

SH02

Notice of consolidation, sub-division, redemption of shares or re-conversion of stock into shares

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☒ **What this form is for**
You may use this form to give notice
of consolidation, sub-division,
redemption of shares or
re-conversion of stock into shares.

☐ **What this form is NOT for**
You cannot use this form to
give notice of a conversion of stock
into shares.

THURSDAY



A25 10/07/2014 #349
COMPANIES HOUSE

→ **Filling in this form**
Please complete in typescript or in
bold black capitals
All fields are mandatory unless
specified or indicated by *

1 Company details

Company number 0 7 0 7 8 8 2 3

Company name in full EDM GROUP (HOLDINGS) PLC

2 Date of resolution

Date of resolution 2 0 7 2 0 1 4

3 Consolidation

Please show the amendments to each class of share

Class of shares (E.g. Ordinary/Preference etc.)	Previous share structure		New share structure	
	Number of issued shares	Nominal value of each share	Number of issued shares	Nominal value of each share
Exit Shares	809,092,100,000	0.00000001	8,090,921	0.01

4 Sub-division

Please show the amendments to each class of share

Class of shares (E.g. Ordinary/Preference etc.)	Previous share structure		New share structure	
	Number of issued shares	Nominal value of each share	Number of issued shares	Nominal value of each share

5 Redemption

Please show the class number and nominal value of shares that have been redeemed.
Only redeemable shares can be redeemed

Class of shares (E.g. Ordinary/Preference etc.)	Number of issued shares	Nominal value of each share

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6 Re-conversion

Please show the class number and nominal value of shares following re-conversion from stock

New share structure			
Value of stock	Class of shares (E.g. Ordinary/Preference etc.)	Number of issued shares	Nominal value of each share

Statement of capital

Section 7 (also **Section 8** and **Section 9** if appropriate) should reflect the company's issued capital following the changes made in this form

7 Statement of capital (Share capital in pound sterling (£))

Please complete the table below to show each share classes held in pound sterling
If all your issued capital is in sterling, only complete **Section 7** and then go to **Section 10**.

Class of shares (E.g. Ordinary/Preference etc.)	Amount paid up on each share ①	Amount (if any) unpaid on each share ①	Number of shares ②	Aggregate nominal value ③
SEE ATTACHED CONTINUATION SHEET				£
				£
				£
				£
Totals			0	£ 0.00

8 Statement of capital (Share capital in other currencies)

Please complete the table below to show any class of shares held in other currencies.
Please complete a separate table for each currency.

Currency				
Class of shares (E.g. Ordinary / Preference etc.)	Amount paid up on each share ①	Amount (if any) unpaid on each share ①	Number of shares ②	Aggregate nominal value ③
Totals				

Currency				
Class of shares (E.g. Ordinary/Preference etc.)	Amount paid up on each share ①	Amount (if any) unpaid on each share ①	Number of shares ②	Aggregate nominal value ③
Totals				

① Including both the nominal value and any share premium.

② Number of shares issued multiplied by nominal value of each share

Continuation pages
Please use a Statement of Capital continuation page if necessary

③ Total number of issued shares in this class

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9**Statement of capital (Totals)**

	Please give the total number of shares and total aggregate nominal value of issued share capital	1 Total aggregate nominal value Please list total aggregate values in different currencies separately. For example: £100 + €100 + \$10 etc.
Total number of shares	See continuation sheet	
Total aggregate nominal value 1		

10**Statement of capital (Prescribed particulars of rights attached to shares) **2****

	Please give the prescribed particulars of rights attached to shares for each class of share shown in the statement of capital share tables in Section 7 and Section 8 .	2 Prescribed particulars of rights attached to shares The particulars are: <ul style="list-style-type: none"> a particulars of any voting rights, including rights that arise only in certain circumstances, b particulars of any rights, as respects dividends, to participate in a distribution, c particulars of any rights, as respects capital, to participate in a distribution (including on winding up), and d whether the shares are to be redeemed or are liable to be redeemed at the option of the company or the shareholder and any terms or conditions relating to redemption of these shares A separate table must be used for each class of share Please use a Statement of capital continuation page if necessary
Class of share	A, B, C and D Ordinary Shares and Exit Shares	
Prescribed particulars	Please see attached Schedule.	
Class of share		
Prescribed particulars		
Class of share		
Prescribed particulars		


