite, purchase, or otherwise acquire, and to hold, dispose of, and deal with, any shares or other securities or investments of any nature whatsoever, and any options or rights in respect thereof or interests therein, and to buy and sell foreign exchange.
  - 3.4 To draw, make, accept, endorse, discount, negotiate, execute, and issue, and to buy, sell and deal with bills of exchange, promissory notes, and other negotiable or transferable instruments or securities.
  - 3.5 To purchase, or otherwise acquire for any estate or interest any property (real or personal) or assets or any concessions, licences, grants, patents, trade marks, copyrights or other exclusive or non-exclusive rights of any kind and to hold, develop and turn to account and deal with the same in such manner as may be thought fit and to make experiments and tests and to carry on all kinds of research work.
  - 3.6 To build, construct, after, remove, replace, equip, execute, carry out, improve, work, develop, administer, maintain, manage or control buildings, structures or facilities of all kinds, whether for the purposes of the Company or for sale, letting or hire to or in return for any consideration from any company, firm or person, and to contribute to or assist in or carry out any part of any such operation.



- 3.7 To amalgamate or enter into partnership or any joint venture or profit/loss-sharing arrangement or other association with any company, firm, person or body.
- 3.8 To purchase or otherwise acquire and undertake all or any part of the business, property and liabilities of any company, firm, person or body carrying on any business which the Company is authorised to carry on or possessed of any property suitable for the purposes of the Company.
- 3.9 To promote, or join in the promotion of, any company, whether or not having objects similar to those of the Company.
- 3.10 To borrow and raise money and to secure or discharge any debt or obligation of or binding on the Company in such manner as may be thought fit and in particular by mortgages and charges upon all or any part of the undertaking, property and assets (present and future) and the uncalled capital of the Company, or by the creation and issue of debentures, debenture stock or other securities of any description.
- 3.11 To advance, lend or deposit money or give credit to or with any company, firm or person on such terms as may be thought fit and with or without security.
- 3.12 To guarantee or give indemnities or provide security, whether by personal covenant or by mortgage or charge upon all or any part of the undertaking, property and assets (present and future) and the uncalled capital of the Company, or by all or any such methods, for the performance of any contracts or obligations, and the payment of capital or principal (together with any premium) and dividends or interest on any shares, debentures or other securities, of any person, firm or company including (without limiting the generality of the foregoing) any company which is for the time being a holding company of the Company or another subsidiary of any such holding company or is associated with the Company in business.
- 3.13 To issue any securities which the Company has power to issue for any other purpose by way of security or indemnity or in satisfaction of any liability undertaken or agreed to be undertaken by the Company.
- 3.14 To sell, lease, grant licences, easements and other rights over, and in any other manner deal with or dispose of, the undertaking, property, assets, rights and effects of the Company or any part thereof for such consideration as may be thought fit, and in particular for shares or other securities, whether fully or partly paid up.
- 3.15 To procure the registration, recognition or incorporation of the Company in or under the laws of any territory outside England.
- 3.16 To subscribe or guarantee money for any national, charitable, benevolent, public, general or useful object or for any purpose which may be considered likely directly or indirectly to further the interests of the Company or of its members.
- 3.17 To establish and maintain or contribute to any pension or superannuation funds for *the* benefit of, and to give or procure the giving of donations, gratuities, pensions, allowances or emoluments to, any individuals who are or were at any time in the employment or service of the Company or of any company which is its holding company or is a subsidiary of the Company or any such holding company or otherwise is allied to or associated with the Company or any of the predecessors of the Company or any other such company as aforesaid, or who are or were at any time directors or officers of the Company or of any such other company, and the wives, widows, families and dependants of any such individuals; to establish and subsidise or subscribe to any institutions, associations, clubs or funds which may be considered likely to benefit any such persons or to further the interests of the Company or of any such other company; and to make payments for or towards the insurance of any such persons.

- 3.18 To establish and maintain, and to contribute to, any scheme for encouraging or facilitating the holding of shares or debentures in the Company by or for the benefit of its employees or former employees, or those of its subsidiary or holding company or subsidiary of its holding company, or by or for the benefit of such other persons as may for the time being be permitted by law, or any scheme for sharing profits with its employees or those of its subsidiary and/or associated companies, and (so far as for the time being permitted by law) to lend money to employees of the Company or of any company which is its holding company or is a subsidiary of the Company or any such holding company or otherwise is allied to or associated with the Company with a view to enabling them to acquire shares in the Company or its holding company.
- 3.19 (i) To purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers or employees or auditors of the Company, or of any other company which is its holding company or in which the Company or such holding company or any of the predecessors of the Company or of such holding company has any interest whether direct or indirect or which is in any way allied to or associated with the Company, or of any subsidiary undertaking of the Company or of any such other company, or who are or were at any time trustees of any pension fund in which any employees of the Company or of any such other company or subsidiary undertaking are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or in the exercise or purported exercise of their powers and/or otherwise in relation to the Company or any such other company, subsidiary undertaking or pension fund; and (ii) to such extent as may be permitted by law otherwise to indemnify or to exempt any such person against or from any such liability; for the purposes of this clause "holding company" and "subsidiary undertaking" shall have the same meanings as in the Companies Act 1985 as amended by the Companies Act 1989.
- 3.20 To distribute among members of the Company in specie or otherwise, by way of dividend or bonus or by way of reduction of capital, all or any of the property or assets of the Company, or any proceeds of sale or other disposal of any property or assets of the Company, with and subject to any incident authorised, and consent required, by law.
- 3.21 To do all or any of the things and matters aforesaid in any part of the world, and either as principals, agents, contractors, trustees or otherwise, and by or through trustees, agents, subsidiary companies or otherwise, and either alone or in conjunction with others.
- 3.22 To do all such other things as may be considered to be incidental or conducive to any of the above objects.

