

**Company No: 05524029**

**COMPANY LIMITED BY SHARES**

**WRITTEN RESOLUTIONS**

**of**

**EQUIDEBT HOLDINGS LIMITED**

**("Company")**

**Passed the 7th day of November 2008**

By a written resolution agreed to in accordance with Chapter 2 of Part 13 of the Companies Act 2006 by or on behalf of the required number of the members of the Company who, at the date of circulating the resolutions, were entitled to vote on the resolutions the following resolutions of the Company was/were duly passed:

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the following resolutions are passed as ordinary and special resolutions as detailed below

**RESOLUTION**

**As an ordinary resolution**

THAT, pursuant to the provisions of section 175(5)(a) of the Companies Act 2006 and with effect on and from the date that section is brought into force, the Directors may authorise matters in which a director has or may have a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company

**RESOLUTION**

**As a special resolution**

THAT, the Articles of Association annexed to this document and marked 'A' for the purposes of identification be adopted as the new Articles of Association of the Company

Signed

  
Secretary

Dated

10 November 2008.

TUESDAY



A09 \*ABNIN54M\* 199  
25/11/2008  
COMPANIES HOUSE

DATED 10 November 2008

**EQUIDEBT HOLDINGS LIMITED**

**ARTICLES OF ASSOCIATION**

Adopted on 10 NOV. 2008

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

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**Company No. 5524029**  
**COMPANIES ACTS 1985 AND 1989**  
**COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**EQUIDEBT HOLDINGS LIMITED**

TUESDAY



**(adopted by Written Resolution of the Company passed on September 2008)** 10<sup>th</sup> November

**1. TABLE A**

Except as excluded or varied in these articles, Table A (as defined below) will apply to the Company and will be deemed to form part of these articles

**2 DEFINITIONS AND INTERPRETATION**

**2.1** In these articles the following words and expressions will have the following meanings:

<b>"Accounting Period"</b>	means an accounting reference period of the Company beginning on 1 May and ending on the following 30 April, or such other date as is notified to the Registrar of Companies from time to time;
<b>"Accounts"</b>	means the audited accounts of the Company;
<b>"Acting in Concert"</b>	has the meaning given to it in the City Code on Takeovers and Mergers;
<b>"Adoption Date"</b>	shall mean the date of adoption of these Articles, namely September 2008;
<b>"Allocation Notice"</b>	has the meaning given in Article 12.11,
<b>"Approved Offer"</b>	has the meaning given in Article 15 2 1,
<b>"Arrears"</b>	means the whole amount of any dividend payable on the A Shares pursuant to Article 5.1 which is unpaid for any reason on any Due Date,
<b>"A Share"</b>	means a preferred A ordinary share of £0 0001 in the Company,
<b>"A Shareholder"</b>	means a registered holder of any A Shares,
<b>"Audit Committee"</b>	means a standing committee of the Directors, named as such and comprising the Chief

Financial Officer and Chief Executive Officer of the Company from time to time together with all the non-executive directors, including the Investor Director(s), and Bob Scott (whilst he remains the B Director and provided that he shall not be entitled to vote on any matter voted upon by the committee),

**"Auditors"**

means the Company's incumbent auditors,

**"Bad Leaver"**

means a Relevant Individual who ceases to be an employee and/or director and/or consultant of the Company or any member of the Group in any of the following situations:-

- (a) voluntary resignation at any time prior to 31 August 2009, or
- (b) summary dismissal pursuant to any sub-clause of clause 17 other than sub-clause 17.1.7 of the Relevant Individual's Service Agreement in circumstances which justify summary dismissal

In this definition the Relevant Individual will be deemed to cease to be an employee and/or director and/or consultant on the Cessation Date;

**"B Director"**

means the director appointed pursuant to Article 35.7;

**"Board"**

means the incumbent board of Directors including the Investor Director(s) (in any);

**"Bonus Amount"**

means 5% of the Bonus Excess

**"Bonus Excess"**

means the total of the RJD Proceeds less the Bonus Threshold

**"Bonus Threshold"**

means the amount of RJD Proceeds required to achieve an RJD Return Multiple of not less than 3 following application of the provisions at Article 6A 2 but prior to the application of the provisions at Article 6B

**"B Share"**

means a B ordinary share of £0.0001 in the Company,

**"B Shareholder"**

means a registered holder of any B Shares,

**"Business Day"**

means a day (which for these purposes ends at 5 30pm) on which banks are open for commercial business in the City of London other than a Saturday or Sunday,

<b>"Business Plan"</b>	has the meaning given in the Investment Agreement;
<b>"Buyer"</b>	has the meaning given in Article 15 1 1,
<b>"Cash Equivalent"</b>	means <ul style="list-style-type: none"> <li>(a) where the consideration comprises listed securities, the average of the middle market prices at which transactions took place over the 5 dealing days prior to the completion of the relevant sale, or</li> <li>(b) where the consideration comprises loan notes, loan stock or other debt instruments guaranteed unconditionally by an authorised UK bank, the face value thereof; or</li> <li>(c) where the consideration comprises unlisted securities or other instruments not guaranteed as aforesaid, such amount as the Members shall agree to be the value thereof; or</li> <li>(d) where the consideration comprises future, fixed or contingent payments, such amount as the Members shall agree to be the present value thereof,</li> </ul> <p>provided that if the Members shall not be able to agree the value of the Cash Equivalent in accordance with the above provision then the dispute shall be referred to the Auditors who shall determine the dispute in accordance with Article 39</p>
<b>"Cessation Date"</b>	means the date on which a Relevant Individual ceases to be an employee or director or consultant of any Group Member for any reason (including death or bankruptcy) and, for the avoidance of doubt, in relation to Mr Mosiewicz shall mean the Adoption Date,
<b>"Co-Investment Scheme"</b>	means a scheme under which certain officers, employees or partners of an Investor or of its advisor or manager are entitled (as individuals or through a body corporate or any other vehicle) to acquire shares;
<b>"Companies Act"</b>	means the Companies Act 1985 (as amended),
<b>"Companies Act 2006"</b>	means the Companies Act 2006 (as amended)
<b>"Compulsory Sale Notice"</b>	means a notice served on a Compulsory Seller

pursuant to Article 14 3,

<b>"Compulsory Seller" and "Compulsory Sellers"</b>	have the meanings given in Article 14.3;
<b>"conflict of interest"</b>	a direct or indirect conflict of interest as defined in section 175(1) of the Companies Act 2006
<b>"Connected Person"</b>	has the meaning given in section 839 of the Income and Corporation Taxes Act 1988 and section 993 of the Income Taxes Act 2007,
<b>"Controlling Interest"</b>	in relation to a person means the ownership by that person and his or its Connected Persons of Shares carrying the right to more than 50 per cent of the total number of votes which may be cast on a poll at a general meeting of the Company,
<b>"Convertible Loan Notes"</b>	means the £10,000,000 10% unsecured convertible subordinated loan notes 2012 in the Company constituted by the Convertible Loan Note Deed together with any accumulated or compounded interest thereon,
<b>"Convertible Loan Note Deed"</b>	means the deed dated on or around the Adoption Date constituting the Convertible Loan Notes,
<b>"Credited as Paid Up"</b>	means amounts paid up or credited as paid up on a Share including any premium,
<b>"C Share"</b>	means a C ordinary share of £0.0001 in the Company;
<b>"C Shareholder"</b>	means a registered holder of any C Shares;
<b>"Directors"</b>	means the Company's incumbent directors,
<b>"Drag Along Right"</b>	has the meaning given in Article 16 1,
<b>"Due Date"</b>	means the due date or dates for payment of the Preferred Dividend on the A Shares pursuant to Article 5.2.2;
<b>"D Share"</b>	means a D ordinary share of £0.0000001 in the Company
<b>"D Shareholder"</b>	means a registered holder of any D Shares
<b>"Electronic Communication"</b>	means any communication transmitted by way of fax or email,
<b>"Employee Benefit Trust"</b>	means any trust which may be established for the benefit of the employees (which may include past employees) of the Company

	and/or any other member of the Group, and which satisfies the definition of an "employees share scheme" set out in section 743 of the Companies Act;
<b>"Equity Shareholder"</b>	means a registered holder of any Equity Shares;
<b>"Equity Shares"</b>	means the issued A Shares and B Shares and C Shares at any time, and all shares derived from them (and any of them) whether by conversion, consolidation or sub-division or by way of rights or bonus issue or otherwise in issue;
<b>"ERISA Director"</b>	means any Director appointed by an Investor in order to preserve the exempt status of the fund on behalf of which it is investing as a venture capital operating company for the purposes of the US Employment Retirement Income Security Act 1974 (as amended);
<b>"Existing Investors"</b>	means RL Private Equity Fund (LP008491), RL Private Equity SBS Fund (LP008492) and F&C Private Equity Trust Plc,
<b>"Existing Loan Notes"</b>	means the £12,000,000 unsecured subordinated Loan Notes 2012 of the Company constituted by a loan note deed dated 31 August 2005 as amended on the date of the agreement by a Deed of Variation dated on or about the Adoption Date, and the £4,000,000 subordinated Loan Notes dated 30 November 2006 as amended on the date of this agreement by a Deed of Variation dated on or about the Adoption Date or, as the case may be, the amount of such loan notes for the time being issued and outstanding together with any accumulated or compounded interest thereon;
<b>"Exit"</b>	means a Listing or a Share Sale or a return of capital on solvent Liquidation of the Company;
<b>"Extra Shares"</b>	has the meaning given in Article 12.8;
<b>"Facility Agreement"</b>	has the meaning given in the Investment Agreement,
<b>"FSMA"</b>	means the Financial Services and Markets Act 2000;
<b>"Fund"</b>	means any investment trust or investment company (within the meaning of chapter 21 of the listing rules issued by the UK Listing Authority), bank, building society, industrial and provident or friendly society, unit trust, any other collective investment scheme (as



defined in section 235 of the FSMA), any intermediate customer within the meaning of the Conduct of Business Rules made under the FSMA, partnership, limited partnership, limited liability partnership, pension fund or insurance company or any person who is an authorised person (within the meaning of section 31(2) of the FSMA), and the term will include any subsidiary undertaking of any of the foregoing and any co-investment scheme in relation to any of the foregoing,

**"Fund Manager"**

means RJD Partners Limited;

**"Good Leaver"**

means a Relevant Individual who ceases to be an employee and/or director and/or consultant of the Company or any member of the Group who is not a Bad Leaver,

In this definition the Relevant individual will be deemed to cease to be an employee on the Cessation Date,

**"Group"**

means the Company and its subsidiaries (as defined by section 736 Companies Act) from time to time and references to a **"Member of the Group"** or a **"Group Member"** will be construed accordingly;

**"Growth Loan Notes"**

means the 25% unsecured preferred loan notes in the Company constituted by the Growth Loan Note Deed together with any accumulated or compounded interest thereon;

**"Growth Loan Note Deed"**

means the deed dated on or around the Adoption Date constituting the Growth Loan Notes,

**"HMRC"**

means Her Majesty's Revenue and Customs;

**"Intercreditor Deed"**

shall have the meaning set out in the Investment Agreement;

**"Investment Agreement"**

means an agreement dated 6 December 2007 as amended on the date of adoption of these Articles and made between (1) the Company (2) the Individual Shareholders (3) the Investor(s), (4) the Fund Manager and (5) Patron;

**"Investors"**

means the Existing Investors and any other holders of A Shares who are a party to the Investment Agreement (including, without limitation, Patron once it becomes a holder of A Shares) or who have adhered to the Investment Agreement,

<b>"Investor Consent"</b>	the consent in writing of the Investor Director ;
<b>"Investor Director"</b>	means a director appointed as such pursuant to Article 35;
<b>"Liquidation"</b>	means the passing of a resolution for the winding up of the Company;
<b>"Listing"</b>	<p>means</p> <ul style="list-style-type: none"> <li>(a) the admission of all or any of the Equity Shares to trading on a market for listed securities operated by the London Stock Exchange plc, together with the admission of such Shares to the Official List of the UK Listing Authority; or</li> <li>(b) the admission of such Shares to the Alternative Investment Market of the London Stock Exchange plc, or</li> <li>(c) the admission of such Shares to, or to trading on, any other market wherever situated, together, if necessary, with the admission of such Shares to listing on any official otherwise prescribed list maintained by a competent or otherwise prescribed listing authority</li> </ul> <p>and <b>"listed"</b> will be construed accordingly;</p>
<b>"Listing Rules"</b>	means the rules of the UK Listing Authority,
<b>"Listing Value"</b>	means on a Listing, the valuation attributable to a holding of shares shall be the sum determined by dividing the value of the whole of the Equity Shares as conclusively certified (at the cost of the Company) by the sponsoring broker(s), calculated on the basis of the issue price referred to in the prospectus (or listing particulars or admission document) published in connection with the Listing by the number of Equity Shares in issue immediately prior to Listing and multiplying such number by the number of Equity Shares held by the relevant shareholder as at the date of Listing;
<b>"Managers"</b>	means Wesley Mulligan, Phillip Moore, Robert Sharman and Philip Wilding;
<b>"Market Value"</b>	has the meaning given in Article 13 in relation to voluntary share transfers, and in Article 14.7 in relation to compulsory share transfers;