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Class of share		1 Prescribed particulars of rights attached to shares The particulars are a particulars of any voting rights, including rights that arise only in certain circumstances, b particulars of any rights, as respects dividends, to participate in a distribution, c particulars of any rights, as respects capital, to participate in a distribution (including on winding up), and d whether the shares are to be redeemed or are liable to be redeemed at the option of the company or the shareholder and any terms or conditions relating to redemption of these shares A separate table must be used for each class of share Please use a Statement of capital continuation page if necessary
Prescribed particulars		
Class of share		
Prescribed particulars		

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Signature

Signature	I am signing this form on behalf of the company		2 Societas Europaea If the form is being filed on behalf of a Societas Europaea (SE) please delete 'director' and insert details of which organ of the SE the person signing has membership 3 Person authorised Under either section 270 or 274 of the Companies Act 2006
	Signature X  X	This form may be signed by: Director 2 , Secretary, Person authorised 3 , Administrator, Administrative Receiver, Receiver, Receiver manager, CIC manager	

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Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record

Contact name James Homan

Company name Taylor Wessing LLP

Address 5 New Street Square

Post town London

County/Region

Postcode E C 4 A 3 T W

Country

DX 41 London London - Chancery Lane

Telephone +44 (0)207 300 7000



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☒ [x] The company name and number match the information held on the public Register
- ☒ [x] You have entered the date of resolution in Section 2
- ☒ [x] Where applicable, you have completed Section 3, 4, 5 or 6
- ☒ [x] You have completed the statement of capital
- ☒ [x] You have signed the form



Important information

Please note that all information on this form will appear on the public record.



Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below:

For companies registered in England and Wales:
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff.

For companies registered in Scotland:
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG.
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk

Schedule 1

Rights attached to Shares - ~~Astra-Topco Limited~~

FDM Group (Holdings) plc

3 AUTHORISED SHARE CAPITAL

The authorised share capital of the Company at the date of adoption of these Articles is £1,000,000 8090921 divided into 61,500,000 A Ordinary Shares of £0.01 each, 36,454,805 B Ordinary Shares of £0 01 each, 2,045,195 C Ordinary Shares of £0 01 each and 8,090,921 Exit Shares of £0 0000001 each

4 A ORDINARY SHARES

The rights attached to the A Ordinary Shares are as follows

4 1 Dividends

The A Ordinary Shares shall rank pari passu in all respects with the Ordinary Shares as to dividends in accordance with **Article 5.1**

4.2 Capital

On a return of capital on liquidation or capital reduction or otherwise, the surplus assets of the Company remaining after the payment of its liabilities shall be applied in the manner prescribed by **Article 5.2**

4 3 Conversion

4 3 1 The holders of A Ordinary Shares may at any time convert all the A Ordinary Shares into the same number of fully paid C Ordinary Shares by notice in writing given to the Company signed by the Lead Investor. The conversion shall take effect immediately upon the date of delivery of that notice to the Company (unless the notice states that conversion is to be effective when any conditions specified in the notice have been fulfilled in which case conversion shall take effect when those conditions have been fulfilled) and the Company and all holders of shares shall do all acts necessary to procure that conversion

4 3 2 Each holder of A Ordinary Shares shall deliver the certificates for those A Ordinary Shares (or an indemnity in a form reasonably satisfactory to the Company in respect of any missing share certificate) to the Company on or before the Conversion Date. On the Conversion Date the Company shall issue to the persons entitled thereto certificates for the Ordinary Shares arising on conversion.

- 4.3.3 The C Ordinary Shares arising on conversion shall rank pari passu in all respects with the issued C Ordinary Shares and shall entitle the holders of them to all dividends and other distributions declared, made or paid by reference to a record date on or after the conversion date of the C Ordinary Shares.

4.4 **Voting**

- 4.4.1 The holders of the A Ordinary Shares shall be entitled to receive notice of and to attend and speak at any general meetings of the Company and each holder of A Ordinary Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by duly authorised representative or by proxy shall, on a show of hands, have one vote, and, on a poll, have one vote each for every A Ordinary Share of which he is the holder
- 4.4.2 Each holder of the A Ordinary Shares shall be entitled to appoint more than one proxy to exercise all or any of his rights to attend and to speak and vote at a meeting of the Company provided that each proxy is appointed to exercise the rights attached to a different share or shares held by the holder of A Ordinary Shares
- 4.4.3 If more than one proxy is appointed in respect of a different share or shares by a holder of A Ordinary Shares in accordance with **Article 4.4.2** but the document appointing the proxies does not specify to which share or shares the appointment relates, then the person whose name appears before the name or names of the other proxy or proxies in the document appointing the proxies shall be the only proxy for such A Ordinary Shareholder entitled to attend and vote at any general meeting of the Company

5. **ORDINARY SHARES**

Save as otherwise provided in these Articles (i) the Ordinary Shares shall be treated pari passu and as if they constituted one class of share and (ii) the Deferred Shares, the Deferred Exit Shares and the Exit Shares shall be treated pari passu as if they constituted one class of share. The rights attached to the Ordinary Shares are as follows.