And it is hereby declared that the objects of the Company as specified in each of the foregoing paragraphs of this Clause (except only if and so far as otherwise expressly provided in any paragraph) shall be separate and distinct objects of the Company and shall not be in any way limited by reference to any other paragraph or the order in which the same occur or the name of the Company.

# **The Companies Act 1985**

## **Articles of Association (Adopted on 25 June 2009) of Allied Domecq Investments UK**

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### **PRELIMINARY**

- 1 The regulations contained in Table A in The Companies (Tables A to F) Regulations 1985 (as amended so as to affect companies first registered on the date of incorporation of the Company) shall, except as hereinafter provided and so far as not inconsistent with the provisions of these Articles, apply to the Company to the exclusion of all other regulations or Articles of Association. References herein to regulations are to regulations in the said Table A unless otherwise stated. Regulations 3, 32, 34 and 35 of Table A shall not apply to the Company.

### **SHARE CAPITAL**

- 2 The share capital of the Company at the date of incorporation is US\$1,611,253,000 divided into 100,000 Ordinary Shares of US\$1 each (the "Ordinary Shares") and 900,000 Series A Non-Cumulative Convertible Preference Shares (the "**Series A Preference Shares**") of US\$1790.17 each (the "**Authorised Share Capital**").
- 3 Except as otherwise provided in these Articles, Ordinary Shares and Series A Preference Shares shall rank *part passu*, but shall constitute separate classes.
- 4
- 4.1 Subject to Section 80 of the Companies Act 1985 (as amended) (the "**Act**"), all unissued shares shall be at the disposal of the Directors and they may allot, grant options over or otherwise dispose of them to such persons, at such times, and on such terms as they think proper.
- 4.2
- 4.2.1 Pursuant to and in accordance with Section 80 of the Act the Directors shall be generally and unconditionally authorised to exercise during the period of five years from the date of incorporation of the Company all the powers of the Company to allot relevant securities up to an aggregate nominal amount of US\$1,611,253,000;
- 4.2.2 by such authority the Directors may make offers or agreements which would or might require the allotment of relevant securities after the expiry of such period.
- 4.3 Section 89(1) of the Act shall not apply to the allotment by the Company of equity securities.
- 4.4 Words and expressions defined in or for the purposes of the said Section 80 or the said Section 89 shall bear the same meanings in this Article.
- 5
- 5.1 The Company may by special resolution:

- 5.1.1 increase the share capital by such sum to be divided into shares of such amount as the resolution may prescribe;
- 5.1.2 consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares;
- 5.1.3 subdivide its shares, or any of them, into shares of a smaller amount than its existing shares;
- 5.1.4 cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person; and
- 5.1.5 reduce its share capital and any share premium account in any way.

## SHARE RIGHTS

### 6 **Capital**

- 6.1 On a liquidation, dissolution or winding-up whether voluntary or involuntary (a **"Liquidation Event"**), the capital and assets of the Company shall be applied firstly such that before any payment or distribution of the assets of the Company (whether capital or surplus) is made to or set apart for the holders of Ordinary Shares or any other shares of the Company ranking below the Series A Preference Shares upon a Liquidation Event, the holders of the Series A Preference Shares shall be entitled to receive a payment at the rate of US\$1,000 per share (the **"Liquidation Value"**), plus an amount equal, with respect to each Series A Preference Share, to the sum of all dividends accrued thereon. Secondly, the balance, if any, of such assets, subject to any special rights attached to any class of shares which may be issued in the future, shall belong to and be distributed among the holders of the Ordinary Shares rateably according to the amounts paid up on such shares held by them respectively.
- 6.2 In the event that the assets of the Company available for distribution to the holders of the Series A Preference Shares, and to the holders of any other shares of the Company ranking *pari passu* with the Series A Preference Shares upon a Liquidation Event, are not sufficient to distribute to such holders the full amount of the Liquidation Value, then the holders of the Series A Preference Shares, together with the holders of any other shares of the Company ranking *pari passu* with the Series A Preference Shares upon a Liquidation Event, shall share rateably in such assets as are available for distribution to such holders.