<b>"Member"</b>	means a registered holder of any Share as recorded in the Company's register of members,
<b>"Mr Mosiewicz"</b>	means Jan Lawrence Mosiewicz, one of the B Shareholders,
<b>"Official List"</b>	means the official list of the UK Listing Authority,
<b>"Other Shareholders"</b>	has the meaning given in Article 16 1,
<b>"Patron"</b>	means any of Patron Phoenix Investments SARL, Patron Capital Europe SARL, Patron Capital L P. III and any Fund advised by Patron Capital Limited,
<b>"Patron Covenants"</b>	has the meaning given in the Investment Agreement;
<b>"Patron Facility Letter"</b>	means the letter from Patron Phoenix Investments SARL to the Company dated on or around the Adoption Date regarding the subscription for the Growth Loan Notes as amended, varied or restated from time to time,
<b>"Patron Fund"</b>	has the meaning given in the Investment Agreement,
<b>"Patron Loan Amount"</b>	means the value of the aggregate principal amount of Growth Loan Notes which Patron has subscribed for under the terms of the Patron Facility Letter,
<b>"Patron Investor Group"</b>	Patron Phoenix Investments SARL, the Patron Fund, Patron Capital Limited and any other authorised advisor (for the purposes of the Financial Services and Markets Act 2000) (a <b>"Relevant Advisor"</b> ) to the Patron Fund, any Fund advised by Patron Capital Limited or the Relevant Advisor and any investor in such Fund;
<b>"Patron Proceeds"</b>	means the aggregate amount of all monies received by Patron pursuant to its holding or any realisation or redemption (including all Share Sale Value) of Convertible Loan Notes, Growth Loan Notes, A Shares, D Shares or any other instrument or security it holds in the Company from time to time including, without limitation, all interest actually paid (including accrued, compounded or default interest but excluding any such interest applied towards the subscription for Shares pursuant to conversion of the Convertible Loan Notes), dividends and other distributions received in connection therewith and any Listing Value (attributable to

	any of the A Shares only) in the event of a Listing (but excluding sums received by Patron by way of monitoring fees, directors fees or arrangement fees (if any)) less any costs and VAT incurred in disposing of the same (to the extent such costs are not recovered from or paid by the Company or recovered from HMRC,
<b>"Patron Proceeds Excess"</b>	shall have the meaning set out in Article 6E.1,
<b>"Patron Ratchet Amount"</b>	shall have the meaning set out in Article 6E.1;
<b>"Patron Return Multiple"</b>	means the Patron Proceeds divided by an amount equal to Patron's total investment (whether by equity, loan notes or otherwise) in the Company from time to time, such investment to include the reasonable third party costs incurred by Patron in connection with the subscription for Growth Loan Notes and Convertible Loan Notes to the extent such costs are not recovered from or paid by the Company and/or any VAT paid by Patron not recovered from the Company or HMRC in respect of such fees;
<b>"Patron Threshold"</b>	means the amount of Patron Proceeds required to achieve a Patron Return Multiple of not less than 2;
<b>"Preferred Dividend"</b>	means the cumulative preferred cash dividend payable on the A Shares in accordance with Article 5,
<b>"Proportionate Entitlement"</b>	has the meaning given in Article 12.8;
<b>"Proposed Transferee"</b>	means a person to whom a Seller proposes to transfer Sale Shares,
<b>"PRs"</b>	means the legal personal representatives of a deceased Member;
<b>"Ratchet Amount"</b>	means the amount of the RJD Proceeds Excess due to the D Shareholder and calculated in accordance with Article 6A 2 3,
<b>"Ratchet Threshold"</b>	means the amount of RJD Proceeds required to achieve an RJD Return Multiple of not less than 2;
<b>"Regulation"</b>	means a regulation under Table A (to the extent the same may be amended pursuant to these articles);
<b>"Relevant Individual"</b>	means an employee or director or consultant of any Group Member;

<b>"RJD Proceeds Excess"</b>	means the total of the RJD Proceeds less the Ratchet Threshold;
<b>"Remuneration Committee"</b>	means a standing committee of the Directors, named as such and comprising Mr Mulligan (for as long as he is a director or employee of the Company) and all the non-executive directors, including the Investor Director(s);
<b>"RJD"</b>	means together RL Private Equity Fund and RL Private Equity SBS Fund and any person to whom A Shares have been transferred by the same after the date of adoption of these Articles pursuant to articles 11.2.5 to 11.2.7 inclusive,
<b>"RJD Covenants"</b>	has the meaning given in the Investment Agreement;
<b>"RJD Proceeds"</b>	means the aggregate amount of all monies received by RJD pursuant to its holding from time to time or any realisation on redemption (including all Share Sale Value) of Existing Loan Notes and A Shares or any other instrument or security it holds or has held in the Company from time to time including, without limitation, all interest actually paid (including accrued, compounded or default interest), dividends and other distributions received in connection therewith any syndication fee and any Listing Value attributable to any of the A Shares in the event of a Listing (but excluding sums received by RJD by way of monitoring fees, directors fees or arrangement fees and any underwriting fee in relation to its original investment in the Company (if any)) less any costs and VAT incurred in disposing of the same (to the extent such costs are not recovered from or paid by the Company or recovered from HMRC;
<b>"RJD Return Multiple"</b>	means the RJD Proceeds divided by an amount equal to RJD's total investment (whether by equity, loan notes or otherwise) in the Company such investment to include the reasonable third party costs incurred by RJD in connection with its investment in the Company to the extent such costs are not recovered from or paid by the Company and/or any VAT paid by RJD not recovered from the Company or HMRC in respect of such fees
<b>"Sale Shares"</b>	means Shares which a Seller wishes to transfer,
<b>"Seller"</b>	means any Member who wishes to transfer any

	Shares;
<b>"Share"</b>	means a share in the Company,
<b>"Share Sale"</b>	means the completion of any transaction or series of transactions whereby any person or Connected Persons or group of persons acting in concert purchases or otherwise acquires or obtains a Controlling Interest in nominal value of the Equity Shares;
<b>"Share Sale Value"</b>	means the aggregate amount paid or payable to a shareholder in respect of the sale, transfer or disposal of its holding of Equity Shares (or any part thereof) including any Cash Equivalent;
<b>"the Statutes"</b>	the Companies Act as defined in section 2 of the Companies Act 2006 and every other statute, order, regulation, instrument or other subordinate legislation for the time being in force relating to companies and affecting the Company,
<b>"Table A"</b>	means Table A in the schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No. 805) as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (SI 1985 No. 1052) and the Companies Act 1985 (Electronic Communications) Order 2000;
<b>"Total Transfer Condition"</b>	means a condition in a Transfer Notice stipulating that such Transfer Notice is conditional upon all and not some only of the Sale Shares specified in it being sold;
<b>"Transfer Notice"</b>	means a notice in writing by a Seller of his wish to transfer any Shares;
<b>"Transfer Price"</b>	has the meaning given in Article 12 4,
<b>"Trigger Events"</b>	means those events set out in Articles 7.2 and 7 3,
<b>"UK Listing Authority"</b>	means the Financial Services Authority acting in its capacity as the competent authority for the purposes of Part VI of the FSMA including, where the context so permits, any committee, employee, officer or servant to whom any function of the UK Listing Authority may for the time being be delegated.

- 2 2 Words and phrases which are defined or referred to in or for the purposes of the Companies Act or Table A have the same meanings in these articles unless a contrary intention appears
- 2 3 In these articles, unless a contrary intention appears
- 2 3.1 words which refer to the singular number include the plural number and vice versa, words which refer to one gender include all genders, and words which refer to persons include bodies corporate and unincorporated associations;
- 2.3.2 reference to a statute or a statutory provision includes reference to:
- 2.3 2 1 the statute or statutory provision as modified or re-enacted or both from time to time; and
- 2 3.2.2 any subordinate legislation made under the statutory provision (as modified or re-enacted as set out above),
- 2.3.3 reference to a Regulation is to a regulation of Table A, and reference to an Article is to a provision of these articles;
- 2.3.4 reference to a **"transfer"** of Shares or any similar expression will be deemed to include (without limitation)
- 2 3.4.1 any sale or other disposition of the legal or equitable interest in a Share (including any voting right attached to a Share) (**"Interest"**),
- 2 3 4 2 the creation of any mortgage, charge, pledge or other encumbrance over any Interest;
- 2 3.4 3 any direction by a Member entitled to an allotment or issue of Shares that a Share be allotted or issued to some person other than himself; and
- 2 3 4 4 any grant of an option to acquire either or both of the legal and equitable ownership of any Share by any Member entitled to any such Share;
- 2 3 5 reference to a **"group undertaking"** means, in relation to any undertaking, its holding company (if any) and its subsidiaries (as such terms are defined by section 736 Companies Act) and any other subsidiaries of its holding company);
- 2 3 6 reference to an address for the purposes of any Electronic Communication means any number or address used for the purpose of such communication; and
- 2.3 7 reference to "written" or "in writing" includes any method of representing or reproducing words in a legible form including, for the avoidance of doubt, Electronic Communication.
- 2 4 Unless it is specifically stated otherwise, any dispute as to value, or as to calculations or adjustments to be made, or as to amount, whether to or in respect of Market Value of Sale Shares under Articles 13 or 14.7 or otherwise pursuant to these articles, will be referred immediately to the Auditors for final

determination. If the Auditors decline to act in respect of any such referral, the matter will be determined by an independent firm of chartered accountants agreed for the purpose by the parties concerned or, in default of agreement within five Business Days after the Auditors have declined to act, appointed by the incumbent president of the Institute of Chartered Accountants in England and Wales. The Auditors or independent accountants (as the case may be) will act as expert and not as arbitrator and their costs will be borne as directed by the Article in question or, if the Article is silent on the point, as directed by the Auditors/independent accountants. In the absence of any such direction, such costs will be borne equally between parties concerned. The written certificate of the Auditors/independent accountants (as the case may be) will be conclusive and binding on the Company and the Members (except in the case of fraud or manifest error)

- 2 5 Any consent required to be given by the A Shareholders and/or the Existing Investor(s) pursuant to these articles may be given by the Fund Manager
- 2 6 The headings in these articles are included for convenience only and do not affect the meaning of these articles.
- 2.7 Where, for any purpose, an ordinary resolution of the Company is required, a special or an extraordinary resolution is also effective for that purpose, and where, for any purpose, an extraordinary resolution is required, a special resolution is also effective for that purpose

### **3. SHARE CAPITAL**

The authorised share capital of the Company is £1,081 divided into:

- 3 1 8,500,000 A Shares;
- 3 2 1,800,000 B Shares;
- 3 3 500,000 C Shares;
- 3 4 10,000,000 D Shares; and

### **4 SHARE RIGHTS**

Regulation 2 will not apply to the Company. The rights and restrictions attaching to the A Shares, B Shares, C Shares and D Shares, are as set out in full in these articles

### **5. SHARE RIGHTS - INCOME**

- 5 1 Following the Existing Loan Notes and the Growth Loan Notes having all been redeemed in full and there being no outstanding commitment under the Patron Facility Letter and all the Convertible Loan Notes having been redeemed in full or converted into A Shares, the profits of the Company which are available for lawful distribution in respect of each Accounting Period (if any) will be applied in paying to the A Shareholders in priority to the transfer of any sum to reserves or any payment by way of dividend to the holders of any other shares in the capital of the Company (but subject to the payment of all dividends accrued and in Arrears on the A Shares in respect of any earlier Accounting Period) the amount of £1,500,000 in aggregate to be apportioned between the A Shareholders pro rata to their shareholding. In the event that the Preferred Dividend begins to accrue part way through an Accounting Period because the total redemption of



the Existing Loan Notes, the Convertible Loan Notes and the Growth Loan Notes is effected at that time, the £1,500,000 shall be applied in that Accounting Period pro rata to the proportion of such Accounting Period during which the Preferred Dividend starts to accrue

5 2 The following will apply in respect of the Preferred Dividend

- 5.2.1 the dividends will be paid in cash,
- 5.2.2 the Preferred Dividend will be paid in respect of each Accounting Period during which it is paid on 30 June in the next following Accounting Period;
- 5 2 3 any amount of dividend will belong to and be paid to the holders of the A Shares pro rata according to their holdings of such class and also pro rata to the number of complete days in the Accounting Period in question for which the respective A Shareholders have been registered holders of A Shares PROVIDED ALWAYS THAT in the first such Accounting Period any days prior to the date the Preferred Dividend starts to accrue shall be ignored;
- 5 2.4 the Preferred Dividend will be cumulative. Notwithstanding anything contained in Regulations 102 to 108 (inclusive), the Company does not need to declare them Any Preferred Dividends will become a debt due from and immediately payable by the Company to the Member or Members to whom it is payable on the date set out in Article 5.1.2 without any requirement for a recommendation of the Directors or a resolution of the Members in general meeting in respect of that dividend,
- 5.2.5 for the purposes of Article 5 2 4 the date on which any such dividend will become a debt will be
  - 5 2 5 1 the Due Date if such debt can lawfully arise on such date or dates, or
  - 5.2.5.2 otherwise as soon afterwards as such debt can lawfully arise

5 3 If the Company fails to pay in full the Preferred Dividend on any Due Date

- 5.3.1 on the Due Date in question (but subject to Articles 5.3 2 and 5.6) the Company will pay to the relevant Members on account of the relevant Preferred Dividend, the maximum sum (if any) which can lawfully be paid by the Company;
- 5.3.2 all Arrears will be carried forward and on each succeeding Due Date the Company will pay on account of any outstanding balance, in the order of priority set out in Article 5 4, such amount as can then lawfully be paid, and this procedure will continue until such time as the relevant Arrears have been paid in full

5 4 Whenever there are Arrears outstanding, any profits of the Company which are available for lawful distribution will be applied in the following order and priority.