5.1 **Dividends**

Any profits which the Company determines to distribute in respect of any Financial Year shall, subject to prior Investor Consent, be applied in distributing such profits amongst the holders of the A Ordinary Shares and the Ordinary Shares then in issue pari passu according to the number of such Shares held by them respectively as if they constituted one class of share. Neither the Deferred

Shares (if any), the Deferred Exit Shares (if any) nor the Exit Shares shall entitle the holder to participate in any dividend

5.2 Capital

On a return of capital on liquidation or capital reduction or otherwise the surplus assets of the Company remaining after the payment of its liabilities shall be applied, as follows

5.2.1 in paying (in each case *pari passu* as if they constituted a single class of share) to each holder of A Ordinary Shares and Ordinary Shares an amount equal to the Issue Price of each A Ordinary Share and Ordinary Share held by him; and

5.2.2 thereafter, in distributing the balance of such assets amongst the holders of the A Ordinary Shares and the Ordinary Shares (*pari passu* as if they constituted one class of share) in proportion to the numbers of the A Ordinary Shares and the Ordinary Shares held by them respectively, provided that:

5.2.2.1 the holders of Deferred Shares (if any) and the holders of Deferred Exit Shares (if any) shall be entitled to a return of £0.0001 per Deferred Share or Deferred Exit Shares once the holders of A Ordinary Shares and Ordinary Shares have received £10,000,000 in respect of each such share held by them; and

5.2.2.2 subject to **Article 7**, the holders of the Exit Shares shall be entitled to a return of £0.0001 per Exit Share once the holders of the A Ordinary Shares and Ordinary Shares have received £10,000,000 in respect of each such share held by them.

5.3 Voting

5.3.1 Subject to **Articles 5.3.4 to 5.3.10** (inclusive), the holders of the Ordinary Shares shall be entitled to receive notice of and to attend and speak at any general meetings of the Company and the holders of Ordinary Shares who (being individuals) are present in person or by proxy or (being corporations) are present by duly authorised representative or by proxy shall, on a show of hands, have one vote each, and, on a poll, shall have one vote for each Ordinary Share of which he is the holder

5.3.2 Each holder of the Ordinary Shares shall be entitled to appoint more than one proxy to exercise all or any of his rights to attend and to

speaking and vote at a meeting of the Company provided that each proxy is appointed to exercise the rights attached to a different share or shares held by the holder of Ordinary Shares

5.3.3 If more than one proxy is appointed in respect of a different share or shares by a holder of Ordinary Shares in accordance with **Article 5.3.2** but the document appointing the proxies does not specify to which share or shares the appointment relates, then the person whose name appears before the name or names of the other proxy or proxies in the document appointing the proxies shall be the only proxy for such Ordinary Shareholder entitled to attend and vote at any general meeting of the Company

5.3.4 The provisions of **Article 5.3.5** shall apply if.

5.3.4.1 Bidco has failed or been unable to pay any amount arising on the redemption of any of the Investor Loan Notes or Priority Investor Loan Notes within 5 Business Days of the due date for redemption and/or pay interest within 5 Business Days of the due date for payment in accordance with the Investor Loan Note Instrument or Priority Investor Loan Note Instrument save where such redemption or payment is expressly prohibited under the Facility Documents, or

5.3.4.2 the Company or Bidco is in breach of any of the financial covenants under the Facility Documents or is otherwise in material breach of any of the Facility Documents including any Event of Default (as defined in the Facility Documents); or

5.3.4.3 there is a persistent or material breach of the provisions of these Articles or the Investment Agreement by the Company (which has either been procured by the Managers (or any of them) or has otherwise occurred with their knowledge or consent), Bidco or the Managers (or any of them) and, where capable of remedy, which has not been remedied within 10 Business Days of receipt by the Managers of notice requiring remedy from the Lead Investor, or

5.3.4.4 there is a breach of the Investor Covenant

5.3.5 If any of the circumstances stated at **Article 5.3.4** have occurred and a written notice specifying in reasonable detail the reason(s) why this

Article 5.3.5 applies has been served upon the Company, with a copy to the Managers at the same time, by the Lead Investor.