### 7 **Dividends**

#### 7.1 **Rate and Payment of Dividends**

- 7.1.1 The holders of the Series A Preference Shares will be entitled to receive such dividends as the Directors may in their absolute discretion resolve to pay out of distributable reserves in cash (or, in lieu of all or any part thereof, and at the discretion of the Company, an amount equal to such cash dividend in additional Series A Preference Shares at the Liquidation Value) or by distribution of assets, semi-annually (each semi-annual period to be referred to as a **"Semi-Annual Dividend Period"**). The Semi-Annual Dividend Period commences on the date of issue of the Series A Preference Shares, and continues on 1 March and 1 September in each year thereafter; ending on and including the day preceding the first day of the next Semi-Annual Dividend Period, at the annual rate of US\$97.50 per share (the **"Series A Preference Share Dividend Rate"**).
- 7.1.2 Such dividends shall be payable semi-annually, on the last day of February and August in each year (a **"Dividend Payment Date"**), in respect of the Semi-Annual Dividend Period ending on such dates, respectively, and shall be paid to the holders of record on such

dates, as determined not earlier than 30 days preceding the relevant Dividend Payment Date, as may be determined by the Directors in advance of each Dividend Payment Date.

7.1.3 Dividends payable on the Series A Preference Shares for a period that is a full Semi-Annual Dividend Period shall be calculated by dividing the Series A Preference Share Dividend Rate by two. Dividends payable on the Series A Preference Shares for any period that is less than a full Semi-Annual Dividend Period (including the period from the original date of issue of Series A Preference Shares to and including the Dividend Payment Date next succeeding such date of original issue) shall be calculated on the basis of a 360 day year of twelve 30 day months and the actual number of days elapsed in the Semi-Annual Dividend Period for which such dividends are payable.

7.1.4 Dividends may be paid in whole or in part.

7.1.5 Holders of the Series A Preference Shares shall not be entitled to any dividends, whether in cash, property or shares, in excess of the dividends on the Series A Preference Shares for which provision is made in this Article provided, however, that nothing in this paragraph of Article 7 shall prohibit the Company from paying dividends in respect of the Series A Preference Shares in advance of the Dividend Payment Date on which such dividends would otherwise be payable.

7.1.6 Subject to the rights attaching to the Series A Preference Shares and to any special rights which may be attached to any class of shares which may in future be issued, the profits of the Company available for dividend and resolved to be distributed shall be distributed among the holders of the Ordinary Shares rateably according to the amount paid up or credited as paid up on such shares.

## 7.2 **Interest on Unpaid Dividends**

No interest shall be payable with respect to dividends on the Series A Preference Shares that are accrued but unpaid.

## 7.3 **Dividend Preference**

Subject to any agreements in writing into which the Company and all holders of issued Series A Preference Shares may from time to time enter waiving compliance with the provisions of this paragraph of Article 7, no dividend (other than a dividend declared on Ordinary Shares, or any other shares of the Company ranking, as to dividends and upon a Liquidation Event, below Series A Preference Shares) shall be declared or paid or set aside for payment or other distribution declared or made upon the Ordinary Shares or upon any other shares of the Company ranking below the Series A Preference Shares as to dividends or upon liquidation, nor shall any Ordinary Shares nor any other shares of the Company ranking below the Series A Preference Shares as to dividends or upon a Liquidation Event be redeemed, purchased or otherwise acquired for any consideration (or any moneys paid to or made available for a sinking fund for the redemption of any shares of any such shares) by the Company (except by conversion into or exchange for shares in the Company ranking below the Series A Preference Shares as to dividends and upon a Liquidation Event) unless, in each case, all dividends payable to the date of any such dividend, distribution, redemption, purchase or other acquisition on the Series A Preference Shares in respect of all Dividend Payment Dates in the current financial year of the Company have been, or contemporaneously are, declared and paid. The holding of Series A Preference Shares shall confer no other right on the holders thereof to share in the profits of the Company. Regulations 103 and 104 shall be read and construed accordingly.

## 8 Voting Rights

- 8.1 The holders of the Ordinary Shares shall by virtue of and in respect of their holdings of Ordinary Shares, have the right to receive notice of, attend, speak and vote at a General Meeting of the Company.
- 8.2 The holders of the Series A Preference Shares shall be entitled, together with the holders of any other series of preference shares of the Company, to vote as shareholders of the Company in the election of directors, in any other proceedings or at any regular or special meeting of the shareholders. The holders of the Series A Preference Shares, together with the holders of any other preference shares with votes attached of the Company, shall have aggregate voting power equivalent to one vote for every three votes of issued Ordinary Shares of the Company entitled to vote at meetings of the shareholders thereof (the "Preference Votes").
- 8.3 Whenever the holders of the Series A Preference Shares shall be entitled hereunder or by law, as a class or as part of the class of preference shares of the Company, to vote, authorise, consent or otherwise act as a class, they shall be entitled to cast one vote for each Series A Preference Share held by them. In determining the number of Preference Votes to be cast in favour or in opposition to (or to be counted as abstaining from a vote on) any matter to be resolved by a vote of the shareholders of the Company as provided hereunder, the number of Preference Votes so cast shall be equal to:

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

where:

A = the total number of Preference Votes available to be cast;

B = the number of votes cast in favour of or in opposition to (or abstaining from a vote on) the matter by the holder of the preference shares; and

C = total number of preference shares with voting rights attached either voting or entitled to vote and present but abstaining from voting, as the case may be.