Priority	Application of Profits
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1	Payment of all Arrears of Preferred Dividend
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Priority	Application of Profits
2.	<b>Payment of Preferred Dividend accruing subsequently</b>

#### Non Cumulative dividends - priority and payment

5 5 Subject to the terms of Intercreditor Deed if the Company has in respect of the present and all previous Accounting Periods paid in full

5.5.1 the Preferred Dividend together with all Arrears; and

5.5.2 the Board has recommended payment of the same; and

5.5.3 the Company has received the prior written consent of the Investor Director,

then any profits which the Company determines to distribute in respect of any Accounting Period will be applied on a non cumulative basis in the following order and priority:

Priority	Class of Share	Maximum amount
1.	A Shares and B Shares and C Shares (as if one class)	Such amount as the Company may determine

Any such dividend will be paid in cash to the holders of the relevant class of Shares pro rata according to their holdings of such class. No such dividend will be paid unless the Preferred Dividend has previously become payable

#### 6 SHARE RIGHTS - RETURN OF CAPITAL

6 1 On a return of capital of the Company on a Liquidation or otherwise (other than a redemption of shares or the purchase by the Company of its own shares, a Share Sale or a Listing), the surplus assets and retained profits of the Company available for distribution among the Members will be applied in the following order and priority, but subject always to the provisions of Articles 6A and 6B:

Priority	Class of Share	Amount to be paid:
1.	A Shares	Amounts credited as Paid Up on all issued A Shares, together with an amount equal to all Arrears and accruals of unpaid dividends on the A Shares whether earned or declared or not
2	B Shares	Amounts Credited as Paid Up on all issued B Shares, together with an amount equal to all arrears and accruals of unpaid dividends on the B Shares

3.	C Shares	Amounts Credited as Paid up on all issued C Shares
4.	A Shares and B Shares and C Shares (as if one class)	any balance of such surplus assets and retained profits

6 2 Any return on some but not all of any Shares of a particular class will be made amongst their holders pro rata as nearly possible to their respective holdings of Shares of that class.

#### 6A **Rights of D Shares**

6A 1 Notwithstanding any other provision of these articles, other than set out in Articles 6A 2, 6C, 6D or 6E, the D Shares have only the rights set out below and are subject to the restrictions set out below, namely

6A 1 1 the D Shares have no right to participate in or receive any dividends or other distributions declared, made or paid by the Company;

6A.1 2 without prejudice to Article 8 and subject always to Article 7 3 the D Shares have no right to receive notice of or attend or vote at any general or class meeting (other than a class meeting of the D Shareholders) of the Company,

6A 1 3 the D Shares have no right of pre-emption on the issue of any new Shares by the Company,

6A 1 4 the D Shares have no right of pre-emption on the transfer of any Shares;

6A 1 5 the D Shares shall not be transferable provided that in the event of a transfer of the Convertible Loan Notes pursuant to the terms of the Convertible Loan Note Deed, the D Shares shall be transferred to such transferees of the Convertible Loan Notes pro-rata to the number of Convertible Loan Notes so transferred; and

6A 1.6 subject to the provisions of Article 6A.2 the right on a return of assets on a winding-up to a repayment of the capital paid up on such shares after the rights of all holders of Equity Shares have been discharged in full and a sum of £1,000,000 has been paid in respect of each Equity Share in the capital of the Company, but no other right to participate in the assets of the Company.

6A 2 The following provisions shall apply in relation to the A Shares

6A 2 1 in the event that, following RJD having ceased to have any interest in any shares in the Company (including any warrants in relation to any such shares) or any loan notes issued by the Company (including the A Shares and the Existing Loan Notes) the RJD Proceeds are equal to or less than the Ratchet Threshold the Directors shall have irrevocable authority to appoint any person to execute on behalf of the holders of the D Shares a transfer thereof and/or an agreement to transfer the same, without making any payment to the holders thereof, to such person as the Directors may determine as custodian thereof and to cancel and/or purchase

the same (in accordance with the provisions of statute) without making any payment to or obtaining the sanction of the holders thereof and pending the transfer and/or cancellation and/or purchase to retain the certificate for such shares

6A.2.2 In the event that at any time the RJD Proceeds are more than the Ratchet Threshold the Ratchet Amount shall be payable to the holders of the D Shares as a class (to be allocated pro-rata to their holding of D Shares). Such payment of the Ratchet Amount shall be met from the amount of the RJD Proceeds Excess otherwise due to the A Shareholders (other than those A Shareholder who are also D Shareholders) and the B Shareholders (other than those B Shareholders who are also Managers) pro rata to their shareholding. Notwithstanding any other provision of these articles, the A Shares and the B Shares shall not entitle the holders thereof to any share of the Ratchet Amount. This provision shall not affect the rights attaching to the C Shares in any way.

6A.2.3 The Ratchet Amount shall be calculated as follows:

$$\text{Ratchet Amount} = \text{Maximum Ratchet Amount} \times \frac{\text{Patron Loan Amount}}{30,000,000}$$

where the Maximum Ratchet Amount is calculated with reference to the table below

Relevant Proceeds "Slice"	Percentage of such Relevant Proceeds "Slice" applied to calculate Maximum Ratchet Amount (%)
On that slice of RJD Proceeds representing a return higher than the Ratchet Threshold but lower than or equal to the amount required to achieve a RJD Return Multiple of 2.5	15
On that slice of RJD Proceeds representing a return higher than the amount required to achieve a RJD Return Multiple of 2.5 but lower than or equal to the amount required to achieve a RJD Return Multiple of 3	20
On that slice of RJD Proceeds representing a return higher than the amount required to achieve a RJD Return Multiple of 3 but lower than or equal to the amount required to achieve a RJD Return Multiple of 3.5	25
On that slice of RJD Proceeds representing a return higher than the amount required to achieve a RJD Return Multiple of 3.5 but lower than or equal to the amount required to achieve a RJD Return Multiple of 4	30
On that slice of RJD Proceeds representing a return higher than the amount required to	35

achieve a RJD Return Multiple of 4	
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For the avoidance of doubt, the Maximum Ratchet Amount calculated with reference to each of the rows in the table above is cumulative and the total Maximum Ratchet Amount shall be the sum of the amount produced by each row, that is applicable. The Ratchet Amount shall in no circumstances exceed the Maximum Ratchet Amount.

6A 3 In the event that the obligation to make a payment pursuant to Article 6A2 3 arises as a result of a Listing or, at Patron's election, a Share Sale, the payment of the Ratchet Amount to the D Shareholders shall be satisfied by the transfer by A Shareholders (other than those A Shareholders who are also D Shareholders) and the B Shareholders (other than those B Shareholders who are also Managers) to the D Shareholders as a class (to be allocated pro-rata to their holding of D Shares) of such number of Equity Shares held by them, such transfers to be effected by the relevant A Shareholders and B Shareholders on a basis pro rata to their shareholding (but adjusting, in the case of the relevant A Shareholders and B Shareholders, for such number of Equity Shares as are required to satisfy the requirements of Article 6E.2) as shall have a value (calculated on the same basis as the Listing Value or (as the case may be) the Share Sale Value) equivalent to the relevant Ratchet Amount payable. This Article shall act to the exclusion of Article 6A.2.2.

6A 4 Upon the payment of the Ratchet Amount to the D Shareholders, the provisions of Article 6A.2 1 shall apply mutatis mutandis

#### **6B Exit Bonus**

On an Exit, in the event that the RJD Proceeds are more than the Bonus Threshold, the Bonus Amount shall be payable to such employees and/or directors of the Company as shall be determined by the Remuneration Committee (upon such terms as they see fit, including terms relating to the protection of the Company from tax liabilities). Such payment of the Bonus Amount shall be met from the portion of the Bonus Excess otherwise due to the A Shareholders, the B Shareholders (other than those B Shareholders who are also Managers) and the D Shareholders, pro rata to the amounts otherwise due to be received by them. Notwithstanding any other provision of these articles, the A Shares and the B Shares and the D Shares shall not entitle the holders thereof to any share of the Bonus Amount. This provision shall not affect the right attaching to the C Shares in any way

#### **6C Share Sale**

No Share Sale shall be effected or any transfers in relation thereto registered unless the proceeds of such Share Sale have been paid into the client account of the Company's solicitors as agent for the Members to be held on trust and shall then be allocated to the Members in accordance with Articles 6 to 6B as if the same was a return of capital on a Liquidation, save that at Article 6.1, only row 4 of the table shall apply to such allocation. Each of the Members authorises the Company's solicitors to apply the proceeds of such Share Sale in accordance with this Article 6C. Any such application or allocation of funds shall be a redistribution of shareholder proceeds and shall not constitute a dividend or distribution by the Company.

#### **6D Distributions**

Subject to Article 6E.4 in the event that a dividend is paid or any other distribution (whether of income or capital and whether on a Liquidation or otherwise) which is effected either at a time when the Ratchet Threshold has been exceeded or the effect of such dividend or distribution would result in the Ratchet Threshold being exceeded and sums being paid by way of dividend or distribution would be attributable to RJD Proceeds then the amount of such dividend or distribution to be paid to the holders of the relevant Equity Shares shall be adjusted such that the Company shall apply and pay, *pari passu* with any other sum to be applied pursuant to such dividend or distribution, the relevant Ratchet Amount to be paid to the holders of the D Shares.

#### **6E Patron Proceeds Excess**

6E 1 If and to the extent the Patron Return Multiple at any time exceeds 2, the amount of the Patron Proceeds in excess of the Patron Threshold (and after any adjustment pursuant to Article 6B and/or under **clause 13** of the Investment Agreement) (the "**Patron Proceeds Excess**") shall be reduced by 10% and the amount of 10% of the Patron Proceeds Excess (the "**Patron Ratchet Amount**") shall be payable to the holders of the A Shares (other than those A Shareholders who are also D Shareholders) and the holders of the B Shares (other than B Shareholders who are Managers) *pro rata* to their shareholding and unless the provisions of Article 6E 2 apply the amount payable in respect of the D Shares shall be reduced by such Patron Ratchet Amount accordingly

6E 2 In the event that the obligation to make a payment pursuant to Article 6E 1 arises as a result of a Listing, or at the election of the holders of the A Shares, on a Share Sale, the payment of the Patron Ratchet Amount pursuant to Article 6E 1 shall be satisfied by the transfer by the D Shareholders to the A Shareholders (other than those A Shareholders who are also D Shareholders) and the B Shareholders (other than those B Shareholders who are also Managers) *pro-rata* to their holdings of A Shares and/or B Shares such number of Equity Shares held by them *pro-rata* to their shareholding as shall have a value (calculated on the same basis as the Listing Value or (as the case may be) the Share Sale Value) equivalent to the Patron Ratchet Amount and the number of Shares to be transferred pursuant to Article 6A 3 shall be reduced as referred to therein or otherwise shall be set off against the number of shares to be transferred pursuant to Article 6A 3

6E 3 For the avoidance of doubt the Patron Ratchet Amount shall only be paid to the A Shareholders (other than those A Shareholders who are also D Shareholders) and B Shareholders (other than those B Shareholders who are also Managers) pursuant to this Article 6E once The provisions of this Article 6E shall not affect the rights attaching to the C Shares in any way

6E.4 In the event a dividend is paid or any other distribution (whether of income or capital and whether on a Liquidation or otherwise) which is effected either at a time when the Patron Threshold has been exceeded or the effect of such dividend or distribution would result in the Patron Threshold being exceeded and the sums being paid by way of dividend or distribution would be attributable to the Patron Proceeds then the amount of such dividend or distribution to be paid to the holders of Equity Shares shall be adjusted such that the Company shall apply and pay, *pari passu* with any other sum to be applied pursuant to such dividend or distribution, the Patron Ratchet Amount to the holders of the A Shares (other than any A

Shareholder who is also a holder of D Shares) and the holders of the B Shares (other than any B Shareholder who is also a Manager)

## **7 SHARE RIGHTS - VOTING**

7.1 The voting rights of Members set out in Article 22 are subject to

7.1.1 the following provisions of this Article 7, and

7.1.2 Article 14.8 (suspension of voting rights during compulsory transfer procedure)

### **Swamping Rights**

7.2 If at the date of any proposed shareholder resolution of the Company, the Company is in breach of the RJD Covenants, for so long as. (i) such breach continues to subsist, and (ii) the provisions of Article 7.3 do not apply, RJD and F&C Private Equity Trust PLC, F&C European Capital Partners LLP (the "F&C Investors") (acting together) may, by notice in writing to the Company require that the number of votes attaching to the A Shares held by RJD and the F&C Investors at any such general meeting shall represent 95 per cent of the voting rights attaching to all Shares after the application of this Article. This provision shall be without prejudice to the rights of Patron under clauses 5.2, 5.3, 5.4 and 5.6 of the Investment Agreement PROVIDED ALWAYS THAT when the provisions of Article 7.3 can no longer apply the enhanced voting rights arising under this Article 7.2 shall be allocated across all of the A Shares and not only those held by RJD and the F&C Investors

7.3 If at the date of any proposed shareholder resolution of the Company, there are any Convertible Loan Notes or Growth Loan Notes (or any commitment under the Patron Facility Letter) outstanding and the Company is in breach of the Patron Covenants, and for so long as such breach continues to subsist, the D Shareholders may (acting by a simple majority), by notice in writing to the Company require that the number of votes attaching to the D Shares at any such general meeting shall represent 95 per cent of the voting rights attaching to all Shares after the application of this Article.