5 3 5 1 the holders of Ordinary Shares (or any proxy) shall cease to be entitled to receive notice of or to attend and vote (whether on a show of hands or on a poll) at any general meeting of the Company or to be entitled to receive any further shares issued by way of rights issue (or otherwise), and

5 3 5 2 new shares ("**New Shares**") in the Company may be issued, ranking ahead of or *pari passu* with the Ordinary Shares, without the consent of the holders of the Ordinary Shares, provided that for a period of 2 months after the issue of the New Shares, the holders of the Ordinary Shares shall be permitted, pro rata as amongst each other, to subscribe for in aggregate up to a maximum of such number of Shares of the same class as the New Shares ("**Anti-Dilution Shares**"), as would maintain their same proportion of the total issued share capital of the Company (but excluding any Deferred Shares, Deferred Exit Shares or Exit Shares which may be in issue at that time) as they held prior to such issue of New Shares, at the same price per share as each of the New Shares (including the pro rata subscription for any loan notes or other securities issued at the same time by any member of the Group, and in the same relative proportions, as the New Shares) and a notice to that effect shall be deemed given (for the purposes of in **Article 10.1**) upon the issue of the New Shares and the provisions in **Article 10** shall apply in respect of the issue of Anti-Dilution Shares No consent of the holders of the A Ordinary Shares shall be required for such issue of Anti-Dilution Shares and the Investors and the other shareholders (as applicable) shall procure (so far as they are lawfully able) that all authorisations, consents and permissions are obtained with regard to such issue

5 3 6 The provisions of **Article 5.3.5** shall

5 3 6 1 in the case of the circumstances at **Article 5.3.4.1** existing, continue to apply until the Investor Loan Notes or Priority Investor Loan Notes required to be redeemed have been so redeemed or any interest due has been paid, and

5.3.6.2 in the case of the circumstances at **Articles 5.3.4.2 or 5.3.4.4** existing, continue to apply until the Lead Investor confirms to the Company that they shall cease to apply, and

5.3.6.3 in the case of the circumstances at **Article 5.3.4.3**, continue to apply until either (i) the relevant breach is remedied to the reasonable satisfaction of the Lead Investor (where capable of remedy) or (ii) the Lead Investor confirms to the Company that it shall cease to apply (such confirmation not to be unreasonably withheld).

5.3.7 For the avoidance of doubt, the provisions in **Article 5.3.5** shall, where a written notice has been served upon the Company and the Managers in accordance with **Article 5.3.5**, enable the holders of any A Ordinary Shares in issue from time to time.

5.3.7.1 to pass written resolutions of the Company pursuant to section 288 of the 2006 Act, and

5.3.7.2 to consent to the holding of a general meeting of the Company on short notice pursuant to section 307(4) of the 2006 Act,

in either case, on the basis that all such holders would constitute the only holders who would be entitled to attend and vote at a general meeting of the Company

5.3.8 The provisions of **Article 5.3.9** shall apply:

5.3.8.1 if, at any time without Investor Consent, any holder (other than an Investor) or any former holder has transferred shares in the Company in breach of the provisions of these Articles;

5.3.8.2 if, at any time without Investor Consent, any holder (other than an Investor) is in material breach of the provisions of these Articles and/or the Investment Agreement or any former holder (if still bound by the Investment Agreement) is in material breach of the provisions of the Investment Agreement,

5.3.8.3 if any holder of the Ordinary Shares becomes a Leaver; and

5.3.8.4 if any Transfer Notice is served pursuant to **Article 13** in respect of any Ordinary Shares.

5.3.9 If any of the circumstances stated at **Article 5.3.8** have validly occurred

5.3.9.1 the Shares which such holder holds or to which he is entitled; and

5.3.9.2 any Shares formerly held by such holder which have been transferred either in breach of the provisions of these Articles or in accordance with **Article 12** (Permitted Transfers)

shall, if a written notice has been served on the Company and the relevant holder by the Lead Investor, immediately cease to entitle the holder thereof (or any proxy) to receive notice of or to attend and vote (whether on a show of hands or on a poll) at any general meeting or at any separate class meeting of the Company or to be entitled to receive any further Shares issued by way of rights issue (or otherwise)

5.3.10 The provisions of **Article 5.3.9** shall continue to apply

5.3.10.1 in the case of **Article 5.3.8.1** or **5.3.8.2** applying, for so long as such breach subsists,