## 9 Variation

The rights attached to the Ordinary Shares and the Series A Preference Shares shall not be deemed to be varied or abrogated by the creation or issue of any new shares ranking in priority to, or *pari passu* with, or subsequent to such shares.

## 10 Conversion

- 10.1 Holders of the Series A Preference Shares may, at any time and from time to time, at their option, convert all or any whole number of Series A Preference Shares into Ordinary Shares of the Company, on the following terms and conditions:
- 10.2 Subject to the provisions for adjustment below, each Series A Preference Share shall be convertible at the option of the holder thereof, in the manner set out below, into 0.056936156687173<sup>1</sup> Ordinary Shares.
- 10.3 The number of Ordinary Shares into which each Series A Preference Share is convertible shall be adjusted from time to time as follows:

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<sup>1</sup> The conversion rate was corrected by a special resolution on 23<sup>rd</sup> March 2006, so as to reflect the original agreement of the subscribers on incorporation of the Company.

- 10.3.1 In case the Company shall at any time, or from time to time, declare or pay any dividend on its Ordinary Shares or effect a subdivision of the outstanding shares of its Ordinary Shares into a greater number of shares of Ordinary Shares (by reclassification or otherwise than by payment of a dividend in its Ordinary Shares), then the number of Ordinary Shares into which each Series A Preference Share is convertible shall be adjusted so that the holder of each share thereof shall be entitled to receive, upon the conversion thereof, a number of Ordinary Shares equal to:

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

where:

A = the number of Ordinary Shares into which such share was convertible immediately prior to the occurrence of such event (the **"Pre-Dividend Conversion Amount"**);

B = the sum of the Pre-Dividend Conversion Amount plus the number of Ordinary Shares which such holder would have been entitled to receive in connection with the occurrence of such event had such shares been converted immediately prior thereto; and

C = the Pre-Dividend Conversion Amount.

An adjustment made pursuant to this paragraph shall become effective: (a) in the case of any such dividend, immediately after the close of business on the record date for the determination of holders of Ordinary Shares entitled to receive such dividend; or (b) in the case of any such subdivision, at the close of business on the day immediately prior to the day upon which such corporate action becomes effective;

- 10.3.2 In case the Company at any time or from time to time shall combine or consolidate its unissued Ordinary Shares into a lesser number of Ordinary Shares, by reclassification or otherwise, then and in each such case, the number of Ordinary Shares into which each Series A Preference Share is convertible shall be adjusted so that the holder of each share thereof shall be entitled to receive, upon the conversion thereof, a number of Ordinary Shares equal to:

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

where:

A = the number of Ordinary Shares into which such share was convertible immediately prior to the occurrence of such event (the **"Pre-Consolidation Conversion Amount"**);

B = the number of shares which the holder would have owned after giving effect to such event had such share been converted immediately prior to the occurrence of such event; and

C = the Pre-Consolidation Conversion Amount.

An adjustment made pursuant to this paragraph shall become effective at the close of business on the day immediately prior to the day upon which such corporate action becomes effective;

- 10.3.3 In case the Company at any time, or from time to time, shall issue rights or warrants to all holders of Ordinary Shares entitling them to subscribe for or purchase Ordinary Shares (or securities convertible into Ordinary Shares) at a price per share (or having a conversion price per share) less than the Fair Market Price per Ordinary Share on the record date fixed for the determination of shareholders entitled to receive such right or

warrant, or, if no such record date has been fixed, on the date of issuance of such right or warrant, then, and in each such case (unless the holders of the Series A Preference Shares shall be permitted to subscribe for or purchase Ordinary Shares on the same basis as though such Series A Preference Shares had been converted into Ordinary Shares immediately prior to the close of business on such record date or the date of such issuance, as the case may be), the number of Ordinary Shares into which each Series A Preference Share is convertible shall be adjusted so that the holder of each share thereof shall be entitled to receive, upon the conversion thereof, a number of Ordinary Shares equal to:

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

where:

A = the number of Ordinary Shares into which such share was convertible immediately prior to such event;

B = the sum of (I) the number of Ordinary Shares outstanding on such record date or date of issue, as the case may be; plus (II) the number of additional Ordinary Shares offered for subscription or purchase; and

C = the sum of (I) the number of Ordinary Shares outstanding on such record date or date of issuance, as the case may be; plus (II) the number of Ordinary Shares which the aggregate consideration receivable by the Company for the total number of Ordinary Shares so offered would purchase at such Fair Market Price on such record date or date of issuance, as the case may be.