## **8. VARIATION OF SHARE RIGHTS**

8.1 The rights attached to the A Shares, the B Shares and the D Shares may, in each case, be altered or abrogated (whether or not the Company is being wound up) only with the prior consent of the holders of the issued Shares of that class given in accordance with Article 8.2.

8.2 The consent of the holders of a class of Shares may be given by

8.2.1 a special resolution passed at a separate general meeting of the holders of that class,

8.2.2 a written resolution in any form signed by or on behalf of the holders of not less than 75 per cent in nominal value of the issued Shares of that class.

8.3 Without prejudice to the general effect of Article 8.1, the following will be deemed to constitute a variation of the rights attached to the A Shares save to the extent that the same may be applied pursuant to the Convertible Loan Note Deed).

- 8.3.1 any variation of the rights attaching to the A Shares, the B Shares, the C Shares, the D Shares, the Existing Loan Notes, the Convertible Loan Notes or the Growth Loan Notes,
  - 8.3.2 the convening of a meeting to consider the passing of any resolution to reduce the Company's share capital or any amount standing to the credit of its share premium account or capital redemption reserve fund, or to reduce any uncalled liability in respect of partly paid shares;
  - 8.3.3 the convening of a meeting to consider the passing of any resolution to alter the Company's memorandum or articles of association;
  - 8.3.4 the payment of any distribution or return of a capital nature to any shareholder other than
    - 8.3.4.1 to the A Shareholders or B Shareholders in accordance with these Articles; and
    - 8.3.4.2 to the holders of the Existing Loan Notes, the Convertible Loan Notes and the Growth Loan Notes;
  - 8.3.5 the capitalisation of any undistributed profits (whether or not the same are available for distribution, and including profits standing to the credit of any reserve) or of any sums standing to the credit of the Company's share premium account or capital redemption reserve fund,
  - 8.3.6 any variation of the authorised or issued share capital of any Group Member (other than a wholly owned subsidiary of the Company),
  - 8.3.7 the creation or grant of any option or other right to subscribe for, convert into or issue any shares or other securities in the capital of any Group Member; or
  - 8.3.8 save as required by law and a director's fiduciary duties the taking of any steps to wind up or dissolve any Group Member.
- 8.4 Without prejudice to the general effect of Article 8.1, the following will be deemed to constitute a variation of the rights attached to the B Shares at all times other than when and for so long as the voting rights of the A Shareholders shall have been increased pursuant to Article 7.3
- 8.4.1 the convening of a meeting to consider the passing of any resolution to alter the Company's memorandum or articles of association and/or the passing of any such resolution,
  - 8.4.2 any variation of the authorised or issued share capital of any Group Member (other than a wholly owned subsidiary of the Company)

## 9. **ISSUE AND ALLOTMENT OF NEW SHARES**

- 9.1 Unless the Company by special resolution directs otherwise or otherwise pursuant to the issue of shares pursuant to the Convertible Loan Note Deed, any new Shares will be offered by the Directors for subscription to the holders of the Equity Shares (other than the C Shares) in such proportions as equal (as nearly as possible) the proportion of Equity Shares (other than the C Shares) held by them respectively at that time. For the purpose of this Article, the Equity Shares (other than the C Shares) will be treated as one class of Share



- 9.2 The offer will be made by notice specifying the number and class of Shares offered, the price per Share, and a time (being not less than 14 days) within which the offer, if not accepted, will be deemed to be declined. At the end of that period or, if earlier, on the receipt of an indication from the person(s) to whom such notice is given that he/they decline(s) to accept some or all of the Shares so offered, the Directors will offer the declined Shares in the same proportions to the holders of Equity Shares (other than C Shares) who have accepted all the Shares initially offered to them. This further offer will be made in the same manner as the original offer but may, at the discretion of the Directors, be limited to a period of seven days after which it will (to the extent that any Shares remain unaccepted) be deemed to have been withdrawn.
- 9.3 Any Shares not taken up at the end of the procedure set out in Articles 9.1 and 9.2 may be offered by the Directors to a third party (to be approved by the Fund Manager) and, subject to these Articles, the provisions of section 80 of the Companies Act and to the prior approval of the Fund Manager and Patron, such Shares will be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms as they think fit. However
- 9.3.1 no Shares will be issued at a discount to the nominal value thereof;
- 9.3.2 no Shares will be issued more than three months after the end of the period for acceptance of the last offer of such Shares under Articles 9.1 and 9.2 unless the procedure set out in those Articles is repeated in respect of such Shares, and
- 9.3.3 no Shares will be issued on terms which are more favourable than those on which they were offered to the Members
- 9.4 The provisions of sections 89(1) and 90(1) to (6) of the Companies Act will not apply to the Company
- 9.5 If, due to any inequality between the number of new Shares to be issued and the numbers of Shares held by Members entitled to have the offer of new Shares made to them, any difficulty arises in the apportionment of any such new Shares amongst the Members, such difficulties will be determined by the Board

## **10 TRANSFERS OF SHARES - PROHIBITED TRANSFERS**

### **General Prohibitions**

- 10.1 Subject to the provisions of Article 11, the Directors will not register any transfer of C Shares otherwise than as a consequence of a Share Sale or a Listing
- 10.2 The Directors will not register any transfer of Shares to any of the following
- 10.2.1 any person who, in the opinion of the Directors is carrying on business directly or indirectly in competition with the Company or any member of the Group, except that this restriction will not apply to
- 10.2.1.1 any transfer of Shares pursuant to Articles 15 and 16 (Tag Along Rights and Drag Along Rights); or
- 10.2.1.2 any transfer of Shares to the Investor(s) or any of them;

- 10.2.2 any person who does not have legal capacity to transfer such Shares or otherwise to comply fully with the provision of these articles, or
- 10 2 3 save in relation to any transfer or transmission on death to an existing member pursuant to Article 14, or in relation to any Share Sale or Listing, or by virtue of the operation of Articles 15 or 16, any person to whom Mr Mosiewicz has transferred Shares who has not entered into a voting power of attorney in respect of those Shares in favour of Mr Scott (or another member who is a director or employee of the Company who is reasonably acceptable to the Investors) or the B Director in a form satisfactory to the Directors
- 10.3 The Directors may refuse to register the transfer of any Share which is not fully Credited as Paid Up.

**Prohibition unless in accordance with these articles**

- 10 4 Subject to Articles 10 1 and 10 2, the Directors will not register a transfer of Shares unless:
  - 10.4.1 the transfer is permitted by Article 11, (Permitted Transfers), or has been made in accordance with Article 12 (Pre-emption), and
  - 10.4.2 the proposed transferee has entered into a deed of adherence to, and in the form required by the Investment Agreement.
- 10 5 For the purpose of ensuring that
  - 10.5.1 a transfer of Shares is permitted under these articles; or
  - 10.5.2 no circumstances have arisen whereby a Transfer Notice is required to be or ought to have been given, or
  - 10 5 3 no circumstances have arisen whereby the tag along provisions are required to be or ought to have been triggered pursuant to Article 15

the Board may, and will if so requested by the Investor Director(s), require any Member to procure that any person whom the Board or the Investor Director(s) reasonably believe(s) to have information relevant to such purpose provides the Company with such information and evidence as the Board or the Investor Director(s) think fit. Pending the provision of such information the Board will be entitled to refuse to register any relevant transfer

- 10 6 Regulations 24 and 26 will not apply to the Company

**11 PERMITTED TRANSFERS**

- 11 1 Where any Shares are the subject of a Transfer Notice, no transfers of any such Shares shall be permitted pursuant to this Article 11
- 11.2 Subject to Article 11 1, and to Articles 11.3 to 11.6 (inclusive), any Share may be transferred:
  - 11.2.1 subject to Article 11.3, by its beneficial owner to a person shown to the reasonable satisfaction of the Directors to be a nominee for such beneficial owner only, and by any such nominee to the beneficial owner

- or to another person shown to the reasonable satisfaction of the Directors to be a nominee for the beneficial owner only; or
- 11.2.2 when required by, and in accordance with, Article 14 (Compulsory Transfers); or
  - 11.2.3 to a Buyer in acceptance of an Approved Offer pursuant to Article 15 (Tag Along Rights) or Article 16 (Drag Along Rights),
  - 11.2.4 in the case of Shares held by an undertaking, subject to Article 11.4, to a group undertaking of the transferor; or
  - 11.2.5 in the case of A Shares held by or on behalf of RJD:
    - 11.2.5.1 to another nominee or trustee for, or general partner of, RJD, and by any such nominee or trustee to another nominee or trustee for RJD or to RJD itself, or
    - 11.2.5.2 on a distribution in kind under the constitutional documents of RJD, to the partners in or holders of units in, or to the shareholders of, participants in or the holders of other interests in RJD (or to a nominee or trustee for any such partners, holders, members or investors), and by a nominee or trustee for such holders, partners, members or investors to such holders, partners, members or investors or to another nominee or trustee for such holders, partners, members or investors, or
    - 11.2.5.3 to another Fund which is managed or advised by the same manager or advisor as RJD or by a group undertaking of such manager or advisor; or
  - 11.2.6 (in the case of A Shares only) to a Co-Investment Scheme; or
  - 11.2.7 in the case of a Co-Investment Scheme which holds A Shares through another undertaking
    - 11.2.7.1 to another undertaking which holds or is to hold the Shares for the Co-Investment Scheme; or
    - 11.2.7.2 to any officer, employee or partner entitled to the Shares under the Co-Investment Scheme, or
  - 11.2.8 in the case of any Shares held by an Employee Benefit Trust, to any beneficiary of that trust or to any replacement trustees or into the joint name of the existing and any new or additional trustees; or
  - 11.2.9 in the case of A Shares held by or on behalf of a member of the Patron Investor Group
    - 11.2.9.1 to another nominee or trustee for, or general partner of, a member of the Patron Investor Group, and by any such nominee or trustee to another nominee or trustee for a member of the Patron Investor Group or to a member of the Patron Investor Group itself; or

- 11.2.9.2 to a member of the Patron Investor Group, to the partners in or holders of units in, or to the shareholders of, participants in or the holders of other interests in a member of the Patron Investor Group (or to a nominee or trustee for any such partners, holders, members or investors), and by a nominee or trustee for such holders, partners, members or investors to such holders, partners, members or investors or to another nominee or trustee for such holders, partners, members or investors, or
- 11.2.9.3 to another Fund which is managed or advised by Patron Capital Limited or the same manager or advisor as a member of the Patron Investor Group or by a group undertaking of such manager or advisor

provided always that all members of the Patron Investor Group holding A Shares shall vote such shares in the same manner as the Patron Fund votes its shares or (if the Patron Fund is no longer a Shareholder) as the Patron Fund (acting through its manager or Relevant Advisor) directs

#### **Further transfers by group members etc.**

- 11.3 Where shares are held by one or more nominees of their beneficial owner and any such person ceases to be a nominee of the beneficial owner of the Shares such person will on or before the cessation transfer such Shares to a transferee permitted (as the case may be) under Article 11.2.1.
- 11.4 Where Shares have been transferred under Article 11.2.4 (transfers to group undertakings) and the transferee ceases to be a group undertaking of the transferor, it will, on or before the cessation, transfer such Shares to the original transferor or to another group undertaking of the original transferor;
- 11.5 If a Member fails or refuses to execute and deliver any transfer in receipt of any Shares pursuant to its obligations under Article 11.3 or Article 11.4, the Board may (and will if requested by the Investor Director(s)) authorise any Director to execute and deliver the necessary transfer(s) on the defaulting Member's behalf. The Board will authorise registration of the transfer, and of the transferee as the holder of the Shares so transferred, once appropriate stamp duty (if any) has been paid. After registration, the title of the transferee as registered holder of such Shares will not be affected by any irregularity in or invalidity of such proceedings, which will not be questioned by any person

#### **Provisions specific to Investor Shares**

- 11.6 A Shares will, if so required by the Investor Director(s) by notice served on the Company, immediately and without resolution of the Directors or the Members be converted into B Shares upon being held by any person (other than Patron) who is not a holder of any other A Shares.

#### **12 PRE-EMPTION**

##### **Transfer Notices**

- 12.1 Except in the case of a transfer pursuant to Article 11 (Permitted Transfers), and subject to the prohibitions on transfers set out in Article 10, a Seller must give a Transfer Notice to the Company copied to the Fund Manager and Patron

- 12 2 Each Transfer Notice will relate to one class of Shares only and will specify:
- 12.2 1 the number and class of Sale Shares,
  - 12.2.2 the identity of the Proposed Transferee (if any),
  - 12 2 3 the price per Share at which the Seller wishes to transfer the Sale Shares, and
  - 12 2 4 whether or not the Transfer Notice is subject to a Total Transfer Condition. In the absence of any such stipulation it will be deemed not to be so conditional. No Total Transfer Condition will apply in respect of any Transfer Notice deemed to have been given pursuant to Article 14.
- 12 3 No Transfer Notice will be capable of variation or cancellation without the consent of the Board (subject to the approval of the Investor Director(s)) unless, other than in circumstances when the provisions of Article 14 are applicable, the Auditors subsequently determine the Market Value of the Sale Shares to be less than the price specified in the Transfer Notice

#### **Transfer Price**

- 12 4 The Transfer Notice will constitute the Company as the agent of the Seller for the transfer of the Sale Shares in accordance with this Article 12 at the following price ("**Transfer Price**")
- 12.4.1 the price which may be agreed between the Seller and the Board (subject to the approval of the Investor Director(s)) within 10 Business Days after the date of service or deemed service of the Transfer Notice, or
  - 12 4.2 In default of agreement under Article 12.4.1:
    - 12.4 2 1 the price per Share specified in the Transfer Notice; and
    - 12.4 2 2 if the Board elects within 15 Business Days after the date of service or deemed service of the Transfer Notice to instruct the Auditors for the purpose, the lower of the amount referred to in Article 12.4.2.1 and the Market Value of each Sale Share as at the date of service or deemed service of the Transfer Notice, and as determined in accordance with Articles 2.4 and 13.