5.3.10.2 in the case of **Articles 5.3.8.3** or **5.3.8.4** applying, until such time as the relevant Ordinary Shares have been transferred pursuant to the provisions of **Articles 13** or **15** (as the case may be), and

5.3.10.3 notwithstanding any other provisions in these Articles, if any holder of Ordinary Shares retains any Ordinary Shares after the operation in full of the provisions of **Articles 13** or **15** whilst such holder (or any person who has acquired such Shares under a permitted transfer (directly or indirectly) under **Article 12.2**) continues to hold such Shares

5.3.11 Neither the Deferred Shares, the Deferred Exit Shares nor the Exit Shares shall entitle the holders thereof to receive notice of or to attend, speak or vote (whether in person or by proxy) at any general meetings of the Company

6 SALE OF THE SHARE CAPITAL OF THE COMPANY

6.1 In the event of a Sale then, notwithstanding anything to the contrary in the terms and conditions governing such Sale the selling holders (immediately prior to such Sale) shall procure that the consideration (whenever received) shall be paid into a designated trustee account and shall be distributed amongst such selling holders in the following order of priority:

6.1.1 in paying in respect of the A Ordinary Shares and the Ordinary Shares subject to the Sale an amount equal to the Issue Price thereof as if the Sale were a return of capital pursuant to **Article 5.2.1**, and

6.1.2 thereafter distributing the balance as if the same were a return of capital pursuant to **Article 7**

6.2 Immediately prior to and conditionally upon a Listing all holders of shares shall enter into such reorganisation of the share capital of the Company as they may agree to ensure that sums referred to in **Article 6.1** are allocated between all holders of shares in the same proportions as the provisions of **Article 6.1** would provide in distributing the proceeds of a Sale to all holders of shares selling shares in connection with such Sale in an equivalent amount

7. EXIT RATCHET

7.1 In this **Article 7**, save where the context requires otherwise, the following expressions shall have the following meanings

"Calculations" the calculations set out in **Article 7.7**

"Capitalisation Value" (a) in the event of a Listing, the aggregate value of all the Equity Shares for which a Listing is obtained (expressed in pounds sterling to the nearest three decimal places) being, in the case of an offer for sale, the underwritten price (or if applicable the minimum tender price), or, in the case of a placing, the placing price) (but excluding any new Equity Shares issued as part of the arrangements relating to the Listing (other than any new Shares to be paid up by way of capitalisation of reserves)) net of the aggregate costs of the Listing attributable to the Shareholders and/or

the Group,

- (b) in the event of a Sale, the aggregate cash consideration payable to the Shareholders in respect of their holding of Equity Shares plus the Cash Equivalent Value of any Non-Cash Consideration net of the aggregate costs of the Sale attributable to the Shareholders and/or the Group, and
- (c) in the event of a Winding-Up, the cash amount to be distributed plus the Cash Equivalent Value of any Non-Cash Consideration in the Winding-Up to the Shareholders in respect of their holding of Equity Shares (net of the aggregate costs of Winding-Up attributable to the Shareholders and/or the Group)

"Cash Equivalent Value"

such sum as is agreed between the Lead Investor and a majority of the holders of Ordinary Shares as being or, failing such agreement, such sum as shall be certified by the Independent Expert (in accordance with **Article 7.5**), as being in the case of:

- (a) Non-Cash Consideration payable on *completion of the Realisation Event*, the market value of such Non-Cash Consideration at the Realisation Date assuming an arm's length transaction between a willing seller and a willing buyer, with no discount applied to a minority interest; or
- (b) Non-Cash Consideration which is not payable on completion of the Realisation Event, the net present value of the right at the Realisation Date to receive such Non-Cash Consideration (calculated using a discount rate of 10 per cent per

annum)

"Contingent Consideration"

any consideration (whether in cash or otherwise), the payment of which is subject to the satisfaction of a condition (other than a condition solely relating to the effluxion of time) which is to be satisfied after the Realisation Event (and which, for the avoidance of doubt, shall include any consideration in the form of an earn-out or any retention or escrow of consideration in respect of a potential liability)

"Investments"

the sum of

- (a) £615,000 subscribed by the Investors for A Ordinary Shares on or around the Adoption Date,
- (b) £11,134,378 93 invested by the Investors by way of Investor Loan Notes on or around the Adoption Date,
- (c) any amounts invested by the Investors by way of Priority Investor Loan Notes on or after the Adoption Date to the extent still unpaid and outstanding on or before the date falling 25 weeks after the Adoption Date;
- (d) any amounts not included in (a), (b) or (c) above invested by the Investors in the Group (whether by way of subscription for further Shares (whether equity or non-equity) or by way of other loan or otherwise or other capital contributions) on or after the Adoption Date