For the purposes of this paragraph the aggregate consideration receivable by the Company in connection with the issue of rights or warrants to subscribe for or purchase securities convertible into Ordinary Shares shall be deemed to be equal to the sum of the aggregate offering price of such securities plus the minimum aggregate amount, if any, payable upon conversion of such securities into Ordinary Shares. An adjustment made pursuant to this paragraph shall be made upon the issue of any such rights or warrants and shall be effective retroactively immediately after the close of business on the record date, if any, fixed, for the determination of shareholders entitled to receive such rights or warrants.

For the purposes of this paragraph the granting of the right to purchase Ordinary Shares (whether treasury shares or newly issued shares) pursuant to a plan providing for the reinvestment of dividends or interest payable on securities of the Company, and the investment of additional optional amounts in Ordinary Shares, in any such case at a price per share of not less than 95 per cent of the Fair Market Price (determined as provided in such plans) per Ordinary Share, shall not be deemed to constitute an issue of rights or warrants by the Company within the meaning of this Article; and

- 10.3.4 In case the Company at any time or from time to time shall declare, order pay or make a dividend or other distribution (including, without limitation, any distribution of other or additional shares or other securities, property, evidences of indebtedness, or rights or warrants to subscribe for securities of the Company or any of its subsidiaries by way of dividend or spin-off, reclassification, recapitalisation or similar corporate rearrangement) on its Ordinary Shares, other than a dividend payable in cash or shares of or securities convertible into Ordinary Shares or rights or warrants to subscribe for Ordinary Shares, then, and in each such case (unless the holders of Series A Preference Shares shall receive any such dividend or other distribution on the same basis as though such Series A Preference Shares had been converted into Ordinary Shares immediately prior to the close of business on the record date for the determination of holders of Ordinary Shares entitled to receive such dividend or other distribution), the number of Ordinary Shares into which each Series A Preference Share is convertible shall be adjusted

so that the holder of each share thereof shall be entitled to receive, upon the conversion thereof, a number of Ordinary Shares equal to:

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

where:

A = the number of Ordinary Shares into which such share was convertible immediately prior to the close of business on the record date fixed for the determination of holders of Ordinary Shares entitled to receive such dividend or distribution by;

B = the Fair Market Price per share of Ordinary Shares on the record date fixed for the determination of holders of Ordinary Shares entitled to receive such dividend or distribution; and

C = the difference of (I) such Fair Market Price per Ordinary Share; less (II) the fair value of such dividend or distribution (as determined in good faith by the Directors of the Company) payable in respect of one Ordinary Share.

An adjustment made pursuant to this paragraph shall be made upon the opening of business on the next business day following the date on which any such dividend or distribution is made and shall be effective retroactively immediately after the close of business on the record date fixed, if any, for the determination of holders of Ordinary Shares entitled to receive such dividend or distribution.

10.3.5 For the purposes of this Article and Article 11 “**Fair Market Price**” shall mean, as applied to any class of share on any date, the fair value per share of such share, as determined in good faith by the Directors.

10.4 If any adjustment in the number of Ordinary Shares into which each Series A Preference Share may be converted required pursuant to this Article 10 would result in an increase or decrease of less than 1 per cent in the number of Ordinary Shares into which each Series A Preference Share is then convertible, the amount of any such adjustment shall be carried forward and adjustment with respect thereto shall be made at the time of and together with any subsequent adjustment which, together with such amount and any other amount or amount so carried forward, shall aggregate at least 1 per cent of the number of Ordinary Shares into which each Series A Preference Share is then convertible.

All calculations under this paragraph shall be made to the nearest one-hundredth of a share.

10.5 The holder of any Series A Preference Shares may exercise his option to convert such shares into Ordinary Shares by surrendering for such purpose to the Company, at its principal office or at such other office or agency maintained by the Company for that purpose, a certificate or certificates representing the Series A Preference Shares to be converted, duly endorsed, accompanied by a written notice stating that such holder elects to convert all or a specified whole number of such shares in accordance with the provisions of this Article 10 and specifying the name or names in which such holder wishes the certificate or certificates for Ordinary Shares to be issued. As promptly as practicable after the surrender of such certificates and the receipt of such notice relating thereto, the Company shall deliver or cause to be delivered to the office of such holder of Series A Preference Shares, or his nominee or nominees:

- (i) certificates representing the nearest whole number, rounded down to the next lowest whole number, of validly issued, fully paid and non-assessable Ordinary Shares of the Company to which the holder of the Series A Preference Shares so converted shall be entitled; and

- (ii) if less than the full number of Series A Preference Shares evidenced by the surrendered certificate or certificates are being converted, a new certificate or certificates for the number of shares evidenced by such surrendered certificate or certificates less the number of shares converted.

Such conversions shall be deemed to have been made at the close of business on the date of giving of such notice and of such surrender of the certificate or certificates representing the Series A Preference Shares to be converted, and, thereupon, the rights of the holder thereof shall cease except for the right to receive Ordinary Shares in accordance herewith, and the converting holder shall thereafter be treated for all purposes as having become the record holder of such Ordinary Shares at such time.