#### **First offer to EBT etc (at discretion of Board)**

- 12.5 Subject always to the provisions of Article 14.5, the following provisions of this Article 12.5 will apply to any transfer of any Shares by any Member other than an Investor (save that where the Shares concerned are B Shares the provisions of this Article 12 5 will only apply to 50% of the number of B Shares which are the subject of the Transfer Notice).
- 12.5.1 Within ten Business Days after the late of
    - 12 5 1 1 the receipt by the Company of a Transfer Notice; and
    - 12.5 1 2 the determination of the Transfer Price

the Fund Manager may direct the Company (in its capacity as agent for the Seller) immediately to offer at the Transfer Price such number of Sale Shares as it may determine to any person who will hold the Sale Shares for the benefit of existing or future employees including (without limitation), any Employment Benefit Trust of any Group Member or any professional trustee, in any such case to hold the Sale Shares upon the terms of a discretionary trust for the benefit of the class of beneficiaries which includes (without limitation) employees and directors of any Group Member

12.5.2 If any offeree of the Sale Shares pursuant to this Article 12.5 applies for any of them within 10 Business Days after the date of the offer, the Company will allocate to such offeree the number of Sale Shares applied for on the later of:

12.5.2.1 the fifteenth Business Day following receipt of the Transfer Notice; and

12.5.2.2 the date on which the Transfer Price is determined

12.5.3 If all of the Sale Shares are so allocated, the provisions of Articles 12.6 to 12.9 will (subject to Article 12.5.4) not apply. If none or some only of the Sale Shares are so allocated, or (where the Shares concerned are B Shares) in respect of the 50% of the B Shares which are not governed by this Article 12.5, the provisions of Articles 12.6 to 12.9 will have effect as if reference to Sale Shares was to those not allocated in accordance with this Article 12.5 or to such percentage of B Shares which are not governed by this Article 12.5 (as the case may be).

12.5.4 If any B Shares transferred to any EBT pursuant to this Article 12.5 have not been transferred to employees and directors of any Group Member by the 12 month anniversary of the date on which they were registered in the name of such EBT, any B Shares not so transferred shall on the date of such 12 month anniversary ("Relevant Date") be offered in accordance with the provisions of Articles 12.6 to 12.9 as if references to Sale Shares were to those not so transferred to employees and directors prior to the Relevant Date and so that the relevant time period for offering such Sale Shares in accordance with Article 12.6 shall be 10 Business Days from the Relevant Date

#### **Offer to holders of Equity Shares (other than C Shares) and notice to Investor(s)**

12.6 Subject to Article 12.5, within 10 Business Days after its receipt of a Transfer Notice or, where later, on the determination of the Transfer Price, the Company (in its capacity as agent for the Seller) will give notice in writing to each of the holders of Equity Shares (other than holders of the C Shares and the Seller and any other Member who has served or who is deemed to have served a Transfer Notice in respect of his entire holding of Shares pursuant to which the sale of such Shares has not then been concluded) offering the Sale Shares for sale at the Transfer Price in accordance with Articles 12.7 and 12.8. The notice will specify that the holders of Equity Shares (other than C Shares) will have a period of up to 20 Business Days from the date of such notice within which to apply for some or all of the Sale Shares.

#### **Pre-emption Procedure**

12.7 it will be a term of any offer made pursuant to Article 12.6 that, if Members holding Equity Shares (other than C Shares) of more than one class apply for some or all of the Sale Shares, the Sale Shares of a particular class specified in column (1) in the table below will be treated as offered

12.7.1 in the first instance to all persons in the category set out in the corresponding line in column (2) in the table below, and

12.7.2 to the extent not accepted by persons in column (2) (whether as part of their proportionate Entitlement or as Extra Shares), to all persons in the category set out in the corresponding line in column (3) in the table below

(1)	(2)	(3)
Class of Sale Shares	First Priority	Second Priority
B Shares	B Shareholders	A Shareholders
A Shares	A Shareholders	B Shareholders

12.8 It will be a further term of the offer that, if there is competition within any class of shareholder for the Sale Shares offered to that class, such Sale Shares will be treated as offered among the holders of such class in proportion (as nearly as possible) to their existing holdings of Shares of that class ("**Proportionate Entitlement**") However, the offer will also invite holders of Equity Shares (other than C Shares) to indicate in their applications for Sale Shares, whether they would be willing to buy Shares in excess of their Proportionate Entitlement ("**Extra Shares**") should any such Extra Shares be available and, if so, how many.

#### **Allocation of Shares**

12.9 After the expiry of the offer period specified in Article 12.6, (or, if sooner, upon valid applications being received for all of the Sale Shares in accordance with that Article), the Board will allocate the Sale Shares as follows.

12.9.1 if the total number of Sale Shares applied for (including Extra Shares) is equal to or less than the available number of Sale Shares, each offeree will be allocated the number applied for in accordance with his application (subject to Article 12.13); or

12.9.2 if the total number of Sale Shares applied for is greater than the available number of Sale Shares, each offeree will be allocated his Proportionate Entitlement, or, if less, the number of Sale Shares which he has applied for; and

12.9.3 applications for Extra Shares will be allocated in accordance with such applications or, in the event of competition within any class of shareholder, among those applying for Extra Shares in such proportions as equal (as nearly as possible) the proportions of all the Shares of the same class held by such offerees or, if less, the number of Sale Shares applied for

- 12.10 Allocations of Sale Shares made by the Company pursuant to this Article 12 will constitute the acceptance by the persons to whom they are allocated of the offer to purchase those Sale Shares on the terms offered to them, provided that no person will be obliged to take more than the maximum number of Sale Shares which he has indicated to the Company he is willing to purchase.

#### **Completion of sale and purchase of Sale Shares**

- 12.11 The Company will immediately upon allocating any Sale Shares (whether pursuant to Article 12.5.2 or Article 12 9) give notice in writing ("**Allocation Notice**") to the Seller and to each person to whom Sale Shares have been allocated specifying

12.11.1 the number of Sale Shares so allocated,

12.11.2 the aggregate price payable for them,

12.11.3 any additional information required by Article 12 13.1 (if applicable), and

12.11.4 (subject to Article 12 13 1) the place and time (being not later than 5 Business Days after the date of the Allocation Notice) at which the sale of the Sale Shares will be completed.

- 12.12 Subject to Article 12.13, completion of the sale and purchase of Sale Shares in accordance with the Allocation Notice will take place at the place and time specified in the Allocation Notice when the Seller will, upon payment of the due price, transfer those Sale Shares specified in the Allocation Notice and deliver the relevant Share certificates to the persons to whom they have been allocated

- 12.13 If the Transfer notice included a Total Transfer Condition and the total number of Shares applied for is less than the number of Sale Shares:

12.13.1 the Allocation Notice will refer to such Total Transfer Condition and will contain a further offer, open for 28 days, to those persons to whom Sale Shares have been allocated to apply for further Sale Shares; and

12.13.2 completion of the transfer in accordance with the preceding paragraphs of this Article 12 will be conditional upon all such Sale Shares being so allocated



### **Default by the Seller**

- 12 14 Except in the case of an acquisition of Sale Shares by the Company, if the Seller fails by the due completion date to execute and deliver transfers in respect of any of the Sale Shares which he is due to transfer, the Board may (and will if required by the Investor (Director(s))) authorise any Director to

12.14.1 execute the necessary transfer(s) on the Seller's behalf, and

12 14 2 against receipt by the Company of the Transfer Price payable for the relevant Sale Shares (to be held on trust for the Seller without interest) (the receipt being a good discharge to the offeree who will not be bound to see to the application of it), deliver such transfer(s) to the relevant offeree(s).

The Board will authorise registration of the transfer(s), and of the offeree(s) as the holder(s) of the Sale Shares so transferred, once appropriate stamp duty has been paid. After registration, the title of such offeree(s) as registered holder(s) of such Sale Shares will not be affected by any irregularity in, or invalidity of such proceedings, which will not be questioned by any person.

- 12 15 In the case of an acquisition of Sale Shares by the Company, if the Seller fails by the due completion date to transfer and/or to deliver the certificates (or a suitable indemnity) in respect of any Sale Shares, the Board may (and will if requested by the Investor Director(s)) authorise any Director to execute, complete and deliver the necessary transfer and indemnity to the Company on the Seller's behalf. When that instrument has been duly stamped, the Company will ensure that such share capital is cancelled in accordance with the Companies Act, and will hold the purchase monies on trust (without interest) for the Seller.

### **Exhaustion of pre-emption rights - rights and restrictions with regard to sale to third party**

- 12.16 Immediately after the exhaustion of any pre-emption process followed in accordance with these articles, if any Sale Shares remain unallocated, the Company will notify the Seller of that fact. The Seller may, at any time within one calendar month after receiving such notice (but not otherwise unless the pre-emption procedure set out in these articles is repeated), transfer any unsold Sale Shares to the Proposed Transferee at any price which is not less than the Transfer Price, except that.

12.16 1 the Board will refuse registration of any transfer to a Proposed Transferee who is a person to whom Shares may not be transferred by virtue of Articles 10.2.1 or 10 2 2,

12.16.2 if any such transfer would, if made and registered, result in the Proposed Transferee obtaining a Controlling Interest, the Board will refuse registration of such transfer until such time as an Approved Offer has been made and the provisions of Article 15 (Tag Along Rights) complied with;

12.16.3 if the Seller included a Total Transfer Condition in the Transfer Notice which has not been satisfied, the Seller will be entitled to transfer all (but not some only) of the Sale Shares;

12 16 4 any such transfer must be in good faith and the Board may require to be satisfied (in such manner as it may reasonably think fit) that the

Sale Shares are being sold at a price which is not less than the Transfer Price without any deduction, rebate or allowance whatsoever. If not so satisfied, the Board may refuse to register the transfer.

### 13. VALUATION

#### **Determination of "Market Value"**

If the Auditors (or, by virtue of Article 2.4, independent accountants) are required to determine Market Value pursuant to Article 12.4.2.2, the provisions set out below will apply.

- 13.1 Market Value will be determined by the Auditors or, as the case may be, independent accountants, first valuing the Company as a whole on the date of the Transfer Notice.
  - 13.1.1 assuming, if the Company is then carrying on business as a going concern, that it will continue to do so;
  - 13.1.2 assuming that the entire issued share capital of the Company is being sold as between a willing buyer and a willing seller by arm's-length private treaty for cash payable in full on completion;
  - 13.1.3 taking account of any Shares which may be allotted pursuant to options, warrants or rights of conversion which have been issued by the Company and which are still outstanding, and
  - 13.1.4 taking account of any bona fide offer for the Company received from an unconnected third party within six months prior to the Transfer Notice being served or deemed to have been served.
- 13.2 Having valued the Company as a whole, the Auditors or, as the case may be, independent accountants will determine the Market Value of the Shares concerned.
  - 13.2.1 having deducted from the value of the Company as a whole (if not already taken into account when so valuing the Company):
    - 13.2.1.1 any amounts due to the holders of the Existing Loan Notes, the Convertible Loan Notes or the Growth Loan Notes or any other provided of debt finance to the Company (whether in respect of principal or arrears of accruals of interest),
    - 13.2.1.2 any Arrears, accruals or deficiencies of dividend on the A Shares;
    - 13.2.1.3 any arrears, accruals or deficiencies of dividend on Shares of any other class,
  - 13.2.2 disregarding whether the Shares concerned represent a majority or a minority interest; and
  - 13.2.3 disregarding the rights and restrictions attached to the Shares concerned in respect of income, capital and transfer

- 13.3 The costs and expenses of the Auditors (or independent accountants) for reporting on their opinion of the Market Value will be borne as to one half by the Seller and as to the other half by the purchasing Shareholders pro-rata to the number of Sale Shares purchased by them unless:

13.3.1 the Seller revokes the transfer notice under Article 12.3; or

13.3.2 none of the Sale Shares are purchased by Members pursuant to Article 12 in which case the Seller will pay all such costs and expenses

#### 14. **COMPULSORY TRANSFERS**

##### **Circumstances which trigger compulsory transfer**

- 14.1 This Article 14 applies when

14.1.1 a Relevant Individual is a B Shareholder or a C Shareholder, and/or

14.1.2 a B Shareholder holds B Shares or a C Shareholder holds C Shares, each as the nominee of a Relevant Individual

and the Relevant Individual ceases for any reason (including death or bankruptcy) to be an employee and/or director or consultant of any member of the Group without remaining as an employee and/or director or consultant of any member of the Group.