"Non-Cash Consideration"

- (a) any consideration which is payable otherwise than in cash but which is capable of valuation as at the Realisation Date; and/or
- (b) any consideration (whether in cash or otherwise) which is deferred or

otherwise not payable on completion of the relevant Realisation Event but which is capable of valuation as at the Realisation Date,

but, for the avoidance of doubt, excluding any Contingent Consideration save where this calculation is being repeated in accordance with **Article 7.8** in which case it shall not be excluded

"Realisation Date"

the date upon which a Realisation Event occurs

"Realisation Event"

any one of the following events:

- (a) the obtaining of a Listing,
- (b) the entering into and completion of an unconditional agreement for a Sale,
- (c) where an agreement for a Sale is conditional in any respect, that agreement becoming unconditional in all respects and completion occurring thereafter; or
- (d) a Winding-Up

"Target Amount"

the amount which the Investors (for the avoidance of doubt including any person to whom the Investors have validly transferred any Shares or Loan Notes) would need to receive in aggregate in respect of the Capitalisation Value of the Equity Shares and Loan Notes held by the Investors on the Realisation Event, together with all dividends and other distributions or returns paid or payable to the Investors on or before the Realisation Event excluding all costs paid pursuant to the Investment Agreement, so that the Investors have received or would be entitled to receive an amount equal to 3 times the Investments

"Winding-Up"

a liquidation of the Company (whether following the making of an order for the

winding up of the Company, the appointment of an administrator to the Company or otherwise)

- 7.2 On a Realisation Event the return shall be adjusted such that the Investors and the Managers shall be entitled to receive, and the Capitalisation Value shall be distributed as follows.
- 7.2.1 firstly, the Capitalisation Value shall be allocated between the Shareholders pro rata to the number of A Ordinary Shares, B Ordinary Shares and C Ordinary Shares held by each of them as if they constituted a single class until the Target Amount shall have been received by the Investors for the avoidance of doubt including any person to whom the Investors have validly transferred any Shares or Loan Notes;
- 7.2.2 secondly, provided the Target Amount has been received by the Investors, the balance of the Capitalisation Value shall be allocated between the Shareholders pro rata to the number of A Ordinary Shares, B Ordinary Shares, C Ordinary Shares and Exit Shares held by each of them as if they constituted a single class of share, and for the avoidance of doubt provided always that the holders of the A Ordinary Shares shall be entitled to between 61.5 per cent and 66.5 per cent of such distribution under this **Article 7.2.2** (such percentage being equal to the relative holding of the Equity Shares following any conversion of Ordinary Shares into Deferred Shares pursuant to **Article 8**)
- 7.3 The Board shall agree with the Lead Investor the estimated Realisation Date (the "**Estimated Realisation Date**") and, no later than 20 Business Days prior to such Estimated Realisation Date, shall procure that the Calculations are carried out by reference to the Estimated Realisation Date
- 7.4 The Lead Investor and a majority of the holders of Ordinary Shares shall endeavour to agree the Calculations
- 7.5 If agreement of the Calculations is not reached pursuant to **Article 7.4** by the date which is 10 Business Days prior to the Estimated Realisation Date, the Calculations shall be referred to the Independent Expert (nominated by the Lead Investor and the Board or, in the absence of such nomination within a further 5 Business Days, nominated by the President of the Institute of Chartered Accountants of England and Wales on the application of either party) for final determination. In making such determination, the Independent Expert shall act as an expert and not as arbitrator and his decision shall (in the absence of manifest error) be final and binding on the holders of Equity Shares. The costs

of the Independent Expert shall be borne by the holders of Equity Shares in such proportions as the Independent Expert may direct or, in the absence of such a direction, shall be borne pro rata by the holders of Equity Shares

7.6 If, after agreement or determination of the Calculations but before any Realisation Date, there shall be

7.6.1 any change in the Calculations; or

7.6.2 any delay in the occurrence of the Realisation Date such that it is expected to occur in the month following the month in which the Estimated Realisation Date falls,

the procedures set out in **Articles 7.2 to 7.4** shall be repeated taking into account any such changes or delays (as often as required) and the calculations recomputed accordingly