- 10.6 The Directors may determine to effect conversion by means of consolidation and sub-division. In such case the requisite consolidation and sub-division shall be effected by ordinary resolution of the Company in General Meeting to consolidate into one share some or all of the relevant Series A Preference Shares at any time held by any holder or joint holders and sub-divide such share into the appropriate number of Ordinary Shares, in which event such Ordinary Shares, notwithstanding that they may have a different nominal amount from other Ordinary Shares then in issue, shall form a uniform class with all such shares and shall notwithstanding any contrary provision herein for all purposes and in all respects (including without limitation entitlement to dividends or other distributions, participation in offers, voting rights, rights on a liquidation or return of capital) rank *pari passu* with all other fully paid Ordinary Shares, for which purpose the nominal amount of each Ordinary Share arising on such consolidation and sub-division shall be deemed to be US\$1 (or such other amount as may be appropriate as a result of any sub-division, consolidation, repayment or reduction of capital or other event giving rise to an adjustment of the nominal amount of the Ordinary Shares) and the nominal amount of the Ordinary Shares into which the Relevant Shares shall convert shall (subject to adjustment as aforesaid) also be deemed to be US\$1.
- 10.7 Upon conversion of any Series A Preference Shares, the holder thereof shall not be entitled to receive any accumulated, accrued or unpaid dividends in respect of the shares so converted, provided that such holder shall be entitled to receive any dividends, on such Series A Preference Shares declared prior to such conversion if such holder held such shares on the record date fixed for the determination of holders of the Series A Preference Shares entitled to receive payment of such dividend.
- 10.8 In connection with the conversion of any Series A Preference Shares, no fractions of Ordinary Shares shall be issued, but the Company shall pay a cash adjustment in respect of such fractional interest in an amount equal to the fair market value of such fractional interest, as determined in good faith by the Directors employing for purposes of such determination the Fair Market Price of a whole Ordinary Share.
- 10.9 The Company shall at all times reserve and keep available out of its Authorised Share Capital the full number of Ordinary Shares issuable upon the conversion of all unissued Series A Preference Shares.
- 11 **Adjustments for Consolidation, Merger, etc.**
  - 11.1 In case the Company:
    - (i) shall consolidate with or merge into any other company, corporation, association, trust, partnership or other entity (a “**Person**”) and shall not be the continuing or surviving company of such consolidation or merger;
    - (ii) shall permit any other Person to consolidate with or merge into the Company and the Company shall be the continuing or surviving Person, but, in connection with such consolidation or merger, the Ordinary Shares shall be changed into or

exchanged for shares or other securities of any other Person or cash or any other property;

- (iii) shall transfer all or substantially all of its properties or its assets to any other Person; or
- (iv) shall effect a capital reorganisation or reclassification of the Ordinary Shares (other than a capital reorganisation or reclassification resulting in the issue of additional Ordinary Shares for which adjustment is provided in Article 10), then, and in each such case, proper provision shall be made so that each Series A Preference Share then outstanding shall, at the option of the holder thereof:
  - (a) be converted, in accordance with the terms of Article 8 hereof, into Ordinary Shares of the Company immediately prior to the effectiveness of a transaction described in clauses (i) through (iv) of this Article 11; or
  - (b) be converted into, or exchanged for, one preference share (the “**Substitute Preference Share**”) of the Acquiring Company entitling the holder thereof to all of the rights, powers, privileges and preferences with respect to the Acquiring Company to which the holder of a Series A Preference Share is entitled with respect to the Company, and being subject with respect to the Acquiring Company to the qualifications, limitations and restrictions to which a Series A Preference Share is subject with respect to the Company, except that in lieu of and notwithstanding the provisions for conversion at the option of the holders of Series A Preference Shares set out in Article 10, each Substitute Preference Share shall be convertible at any time, at the option of the holder thereof, into the number of Voting Ordinary Shares of the Acquiring Company, subject to adjustments (subsequent to consummation of such transaction) as nearly equivalent as possible to the adjustments provided for in Article 10 and this Article 11 determined as follows:

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

where:

A = the number of Ordinary Shares into which each Series A Preference Share was convertible immediately prior to consummation of such transaction;

B = the Acquisition Price; and

C = the lesser of: (a) the Fair Market Price per share of the Voting Ordinary Shares of the Acquiring Company on the date of such consummation; and (b) the Fair Market Price per share of the Voting Ordinary Shares of the Acquiring Company on the date of such conversion.

Notwithstanding anything contained herein to the contrary, the Company will not effect any of the transactions described in clauses (i) through (iv) above unless, prior to the consummation thereof, each corporation, including this Company, which may be required to deliver any stock, securities, cash or other property to the holders of Series A Preference Shares shall assume, by written instrument delivered to each holder of Series A Preference Shares, the obligation to deliver to such holder such shares, securities, cash or other property to which, in accordance with the foregoing provisions, such holder may be entitled, and each such company shall have furnished to each such holder an opinion of counsel for such

company, stating that such assumption agreement is legal, valid and binding upon such company.