- 14.2 For the purposes of this Article, the Relevant Individual will cease to be an employee and/or director or consultant of a member of the Group on the Cessation Date

##### **Compulsory Pre-emption Procedure**

- 14.3 Within 3 months after the Cessation Date the Remuneration Committee may serve notice ("**Compulsory Sale Notice**") on the Relevant Individual and/or any holder of B Shares or C Shares referred to in Article 14.1 (or the PRs of any deceased Member or the trustee in bankruptcy of any bankrupt Member) (each a "**Compulsory Seller**" and together "**Compulsory Sellers**") requiring each such person to offer such number as the Remuneration Committee may decide of the Shares registered in his or their name(s) or to which he is or they are or may become entitled whether as a result of his or their holding of Shares or otherwise

- 14.4 The Shares which are the subject of the Compulsory Sale Notice will be offered for sale (other than to any Compulsory Seller or any other Member who has served or who is deemed to have served a Transfer Notice in respect of his entire holding of Shares which is still outstanding) in accordance with the provisions of Article 12, which will apply as if set out in full in this Article except to the extent that they are varied by the following provisions of this Article 14. The Remuneration Committee may also determine in its absolute discretion to revoke any Transfer Notice previously given or deemed to have been given by the Compulsory Seller(s) which is still outstanding at the Cessation Date

#### 14.5

- 14.5.1 To the extent that the Relevant Individual is a Bad Leaver or a C Shareholder, column (2) of the table set out in Article 12.7 shall read "A Shareholders and B Shareholders (as if one class)".

- 14.5.2 To the extent that the Shares which are the subject of the Compulsory Sale Notice are C Shares they shall first be offered to the Company by way of buy back ("**Buy Back Offer**") within 10 Business Days after the later of (i) receipt of the Compulsory Sale Notice by the Relevant Individual and (ii) the determination of the price for such C Shares as determined by reference to Article 14.6.4. If the Company for whatever reason does not complete the buy back of such C Shares within 30 Business Days from the date of the Buy Back Offer ("**Buy Back Date**") such C Shares shall be offered in accordance with the provisions of Articles 12.6 to 12.9 as if reference to Sale Shares were to those not bought back by the Company prior to the Buy Back Date and so that the relevant time period for offering such Sale Shares in accordance with Article 12.6 shall be 10 Business Days from the Buy Back Date.

#### **Sale Price - Good leaver/Bad Leaver**

14.6 The price for the Sale Shares will be:

14.6.1 if the Relevant Individual is a Bad Leaver, the lower of:

14.6.1.1 the nominal value of the Sale Shares; and

14.6.1.2 the Market Value of the Sale Shares on the Cessation Date to be agreed or determined in accordance with Articles 2.4 and 14.7

less, in each case, any unpaid amounts outstanding on the Sale Shares which shall be applied to satisfy any call in respect of such Sale Shares made by the Company,

14.6.2 if the Relevant Individual is a Good Leaver, the price per Share will be the higher of Cost per Share and Market Value per Share on the Cessation Date, to be agreed or determined as aforesaid less any unpaid amounts outstanding on the Sale Shares which shall be applied to satisfy any call in respect of such Sale Shares made by the Company. For the purposes of this Article 14.6.2, "**Cost**" per Share shall mean £4.6382 in respect of all of the B Shares issued to Robert Scott or Jan Mosiewicz or Philip Wilding on or around 31 August 2005;

14.6.3 if the Relevant Individual is a C Shareholder, the lower of

14.6.3.1 the aggregate amount Credited as Paid Up on each Sale Share on the date on which the compulsory sale of the C Shares is completed and a C Shareholder shall be at liberty to pay up all or any of the outstanding balance due on the C Shares held by him at any time prior to the completion of the compulsory sale of such C Shares pursuant to these articles; and

14.6.3.2 the market Value of the Sale Shares on the date on which the compulsory sale of the C Shares is completed to be agreed or determined as aforesaid less any unpaid amounts outstanding on the Sale Shares which shall be applied to satisfy any call in respect of such Sale Shares made by the Company

14.6.4 if the Relevant Individual is Robert Scott and he is in the reasonable opinion of the holders of a majority of the A Shares in breach of the provisions of clause 6 of the Investment Agreement (Restrictive Covenants) and the Remuneration Committee serves a Compulsory Sale Notice, the price per Share shall be calculated by valuing one half of the Shares subject of the Compulsory Sale Notice at the value determined in accordance with Article 14.6.1 and the other half of the Shares subject of the Compulsory Sale Notice at the value determined in accordance with Article 14.6.2 but so that all of such Shares are offered for sale at the mean value so determined.

14.7 **"Market Value"** for the purposes of Article 14 will be.

14.7 1 the price agreed between the Compulsory Seller(s) and the Investor Director(s); or

14 7.2 if they fail to agree a price within 15 Business Days of the date of service of the Compulsory Sale Notice the price determined by the Auditors (or independent accountant) to be the Market Value of such Shares on the Cessation Date, according to the principles set out in Article 13, but (i) having regard also to the effect on the Group of the Relevant Individual in question ceasing to be an employee or director or consultant of any Group Member, and (ii) accepting that, in determining the Market Value of the Sale Shares held by any of the Managers in the event that they are determined to be Good Leavers, the Auditors (or independent accountants) shall disregard whether such Sale Shares represent a minority interest

#### **Suspension of voting rights during compulsory transfer procedure**

14.8 Unless the Fund Manager direct(s) otherwise in writing, any Shares held by a compulsory Seller on the Cessation Date (and any Shares issued to a Compulsory Seller after such date by virtue of the exercise of any right or option granted or arising by virtue of his holding of the Sale Shares) will cease to confer the right to be entitled to receive notice of, attend and vote at any general meeting of the Company, or any meeting of the holders of any class of Shares with effect from the Cessation Date (or, where appropriate, the date of issue of such Shares, if later), and such Shares will not be counted in determining the total number of votes which may be cast at any such meeting, or for the purposes of a written resolution of any Members or class of Members. That right will be restored immediately upon the Company registering a transfer of the Sale Shares in accordance with this Article 14.

#### **Transmission of Shares**

14.9 Regulations 29 to 31 shall take effect subject to Articles 14 10 and 14.11.

14.10 Without prejudice to Articles 14.1 and 14.3 (the provisions of which, when operable, will override the provisions of this Article 14.10 and the provisions of Articles 14.9 and 14 11), a person entitled to a Share or Shares in consequence of the death, bankruptcy, receivership or liquidation of a Member or otherwise by operation of law shall be bound at any time, if called upon in writing to do so by the Directors not later than 90 days after the Directors receive notice from the person concerned that he has become so entitled, to give a Transfer Notice (without specifying a Transfer Price) in respect of all of the Shares then registered in the name of the deceased or insolvent Member in accordance with the provisions of Article 12, which will apply as if set out in full in this Article.

14 11 If any such person fails to give a Transfer notice in accordance with Article 14 10 within 10 Business Days after being called upon to do so:

14 11 1 the Board may (and will if requested by the Investor Director(s)) authorise any Director to execute and deliver a transfer of the Shares concerned to a person appointed by the Directors as a nominee for the person entitled to the Shares; and

14 11.2 the Company may give a good receipt for the purchase price of such Shares, register the purchaser or purchasers as the holders of them and issue certificates for the same to such purchasers. After registration, the title of such purchaser or purchasers as registered holder(s) of the Shares will not be affected by any irregularity in, or invalidity of, such proceedings, which will not be questioned by any person. In any such case the person entitled to the Shares as a consequence of the death, insolvency or otherwise by operation of law will be bound to deliver up the certificates for the Shares concerned to the Company whereupon he will become entitled to receive the purchase price. In the meantime, the purchase price will be held by the Company on trust for such person without interest.

## 15. **CHANGE OF CONTROL - TAG ALONG RIGHTS**

15.1 With the exception of transfers of Shares pursuant to Article 11 (Permitted Transfers), no transfer of Shares which would result, if made and registered, in a person or persons Acting in Concert obtaining a Controlling Interest, including any Controlling Interest obtained as a result of the operation of Article 15.3 below, will be made or registered unless

15.1.1 an Approved Offer is made by the proposed transferee(s) ("**Buyer**"); and

15.1.2 the Buyer complies in all respects with the terms of the Approved Offer at the time of completion of the sale and purchase of Shares pursuant to it.

15 2 For the purposes of this Article 15 and Article 16:

15.2.1 "**Approved Offer**" means an offer in writing served on all Members holding Equity Shares (including the proposing transferor), offering to purchase all the Equity Shares held by such Members (including any Shares which may be allotted pursuant to the exercise or conversion of options, rights to subscribe for or securities convertible into Equity Shares in existence at the date of such offer) which:

15.2.1.1 is stipulated to be open for acceptance for at least 15 Business Days;

15.2.1.2 in the event that the consideration offered to the Proposing Transferor was entirely in cash, offers the same cash consideration for each Equity Share, or in the event that the consideration offered to the Proposing Transferor was not entirely in cash, offers either the same consideration for each Equity Share or, at the election of the Buyer, equivalent cash consideration, provided that a deduction, withholding or retention of consideration to take account of tax payable or which might be payable by

a Member or by his employing company in relation to the conversion of securities, the exercise of an option over Equity Shares and/or the disposal of Equity Shares shall not prejudice the application of this paragraph,

15.2.1.3 withholds from the consideration payable for each Equity Share any unpaid amounts outstanding on such Equity Share which shall be applied to satisfy any call in respect of any such Equity Share made by the Company,

15.2.1.4 includes an undertaking by or on behalf of the Buyer that, subject to compliance by the Buyer with Articles 15.2.1.5 and 15.2.1.6, no other consideration, (whether in cash or otherwise) is to be received or receivable by any Member which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Shares to be sold by such Member, and that neither the Buyer nor any person acting by agreement or understanding with it has otherwise entered into more favourable terms or has agreed more favourable terms with any other Member for the purchase of Equity Shares;

15.2.1.5 in the case of the A Shares, includes provision for the payment of all Arrears and accruals of the Preferred Dividend and a price for each A Share which is not less than the subscription price (including any premium),

15.2.1.6 makes provision for the redemption of the Existing Loan Notes, the Convertible Loan Notes and the Growth Loan Notes or, if the Company is unable lawfully to effect any such redemption, makes provision for the purpose of such loan notes at the price at which they would have been redeemed,

15.2.1.7 is on terms that the sale and purchase of Shares in respect of which the offer is accepted will be completed at the same time.

15.3 No A Share Transfer will be made or registered unless:

15.3.1 an A Share Approved Offer is made by the proposed transferee(s) ("**A Share Buyer**"); and

15.3.2 the A Share Buyer complies in all respects with the terms of the A Share Approved Offer at the time of completion of the sale and purchase of A Shares pursuant to it

15.4 For the purposes of this Article 15

15.4.1 "**A Share Transfer**" means with the exception of transfers of Shares pursuant to Article 11 (Permitted Transfers) any transfer by an A Shareholder of more than 75% of the A Shares which it holds,

15.4.2 "**A Share Approved Offer**" means an offer in writing served on all Members holding A Shares (including the proposing transferor) and all holders of the right to be allotted A Shares pursuant to the exercise or

conversion of options, rights to subscribe for or securities convertible into A Shares in existence and still capable of exercise at the date of such offer ("**A Share Rights Holders**"), offering to purchase all the A Shares held by such Members (including any A Shares which may be allotted pursuant to the exercise or conversion of options, rights to subscribe for or securities convertible into A Shares in existence at the date of such offer) and those A Shares which the A Share Rights Holders have the right to acquire which

- 15 4 2 1 is stipulated to be open for acceptance for at least 15 Business Days;
- 15 4 2 2 offers the same or equivalent consideration for each A Share (whether in cash, securities or otherwise in any combination), provided that a deduction, withholding or retention of consideration to take account of tax payable or which might be payable by a Member or by his employing company in relation to the conversion of securities, the exercise of an option over A Shares and/or the disposal of A Shares shall not prejudice the application of this paragraph,
- 15.4.2 3 withholds from the consideration payable for each A Share any unpaid amounts outstanding on such A Share which shall be applied to satisfy any call in respect of any such A Share made by the Company,
- 15 4 2 4 includes an undertaking by or on behalf of the Buyer that, subject to compliance by the Buyer with Articles 15 4 1 5 and 15.4.1.6, no other consideration, (whether in cash or otherwise) is to be received or receivable by any Member which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the A Shares to be sold by such Member, and that neither the Buyer nor any person acting by agreement or understanding with it has otherwise entered into more favourable terms or has agreed more favourable terms with any other Member for the purchase of A Shares;
- 15 4 2 5 includes provision for the payment of all Arrears and accruals of the Preferred Dividend and a price for each A Share which is not less than the subscription price (including any premium),
- 15.4.2.6 makes provision for the redemption of the Existing Loan Notes, the Convertible Loan Notes and the Growth Loan Notes or, if the Company is unable lawfully to effect any such redemption, makes provision for the purpose of such loan notes at the price at which they would have been redeemed,
- 15.4.2.7 is on terms that the sale and purchase of A Shares in respect of which the offer is accepted will be completed at the same time.