7.7 The Calculations to be carried out are

7.7.1 first, the amount of the Investments,

7.7.2 second, the Capitalisation Value, and

7.7.3 third, the Target Amount

7.8 Where any Sale is completed on terms that any part of the consideration for the shares included therein is Contingent Consideration then, unless otherwise agreed between the holders of the Equity Shares, no account of the Contingent Consideration shall be taken in the Non-Cash Consideration. Should any Contingent Consideration subsequently be paid or satisfied (but not otherwise) then upon each payment or satisfaction thereof the Calculations set out herein for the apportionment of the consideration realised on a Sale shall be repeated as of the date of payment or satisfaction thereof (as if each such date is the Conversion Date by reference to the actual Capitalisation Value including all Contingent Consideration then so paid or satisfied the "**Revised Capitalisation Value**") All necessary adjustments shall thereupon be made and the Contingent Consideration shall be apportioned accordingly between the vendors of the shares of the Company included in the original Sale as provided above such that the holders of the A Ordinary Shares receive the appropriate proportion of the Revised Capitalisation Value when the proportion of the Contingent Consideration apportioned to them under this **Article 7.12** is aggregated with all other amounts received by them under this **Article 7**; provided that in no event shall any person be under any liability to make any refund of Capitalisation Value previously received by it or him in accordance with this **Article 7**.

8. REFINANCING RATCHET

8.1 In this **Article 8**, save where the context requires otherwise, the following expressions shall have the following meanings

"Alternative Funding" any subscription by the Investors for Priority Loan Notes or funds drawn down under the Investec Facility Agreement used to fund the consideration due under the Offer (as defined in the Investment Agreement)

"Debt Ratchet Percentage" an amount, expressed as a percentage, equal to

$$5 \times \frac{(\pounds 13,000,000 - A)}{\pounds 3,000,000}$$

where A is the principal amount of debt funding secured under the Debt Refinancing less any costs of such Debt Refinancing

PROVIDED ALWAYS that the Debt Ratchet Percentage shall not be higher than 5 per cent nor shall it be lower than 0 per cent. but will be 5 per cent if no Debt Refinancing takes place prior to 1 June 2010

"Debt Refinancing" in the event that the funds under the Facility Agreement cannot be drawn down by Bidco, the refinancing of any Alternative Funding by way of (i) additional third party senior debt funding, with prior Investor Consent, or (ii) additional third party senior debt funding from a UK financial institution on terms equivalent to the Facility Agreement, provided such refinancing is completed on or before the date falling 25 weeks after the Adoption Date

"Refinancing Calculations" the calculations set out in **Article 8.8**

"Refinancing Date" the date upon which a Debt Refinancing occurs or 1 June 2010 (25 weeks)

"Relevant Percentage" X per cent to the holders of A Ordinary Shares, Y per cent to the holders of B Ordinary

Shares and Z to the holders of C Ordinary Shares where:

$$X = 100 - (Y + Z)$$

Y = the percentage as is equal to the percentage that the B Ordinary Shares, represented of all Equity Shares in issue immediately prior to the conversion under this **Article 8** less an amount equal to the Debt Ratchet Percentage; and

$$Z = 2.05$$

- 8.2 The purpose of this **Article 8** is to adjust the share capital of the Company so that the shareholders hold such proportions of the Equity Shares as are calculated in accordance with this **Article 8** following a Debt Refinancing
- 8.3 On the Refinancing Date
- 8.3.1 such number of the A Ordinary Shares and/or B Ordinary Shares and/or C Ordinary Shares shall automatically be converted into Deferred Shares such that the Shareholders each hold their Relevant Percentage of Equity Shares, and
- 8.3.2 such number of Exit Shares shall automatically be converted into Deferred Exit Shares such that the number of Exit Shares issued following the adjustment pursuant to **Article 8.3.1** shall represent the same percentage of the issued share capital of the Company they represented immediately prior to such conversion under **Article 8.3.1**
- 8.4 The Board shall agree with the Lead Investor the estimated Refinancing Date (the "**Estimated Refinancing Date**") and, no later than 20 Business Days prior to such Estimated Refinancing Date, shall procure that the Refinancing Calculations are carried out by reference to the Estimated Refinancing Date.
- 8.5 The Lead Investor and a majority of the holders of B Ordinary Shares shall endeavour to agree the Refinancing Calculations ahead of the Refinancing Date
- 8.6 If agreement of the Refinancing Calculations is not reached pursuant to **Article 8.5** by the date which is 10 Business Days prior to the Estimated Refinancing Conversion Date, the Refinancing Calculations shall be referred to the Independent Expert (nominated by the Lead Investor and the Board or, in the absence of such nomination within a further 5 Business Days, nominated by the President of the Institute of Chartered Accountants of England and Wales on the

application of either party) for final determination. In making such determination, the Independent Expert shall act as an expert and not as arbitrator and his decision shall (in the absence of manifest error) be final and binding on the holders of Equity Shares. The costs of the Independent Expert shall be borne by the holders of Equity Shares in such proportions as the Independent Expert may direct or, in the absence of such a direction, shall be borne pro rata by the holders of Equity Shares.