- 11.2 For the purposes of this Article 11 each of the following terms shall have the meanings set out below:

**“Acquiring Company”** shall mean the continuing or surviving company of a consolidation or merger with the Company, the transferee of all or substantially all of the properties and assets of the Company, the corporation consolidating with or merging into the Company in a consolidation or merger with which the Company is the continuing or surviving person, but in connection with which the Ordinary Shares of the Company is changed into or exchanged for the shares or other securities of any other person or cash or any other property, or in the case of a capital reorganisation or reclassification, the Company;

**“Acquisition Price”** shall mean, as applied to the Ordinary Shares, the greater of whichever of the following are applicable: (i) the Fair Market Price per share of Ordinary Shares on the date on which any transaction to which this Article applies is consummated; and (ii) the highest price (in cash or fair market value of securities or other property) paid for an Ordinary Share in the transaction; and

**“Voting Ordinary Shares”** with respect to any company shall mean the ordinary shares of such company ordinarily entitled to elect a majority of the directors constituting the full board of directors of such company.

#### **TRANSFER OF SHARES**

- 12 The Directors may, in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share, whether or not it is a fully paid share.

#### **PROCEEDINGS AT GENERAL MEETINGS**

- 13 **Quorum**

No business shall be transacted at any Meeting unless a quorum is present. Two members entitled to attend at the Meeting, present in person, or by proxy or (in the case of a corporation) a duly authorised representative shall be a quorum save that if and for so long as the Company has only one member entitled to attend and vote at General Meetings, that Member present in person, or by proxy or (in the case of a corporation) by a duly authorised representative shall be a quorum.

- 14 Subject to the provisions of the Act, a resolution in writing signed by all the members for the time being entitled to receive notice of and to attend and vote at general meetings (or being corporations by their respective representatives) shall be as valid and effective as if the same had been passed at a general meeting of the company duly convened and held.

#### **VOTES OF MEMBERS**

- 15 An instrument appointing a proxy (and, where it is signed on behalf of the appointor by an attorney, the letter or power of attorney or a duly certified copy thereof) must either be delivered at such place or one of such places (if any) as may be specified for that purpose in or by way of note to the notice convening the meeting (or, if no place is so specified, at the registered office) before the time appointed for holding the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used or be delivered to the Secretary (or the chairman of the meeting) on the day and at the place of, but in any event before the time appointed for holding, the meeting or adjourned meeting or poll. The

instrument may be in the form of a facsimile or other machine made copy and shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates. An instrument of proxy relating to more than one meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not require again to be delivered for the purposes of any subsequent meeting to which it relates. Regulation 62 shall not apply.

- 16 At a general meeting, but subject to any rights or restrictions attached to any shares, on a show of hands every member present in person or by proxy (or being a corporation present by a duly authorised representative) shall have one vote, and on a poll every member who is present in person or by proxy shall have one vote for every share of which he is the holder. Regulation 54 shall not apply.

### **NUMBER OF DIRECTORS**

- 17 The Directors shall not be less than one in number. Regulation 64 shall be modified accordingly. Whenever the minimum number of Directors shall be one, a sole Director shall form a quorum, and Regulation 89 shall be modified accordingly.

### **ALTERNATE DIRECTORS**

18

- 18.1 Any Director (other than an alternate Director) may by notice in writing to the Company appoint any other Director, or any other person who is willing to act, to be an alternate Director and remove from office an alternate Director so appointed by him. Regulation 65 of Table A shall not apply.

- 18.2 An alternate Director shall be entitled to receive notices of meetings of the Directors and of any committee of the Directors of which his appointor is a member and shall be entitled to attend and vote as a Director and be counted in the quorum at any such meeting at which his appointor is not personally present and generally at such meeting to perform all functions of his appointor as a Director and for the purposes of the proceedings at such meeting the provisions of these Articles shall apply as if he were a Director. If he shall be himself a Director or shall attend any such meeting as an alternate for more than one Director, his voting rights shall be cumulative but he shall not be counted more than once for the purposes of the quorum. If his appointor is for the time being absent from the United Kingdom or temporarily unable to act through ill health or disability his signature to any resolution in writing of the Directors shall be as effective as the signature of his appointor. An alternate Director shall not (save as aforesaid) have power to act as a Director, nor shall he be deemed to be a Director for the purposes of these Articles, nor shall he be deemed to be the agent of his appointor. Regulations 66 and 69 shall not apply.

- 18.3 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.

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

- 19 In addition to the powers to delegate contained in Regulation 72, the Directors may delegate any of their powers or discretions (including without prejudice to the generality of the foregoing all powers and discretions whose exercise involves or may involve the payment of remuneration to or the conferring of any other benefit on all or any of the Directors) to committees consisting of one or more Directors and (if thought fit) one or

more other named person or persons to be co-opted as hereinafter provided. Insofar as any such power or discretion is delegated to a committee, any reference in these Articles to the exercise by the Directors of the power or discretion so delegated shall be read and construed as if it were a reference to the exercise thereof by such committee. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations which may from time to time be imposed by the Directors. Any such regulations may provide for or authorise the co-option to the committee of persons other than Directors and may provide for members who are not Directors to have voting rights as members of the committee but so that: (a) the number of members who are not Directors shall be less than one-half of the total number of members of the committee; and (b) no resolution of the committee shall be effective unless passed by a majority including at least one member of the committee who is a Director. Regulation 72 shall be modified accordingly.