16. **CHANGE OF CONTROL - DRAG ALONG RIGHTS**

16.1 Subject to Article 16 5, if an Approved Offer is made by a party which is not a Connected Person to any of the Members:

16 1 1 up to and including 31 August 2009 ("**Fourth Anniversary**"), the holders of (i) at least 50% in nominal value of the A Shares and (ii) at least 30% in nominal value of the B Shares shall, acting unanimously, have the right;

16 1 2 up to and including the Fourth Anniversary in circumstances where a Trigger Event has occurred, the holders of all of the A Shares shall have the right, and

16.1.3 at any time after the Fourth Anniversary, the holders of all of the A Shares shall have the right

("Drag Along Right") to require (in the manner set out in Article 16.2) all of the other holders of Equity Shares including persons who acquire Equity Shares following the making of the Approved Offer pursuant to the exercise of options or conversion of securities ("**Other Shareholders**") to accept the Approved Offer in full provided that, in the event that the consideration payable pursuant to the Approved Offer comprises unlisted equity securities, the Other Shareholders shall not be bound to accept the Approved Offer unless the Buyer offers a cash equivalent to such Other Shareholders.

16 2 The Drag Along Right may be exercise by the service of notice to that effect on the Other Shareholders at the same time as, or within five Business Days following the making of the Approved Offer (or, if later, within five Business Days following the acquisition by the relevant Other Shareholder of any equity Shares).

16.3 On the exercise of the Drag Along Right, each of the Other Shareholders will be bound to accept the Approved Offer in respect of its entire holding of Equity Shares and to comply with the obligations assumed by virtue of such acceptance.

16.4 If any of the Other Shareholders fails to accept the Approved Offer or, having accepted such offer, fails to complete the sale of any of its Equity Shares pursuant to the Approved Offer, or otherwise fails to take any action required of it under the terms of the Approved Offer, any holder of A Shares or any persons so authorised by the Board with the consent of the Investor Director(s) may accept the offer on behalf of the Other Shareholder in question, or undertake any action required under the terms of the Approved Offer on the part of the Other Shareholder in question. In particular, such person may execute the necessary transfer(s) on that Other Shareholder's behalf; and against.

16.4 1 receipt by the Company (on trust for such Other Shareholder) of the consideration payable for the relevant Shares (the receipt being a good discharge to the Buyer, who will not be bound to see to the application of it), and

16 4 2 compliance by the Buyer and, where relevant, the Company with all other terms of the Approved Offer

deliver such transfer(s) to the Buyer (or its nominee). The Board will then authorise registration of the transfer(s) and of the Buyer (or its nominee) as the

holder of the Shares so transferred After registration, the title of the Buyer (or its nominee) as registered holder of such Shares will not be affected by any irregularity it, or invalidity of such proceedings, which will not be questioned by any person The Other Shareholder will in such a case be bound to deliver up its certificate for its Shares to the Company, or a statutory declaration of loss (as appropriate) whereupon the Other Shareholder will be entitled to receive the purchase price for such Shares

- 16 5 In the event that pursuant to the terms of an Approved Offer the Relevant Proceeds are less than the Patron Threshold, the definition of "Other Shareholders" in Article 16.1 shall not include Patron and the terms of Articles 16 2 to 16.4 shall be modified accordingly For the avoidance of doubt, save for the application of this Article 16.5, Patron shall at all times be bound by this Article 16

**17. ELECTRONIC COMMUNICATION**

Regulation 1 is modified by deleting the definition given of "electronic communication" and substituting in its place the definition given in these articles

**18. SHARE CERTIFICATES**

Regulation 6 is modified by adding after "Every certificate shall be sealed with the seal" the words "or executed in such other manner as the Directors authorise, having regard to the Companies Act,"

**19. LIEN**

Regulation 8 shall apply to the Company..

**20. GENERAL MEETINGS**

- 20.1 No business shall be transacted at any meeting unless a quorum is present The quorum requirement shall only be satisfied when an A Shareholder is present. Regulation 40 shall be modified accordingly.

- 20.2 Regulation 37 is modified by the deletion of the words "eight weeks" and the substitution for them of the words "28 days", and by the insertion of the words "or the investor Director(s) acting alone" after the second word of that Regulation.

- 20 3 A general meeting may consist of a conference between Members, some or all of whom are in different places if each Member who participates is able:

20 3 1 to hear each of the other participating Members addressing the meeting, and

20.3.2 if he so wishes, to address all of the other participating Members simultaneously,

whether directly, by conference telephone or by any other form of communications equipment (whether in use when these articles are adopted or not) or by a combination of those methods

A quorum is deemed to be present if those conditions are satisfied in respect of at least the number of Members required to form a quorum A meeting held in this way is deemed to take place at the place where the largest group of

participating Members is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates. A resolution put to the vote of a meeting will be decided by each Member indicating to the chairman (in such manner as the chairman may direct) whether the Member votes in favour of or against the resolution or abstains. References in this Article 20 to Members includes their duly appointed proxies and, in the case of corporate Members, their duly authorised representatives

## **21. PROCEEDINGS AT GENERAL MEETINGS**

- 21.1 If any meeting is adjourned pursuant to Regulation 41 because a quorum is not present, and at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the shareholders present will form a quorum. Regulation 41 is modified accordingly
- 21 2 Regulation 46 is modified so that a poll may be demanded by the chairman or by any Member present in person or by proxy and entitled to vote at the meeting.
- 21 3 A corporation which is a member of the Company may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or at any meeting of any class of Members. The person so authorised is entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member.
- 21 4 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman will not be entitled to a casting vote in addition to any other vote which he may have. Regulation 50 will be modified accordingly
- 21 5 Regulation 51 is amended by replacing the first and second sentences with the following words "A poll demanded will be taken immediately".
- 21 6 Regulation 53 is modified by the addition of the following sentence at the end "If such a resolution in writing is described as a special resolution or as an extraordinary resolution or as an elective resolution, it will have effect accordingly."

## **22. VOTES OF MEMBERS**

- 22 1 Regulation 54 is modified so that.
  - 22.1 1 a proxy will be entitled to vote whether on a show of hands or on a poll; and
  - 22 1.2 a duly authorised representative of a corporate Member will be entitled to vote on its behalf whether on a show of hands or on a poll, and whether or not such duly authorised representative is also a Member entitled to vote.
- 22 2 Regulation 57 is modified by the inclusion after the word "shall" of the phrase ", unless the Directors otherwise determine,".
- 22.3 Regulation 59 is modified by the addition of the following sentence at the end: "Deposit of an instrument of proxy will not preclude a Member from attending and voting at the meeting or at any adjournment of the meeting."
- 22 4 Regulation 62 is modified by the deletion in paragraph (a) of the words:

- 22.4.1 "deposited at" and by the substitution for them of the words "left at or sent by post to",
- 22.4.2 by the insertion of the words "the place of the general meeting if left there on the day of the meeting";
- 22.4.3 by the deletion of the words "48 hours" and by the substitution for them of the words "at any time", and
- 22.5 by the insertion at the end of the penultimate sentence of the Regulation (after the word "invalid") of the words "unless a majority of the Directors (the Investor Director(s) being part of that majority) resolve otherwise"

## 23. **NUMBER OF DIRECTORS**

Unless and until otherwise determined by ordinary resolution of the Company, the number of Directors (other than alternate directors) will not be less than two nor more than ten

## 24 **ALTERNATE DIRECTORS**

- 24.1 The Investor Director(s) and any ERISA Director and any Patron Investor Director appointed pursuant to Article 35.6 may each appoint any person willing to act, whether or not he is a director of the Company, to be an alternate director. Regulation 65 is modified so that any such appointment does not need to be approved by resolution of the Directors. In Regulation 67 the words "but, if" and the words which follow to the end of the Regulation are deleted
- 24.2 Regulation 66 is modified so that an alternate director who is absent from the United Kingdom is entitled to receive notice of all meetings of Directors and of committees of Directors of which his appointor is a member. An alternate director may waive the requirement that notice be given to him of a meeting of Directors or of a committee of Directors of which his appointor is a member, either prospectively or retrospectively.
- 24.3 The first sentence of Regulation 66 is modified so that an alternate director will not be entitled as such to receive any remuneration from the Company although he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as his appointor may direct by notice in writing to the Company.
- 24.4 An alternate director will be entitled to be reimbursed by the Company such expenses as might properly be reimbursed to him if he were a Director.
- 24.5 An alternate director's appointment will determine if he resigns by written notice left at or sent to the registered office of the Company
- 24.6 A director, or any other person mentioned in Regulation 65, may act as an alternate director to represent more than one Director, and an alternate director will be entitled at any meeting of the Board to one vote for every Director whom he represents in addition to his own vote (if any) as a Director, but he will count as only one person for the purpose of determining whether a quorum is present.
- 24.7 Regulation 68 is modified by the addition at the end of the first sentence of the following sentence: "Any such notice may be left at or sent by post or facsimile transmission to the office or another place designated for the purpose by the Directors "

**25. DELEGATION OF DIRECTOR'S POWERS**

Regulation 72 is modified by the addition at the end of the Regulation of the following sentence "Where a provision of these articles refers to the exercise of a power, authority or discretion by the Directors and that power, authority or discretion has been delegated by the Directors to a committee, the provision must be construed as permitting the exercise of the power, authority or discretion by the committee "

**26. APPOINTMENT AND RETIREMENT OF DIRECTORS**

26.1 No person will be disqualified from being appointed a Director and no Director will be required to vacate that office by reason only of the fact that he has attained the age of 70 years or any other age

26.2 A Director will not retire by rotation and a Director appointed to fill a vacancy or as an additional director will not retire from office at the annual general meeting next following his appointment Regulations 73 to 77 (inclusive) and 80 will not apply to the Company, reference in Regulations 67, 78 and 84 to retirement by rotation will be disregarded and the last two sentences of Regulation 79 are deleted

26 3 Regulation 81(e) will not apply to the Investor Director(s).

26.4 Subject to Article 35, the holder or holders of such number of Shares as give the right to a majority of votes at general meetings of the Company may, by giving notice on the Company, remove any Director from office and/or appoint any person to be a Director The notice must be signed by or on behalf of such holder or holders (and may consist of several documents in similar form each signed by or on behalf of one or more holders) and must be left at or sent by post or fax to the registered office or such other place designated by the Directors for the purpose. Such removal or appointment will take effect when the notice is received by the Company or on such later date (if any) as may be specified in the notice This Article 26 4 will not apply to the appointment or removal of an Investor Director(s), the Patron Investor Director or the B Director or any ERISA Director.

**27. DISQUALIFICATION AND REMOVAL OF DIRECTORS**

The office of a Director will be vacated if

27.1 he ceases to be a Director by virtue of any provision of the Act or he becomes prohibited by law from being a director;

27.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally,

27.3 he becomes, in the opinion of all his co-Directors, incapable by reason of mental disorder of discharging his duties as Director;

27.4 he resigns his office by notice in writing to the Company;

27 5 (other than in the case of the Investor Director(s), the Patron Investor Director, the B Director and any ERISA Director) he has for more than six consecutive months been absent without permission of the Directors from meetings of Directors held during that period and his alternate director (if any) has not

during that period attended any such meetings instead of him, and the Directors resolve that his office be vacated;

27 6 (other than in the case of the Investor Director(s), the Patron Investor Director, the B Director and any ERISA Director) he is removed from office by notice addressed to him at his last known address and signed by all his co-Directors,

27 7 (other than in the case of the Investor Director(s), the Patron Investor Director, the B Director and any ERISA Director) he is removed from office by notice given by a member or members under Article 26 4; or

27 8 being an executive Director he ceases, for whatever reason, to be employed by any member of the Group.

## 28 **REMUNERATION AND AUDIT COMMITTEES**

Without prejudice to Regulation 72 there will be a Remuneration Committee and an Audit Committee which will operate in accordance with the Investment Agreement Regulation 82 will not apply to the Company

## 29 **DIRECTORS' APPOINTMENTS AND INTERESTS**

29 1 Regulation 84 is modified by addition of the words: "with the consent of the Fund Manager" after the words "the directors" and before the words "may appoint" in the first sentence, and after the words "the directors" and before the word "determine" and after the words "as they" and before the words "think fit" in the second sentence.

29.2 Regulation 85 is modified by the addition of the words: "and except in the case of the Investor Director(s) and any ERISA Director, to the consent of the Investor(s)" after the words "provisions of the Act" and before the words ", and provided that the has disclosed" in the first sentence.

## 30. **DIRECTOR'S GRATUITIES AND PENSIONS**

Regulation 87 is modified by the addition of the words. "with the consent of the Investor(s)" after the words "The directors" and before the words "may provide benefits" in the first sentence

## 31 **BORROWING POWERS**

The Directors may exercise all the powers of the Company (whether express or implied) to borrow and/or secure the payment of money, to guarantee the payment of money, the fulfilment of obligations and the performance of contracts and to mortgage or charge the property, assets and uncalled capital of the Company, and (subject to section 80 of the Companies Act) to issue debentures, debenture stock and all other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party not exceeding an aggregate sum of £85,000,000 plus the principal amount outstanding from time to time in respect of the Existing Loan Notes, the Convertible Loan Notes and the Growth Loan Notes

## 32. **PROCEEDINGS OF DIRECTORS**

32 1 In the case of an equality of votes, the chairman will not have a second or casting vote Regulation 88 will be modified accordingly.