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

- 20 The Directors shall not be subject to retirement by rotation. Regulations 73 to 75 and the second and third sentences of Regulation 79 shall not apply, and other references in the said Table A to retirement by rotation shall be disregarded.

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

- 21
- 21.1 The office of a Director shall be vacated in any of the events specified in Regulation 81 and also if he shall in writing offer to resign and the Directors shall resolve to accept such offer or if he shall be removed from office by notice in writing signed by all his co-Directors (being at least two in number) but so that if he holds an appointment to an executive office which thereby automatically determines such removal shall be deemed an act of the Company and shall have effect without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- 21.2 Any provision of the Act which, subject to the provisions of the articles, would have the effect of rendering any person ineligible for appointment or election as a Director or liable to vacate office as a Director on account of his having reached any specified age or of requiring special notice or any other special formality in connection with the appointment or election of any Director over a specified age, shall not apply to the Company.

#### **REMUNERATION OF DIRECTORS**

- 22 Any Director who serves on any committee, or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration by way of salary, commission or otherwise or may receive such other benefits as the Directors may determine. Regulation 82 shall be extended accordingly.

#### **PROCEEDINGS OF DIRECTORS**

- 23 The Directors, and any committee of the Directors, shall be deemed to meet together if, being in separate locations, they are nonetheless linked by conference telephone or other communication equipment which allows those participating to hear and speak to each other, and a quorum in that event shall be two persons so linked. 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.
- 24 On any matter in which a Director is in any way interested he may nevertheless vote and be taken into account for the purposes of a quorum and (save as otherwise agreed) may retain for his own absolute use and benefit all profits and advantages directly or indirectly

accruing to him thereunder or in consequence thereof. Regulations 94 to 98 shall not apply.

- 25 Directors who are absent from the United Kingdom shall be entitled to the same notice of all meetings of the Directors as Directors not so absent and the third sentence of Regulation 88 shall not apply. If a Director who is absent from the United Kingdom does not advise the Company in writing of his overseas address, notice to his usual address in the United Kingdom shall be deemed sufficient notice for the purposes of this Article.

#### NOTICES

- 26 A member whose registered address is not within the United Kingdom shall be entitled to have notices sent to him as if he were a member with a registered address within the United Kingdom and the last sentence of Regulation 112 shall not apply.

#### INDEMNITY

27

- 27.1 Subject to the provisions of and so far as may be consistent with the Act and all other laws and regulations applying to the Company, every Director, Secretary or other officer of the Company shall be indemnified by the Company out of its own funds against and/or exempted by the Company from all costs, charges, losses, expenses and liabilities incurred by him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he 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.

- 27.2 Without prejudice to paragraph 27.1 of this Article the Directors shall have power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time Directors, officers or employees of any Relevant Company (as defined in paragraph 27.3 of this Article) or who are or were at any time trustees of any pension fund or employees' share scheme in which employees of any Relevant Company are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or in the exercise or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to any Relevant Company, or any such pension fund or employees' share scheme.

- 27.3 For the purpose of paragraph 27.2 of this Article "**Relevant Company**" shall mean the Company, any holding company of the Company or any other body, whether or not incorporated, in which the Company or such holding company or any of the predecessors of the Company or of such holding company has or had any interest whether direct or indirect or which is in any way allied to or associated with the Company, or any subsidiary undertaking of the Company or of such other body.

#### OVERRIDING PROVISIONS

- 28 Any member holding, or any members together holding, shares carrying not less than 90 per cent of the votes which may for the time being be cast at a general meeting of the Company may at any time and from time to time:

- 28.1 appoint any person to be a Director (whether to fill a vacancy or as an additional Director);
- 28.2 remove from office any Director howsoever appointed but so that if he holds an appointment to an executive office which thereby automatically determines such removal shall be deemed an act of the Company and shall have effect without prejudice to any claim for damages for breach of any contract of service between him and the Company;
- 28.3 by notice to the Company require that no unissued shares shall be issued or agreed to be issued or put under option without the consent of such member or members; or
- 28.4 restrict any or all powers of the Directors in such respects and to such extent as such member or members may by notice to the Company from time to time prescribe.

Any such appointment, removal, consent or notice shall be in writing served on the Company and signed by the member or members. No person dealing with the Company shall be concerned to see or enquire as to whether the powers of the Directors have been in any way restricted hereunder or as to whether any requisite consent of such member or members has been obtained and no obligation incurred or security given or transaction effected by the Company to or with any third party shall be invalid or ineffectual unless the third party had at the time express notice that the incurring of such obligation or the giving of such security or the effecting of such transaction was in excess of the powers of the Directors.

To the extent of any inconsistency this Article shall have overriding effects as against all other provisions of these Articles.