- 32.2 Regulation 88 is modified by the exclusion of the third sentence and the substitution for it of the following sentences: "Every Director will receive notice of a meeting, whether or not he is absent from the United Kingdom A Director may waive the requirement that notice be given to him of a meeting of Directors or a committee of Directors, either prospectively or retrospectively" and by the addition of the word "not" between the words "shall" and "have" in the fourth sentence
- 32.3 The quorum necessary for the transaction of business at any meeting of the Directors will be three of which one will be the Investor Director(s) (unless otherwise agreed in writing by the Investor(s)) and one will be a Patron Investor Director (unless otherwise agreed in writing by the Patron Investor Director) and Regulation 89 will be modified accordingly. If any meeting of the Directors is inquorate then it will be adjourned for the consideration of the same business until the same time and place the next following week when those Directors present will constitute a quorum
- 32.4 The Fund Manager shall be entitled to elect a Director to act as chairman of the Board Any Director so appointed will preside at every meeting of Directors at which he is present, but if he is unwilling to preside or is not present within five minutes after the time appointed for the meeting the Investor Director will be chairman of the meeting. Regulation 91 will not apply to the Company.
- 32.5 Any Director or alternate may participate in a meeting of the Board or a committee of the Directors by means of conference telephone or similar communications equipment if all persons participating in the meeting can hear and speak to each other throughout the meeting, and any Director or member of a committee participating in a meeting in this manner is deemed to be present in person at such meeting and will be counted when reckoning a quorum.
- 32.6 In relation to any meeting of the directors to consider whether to authorise a conflict of interest of the Investor Director or the Patron Investor Director or the ERISA Director or the B Director
- 32.6.1 it shall not be necessary for the Investor Director or the Patron Investor Director or the ERISA Director or the B Director to be present in person or by proxy in order to constitute a quorum;
- 32.6.2 the meeting shall not deal with any other business other than that of the consideration of the conflict of interest of the Investor Director or the Patron Investor Director or the ERISA Director or the B Director;
- 32.6.3 the quorum for such meeting shall be two.
- 32.7 Notwithstanding Article 32.6, if, and as a consequence of section 175(6) of the Companies Act 2006, a director cannot vote or be counted in the quorum at a meeting of the directors the following apply
- 32.7.1 if the meeting is inquorate then it must be adjourned to enable the holders of the Shares to authorise any situation in which a director has a conflict of interest.
- 32.7.2 in any other case the quorum for the purpose of the meeting shall be two

**33. DIRECTORS' APPOINTMENTS AND INTERESTS**

33.1 Subject to the provisions of the Statutes, a director (other than an Investor Director or the Patron Investor Director or the ERISA Director or the B Director) notwithstanding his office, but subject always to obtaining Investor Consent

33.1.1 may be a party to or otherwise interested in any transaction or arrangement with the Company;

33 1 2 may hold any other office or employment with the Company (other than the office of auditor);

33.1 3 shall not by reason of his office be accountable to the Company for any benefit which he derives from such office or employment or from any such transaction or arrangement and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and

33 1 4 save for a vote under section 175(4) of the Companies Act 2006 authorising any conflict of interest which the director or any other interested director may have or where the terms of authorisation of such conflict of interest provide that the director may not vote in situations prescribed by the Board when granting such authorisation, shall be entitled to vote on any resolution and (whether or not he shall vote) be counted in the quorum on any matter referred to in any of Articles 33 1 1 to 33 1 3 (inclusive) or on any resolution which in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest whatsoever and if he shall vote on any resolution as aforesaid his vote shall be counted.

33.2 For the purposes of Article 33 1

33 2 1 a general notice to the Board that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified;

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

33 2 3 an interest of a person who is for any purpose of the Statutes (excluding any statutory modification not in force at the date of adoption of these Articles) connected with a director shall be treated as an interest of the director and in relation to an alternate director an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise.

33.3 Subject to the provisions of the Statutes, an Investor Director or the Patron Investor Director or the ERISA Director or the B Director notwithstanding his office



- 33 3 1 may be a party to or otherwise interested in any transaction or arrangement with the Company and in which the Company is in any way interested,
- 33 3 2 may hold any other office or employment with the Company (other than the office of auditor),
- 33 3 3 may, or any firm or company of which he is a member or director may, act in a professional capacity for the Company,
- 33 3 4 shall not by reason of his office be accountable to the Company for any benefit which he derives from such office or employment or from any such transaction or arrangement and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit, and
- 33.3.5 save for a vote under section 175(4) of the Companies Act 2006 authorising any conflict of interest which the director or any other interested director may have or where the terms of authorisation of such conflict of interest provide that the director may not vote in situations prescribed by the Board when granting such authorisation, shall be entitled to vote on any resolution and (whether or not he shall vote) be counted in the quorum on any matter referred to in any of Articles 33.3.1 to 33 3 4 (inclusive) or on any resolution which in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest whatsoever (including, but without limitation, by reason of his employment with or being connected with any of the Investors), and if he shall vote on any resolution as aforesaid his vote shall be counted

33 4 For the purposes of Article 33 3

- 33 4 1 a general notice to the Board that the Investor Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified;
- 33.4.2 an interest of which the Investor Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and
- 33 4 3 an interest of a person who is for any purpose of the Statutes (excluding any statutory modification not in force at the date of adoption of these Articles) connected with the Investor Director shall be treated as an interest of the Investor Director and in relation to an alternate director an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise

33.5 Regulations 85, 86 and 94 of Table A shall not apply to the Company

**34 AUTHORISATION OF DIRECTORS' CONFLICTS OF INTEREST**

- 34.1 Any approval of a conflict of interest (other than a conflict of interest of the Investor Director or the Patron Investor Director or the ERISA Director or the B

Director) will be subject, in addition to board authorisation pursuant to section 175 of the Companies Act 2006, to obtaining Investor Consent who may specify that certain conditions be attached to such authorisation. Any such board authorisation pursuant to section 175 of the Companies Act 2006 which is given without obtaining Investor Consent or without such conditions attaching to the authorisation as specified in the Investor Consent will be ineffective.

34.2 Any conflict of interest of the Investor Director or the Patron Investor Director or the ERISA Director or the B Director may be authorised either by way of authorisation of the Board as set out at section 175 of the Companies Act 2006 or by way of resolution of the holders of the Shares. Any refusal of the Board to authorise such conflict of interest will not in any way affect the validity of a resolution of the holders of the Shares to authorise such conflict of interest.

34.3 The Investor Director or the Patron Investor Director or the ERISA Director or the B Director will not be in breach of their duties under sections 172, 174 and 175 of the Companies Act 2006 or the authorisation given by this Article 34 by reason only that he receives confidential information from a third party relating to a conflict of interest which has been authorised by this Article 34 and either fails to disclose it to the directors or fails to use it in relation to the Company's affairs.

35. **INVESTOR DIRECTOR(S) ERISA DIRECTOR(S) B DIRECTOR PATRON INVESTOR DIRECTOR AND OBSERVER**

35.1 So long as the Existing Investor(s) or any of them hold any Shares they will have the right to appoint one person as a non-executive Director of the Company ("**Investor Director**"), and if required to maintain its status as a "venture capital operating company" pursuant to the Employment Retirement Income Security Act 1974 an Existing Investor will have the right to appoint one person as an ERISA Director but:

35.1.1 in each case not more than one person may hold such office at any one time;

35.1.2 any such appointment must be effected by notice in writing to the Company by the appointing Existing Investor(s) who may in a similar manner remove from office any Investor Director or ERISA Director appointed pursuant to this Article, and appoint any person in place of any Investor Director or ERISA Director so removed or who had died or otherwise vacated office as such;

35.1.3 subject to section 303 of the Companies Act, on any resolution to remove an Investor Director or an ERISA Director, the A Shares held by the Existing Investors will together carry one vote in excess of fifty per cent of all the other votes exercisable at the general meeting at which such resolution is to be proposed, and if any such Investor Director or ERISA Director is removed pursuant to section 303 of the Companies Act or otherwise, the appointing Existing Investor may reappoint him or any other person as an Investor Director or, as the case may be, ERISA Director.

35.2 The Investor Director(s) and any ERISA Director will be entitled to be appointed to the board of directors of any member of the Group and to any committee of the board of any member of the Group.

- 35.3 So long as the Existing Investor(s) or any of them hold any Shares they will have the right at any time to appoint any one person to attend observe, speak but not vote at meetings of the board of any member of the Group and any committee of the board of any member of the Group and the provisions of Article 35.1.2 will apply as if they were set out in full in this Article, but with the word "observer" substituted for "Investor Director". Any person so appointed will not be a Director and will not be entitled to any fee nor reimbursement of expenses from the Company.
- 35.4 So long as the Existing Investor(s) or any of them hold any Shares they will have the right at any time to appoint any one person (in addition to those persons set out in Article 35.1) as non-executive Chairman of the Company (who shall be a non-executive Director) and the provisions of Articles 35.1.1 - 35.1.3 (inclusive) and 35.2 will apply as if they were set out in full in this Article, but with the words "non-executive Chairman" substituted for "Investor Director".
- 35.5 The right of the appointment and removal of the Investor Director(s) will be exercised by the Fund Manager and such rights in relation to the ERISA Director will be exercised by the Existing Investor requiring such appointment.
- 35.6 So long as Patron holds any A Shares and/or any Convertible Loan Notes and/or any Growth Loan Notes or Patron remains subject to a commitment pursuant to the Patron Facility Letter ("**Patron Condition**") it will have the right to appoint one person as a non-executive Director of the Company ("**Patron Investor Director**") Provided the Patron Condition applies, the rights of the Existing Investor(s) and the Investor Director (but not the ERISA Director) set out at Article 35.1, 35.2 and 35.3 shall apply mutatis mutandis to Patron and the Patron Investor Director.
- 35.7 The holders of at least 75% of the B Shares will have the right to appoint one person reasonably acceptable to the holders of the A Shares and Patron, as a non-executive Director of the Company ("**B Director**") The rights of the Existing Investor(s) and the Investor Director (but not the ERISA Director) set out in Article 35.1 shall apply mutatis mutandis to the holders of B Shares and the B Director.
- 35.8 The right of the appointment and removal of the Patron Investor Director will be exercised by Patron.
- 36 **DIVIDENDS**
- Regulation 103 is modified by the addition of the followings words "with the consent of the Investors" after the words "the directors" in the first sentence.
37. **NOTICES**
- 37.1 Any notice or other document to be served or delivered to or by any person pursuant to these articles (other than a notice calling a meeting of the Directors) shall be in writing and shall be delivered in accordance with Article 37.2.
- 37.2 Any notice or other document may only be served on, or delivered to, any Member by the Company or by any other Member
- 37.2.1 personally;

- 37 2.2 by sending it through the post in a prepaid envelope addressed to the member at his registered address (whether such address is in the United Kingdom or otherwise);
  - 37 2 3 by delivery of it by hand to or leaving it at that address in an envelope addressed to the Member; or
  - 37.2.4 except in the case of a share certificate and only if an address has been specified by the member for such purpose, by Electronic Communication.
- 37.3 In the case of joint holders of a Share, all notices and other documents shall be given to the person named first in the register in respect of the joint holding, and notice so given shall be sufficient notice to all joint holders.
- 37.4 Any notice or other document may only be served on, or delivered to, the Company by anyone
- 37 4 1 by sending it through the post in a prepaid envelope addressed to the Company or any officer of the Company at its registered office or such other place in the United Kingdom as may from time to time be specified by the Company,
  - 37.4.2 by delivering it by hand to its registered office or such other place in the United Kingdom as may from time to time be specified by the Company; or
  - 37.4.3 if an address has been specified by the Company for such purpose (and in the case of an appointment of a proxy such address has been specified in a document or other communication referred to in Regulation 62), by Electronic Communication.
- 37.5 Any notice or other document (other than the appointment of a proxy)
- 37.5.1 addressed to the recipient in the manner prescribed by these articles shall, if sent by post, be deemed to have been served or delivered:
    - 37 5 1 1 (if prepaid as first class) 24 hours after it was posted; and
    - 37 5 1 2 (if prepaid as second class) 48 hours after it was posted;
  - 37 5 2 not sent by post, but delivered by hand to or left at an address in accordance with these articles, shall be deemed to have been served or delivered on the day it was so delivered or left,
  - 37.5 3 sent by Electronic Communication shall be deemed to have been served or delivered 24 hours after it was sent, and in proving such service it shall be sufficient to produce (in the case of a fax) a transaction report or log generated by a fax machine which evidences the fax transmission and (in the case of an e-mail) a confirmation setting out the total number of recipients sent to or each recipient to whom the message was sent as the case may be.
- 37 6 Regulations 111, 112 and 115 will not apply to the Company.

38      **INDEMNITIES**

Subject to the provisions of the Companies Act but without prejudice to any indemnity to which he may otherwise be entitled every Director alternate director secretary and other officer or employee of the Company will be indemnified out of the assets of the Company against any liability (other than any liability arising out of the Investment Agreement) sustained or incurred by him in defending any proceedings whether civil or criminal relating to his conduct as an officer or employee of the Company in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 144 or section 727 of the Companies Act in which relief is granted to him by the Court. Regulation 118 will not apply to the Company.

39.      **AUDITORS' DETERMINATION**

- 39.1      Unless otherwise stated in these articles, if any matter under these articles is referred to the Auditors for determination then the Auditors shall act as experts and not as arbitrators and their decision shall be conclusive and binding on the Company and all the holders of shares (in the absence of fraud or manifest error)
- 39.2      The Auditors' costs in making any such determination referred to in Article 39 1 shall be borne by the Company unless the Auditors shall otherwise determine.