- 8.7 If, after the number and class of Shares to be converted into Deferred Shares and Deferred Exit Shares has been agreed or determined but before any Refinancing Date, there shall be

8.7.1 any change in the Refinancing Calculations, or

8.7.2 any delay in the occurrence of the Refinancing Date such that it is expected to occur in the month following the month in which the Estimated Refinancing Date falls,

the procedures set out in **Articles 8.3 to 8.5** shall be repeated taking into account any such changes or delays (as often as required) and the calculations recomputed accordingly.

- 8.8 The Refinancing Calculations to be carried out are

8.8.1 first, the principal amount of the Priority Investor Loan Note repaid pursuant to the Debt Refinancing,

8.8.2 second, the Relevant Percentage, and

8.8.3 third, the number and class of Equity Shares to be converted.

- 8.9 Any conversion of Equity Shares pursuant to this **Article 8** shall be made on the following terms:

8.9.1 the conversion shall take effect immediately on a Refinancing Date at no cost to the holders of the Equity Shares to be converted, and such Equity Shares shall be apportioned rateably (or as near thereto as may be practicable to avoid the apportionment of a fraction of a Share) among the holders of a particular Equity Shares of a particular class;

8.9.2 the holders of the Equity Shares to be converted shall deliver the certificates therefor to the Company for cancellation (or an indemnity in respect of any lost certificates); and

8.9.3 the Company shall issue to the persons entitled thereto new certificates for the Equity Shares resulting from the conversion.

8.10 Following any conversion of Equity Shares pursuant to this **Article 8**, the Company shall procure that the Company Secretary and, if required, the Board shall take all necessary steps to ensure that such conversion is documented accurately and all filings and any other relevant formalities are complied with

8.11 Following the Refinancing Date, any Deferred Shares and Deferred Exit Shares issued pursuant to this **Article 8** may either be transferred to a person nominated by the Board (subject to such persons agreement thereto) or (subject to the 2006 Act) purchased by the Company in each case for an aggregate amount of £1 for all Deferred Shares and Deferred Exit Shares then in issue

9. VARIATION OF RIGHTS

9.1 Subject to **Article 5.3.5** whenever the share capital of the Company is divided into different classes of share, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding-up) either (i) with the consent in writing of the holders of more than three-fourths of the issued shares of that class, or (ii) with the sanction of a special resolution passed at a separate general meeting of the holders of that class PROVIDED THAT, in the case of the A Ordinary Shares, B Ordinary Shares and C Ordinary Shares, if the Relevant Conditions are satisfied, the special rights attaching to the A Ordinary Shares and/or B Ordinary Shares and/or C Ordinary Shares may be varied, amended or replaced by an ordinary resolution in general meeting by the written consent of holders holding more than 50 per cent of the A Ordinary Shares, B Ordinary Shares and C Ordinary Shares, taken together as if one class of share To every such separate general meeting all the provisions of these Articles relating to general meetings of the Company (and to the proceedings at such general meetings) shall apply

9.2 Save where otherwise permitted by the Lead Investor, the rights conferred upon the holders of the A Ordinary Shares shall be deemed to be varied by the following:

9.2.1 other than where such variation is expressly contemplated by, or is otherwise carried out in accordance with, these Articles, any variation in the authorised or issued share capital of the Company or any Group Company or the creation or the granting of any options or other rights to subscribe for, or convert into, shares of the Company or any Group Company or the variation of the rights attaching to such shares,

9.2.2 the reduction of the Company's share capital, share premium account, capital redemption reserve or any other reserve or of any uncalled liability in respect of partly paid shares or the purchase by the Company of any of its own shares;

- 9 2.3 the amendment of any provisions of these Articles or the articles of association of any Group Company,
- 9 2.4 the redemption of any Loan Notes of the Company other than on a redemption in accordance with the terms of the Loan Notes,
- 9 2 5 the capitalisation of any undistributed profits (whether or not the same are available for distribution and including profits standing to the credit of the reserve) or any sums standing to the credit of the share premium account or capital redemption reserve fund of the Company,
- 9 2 6 the taking of any steps to wind up the Company or any other Group Company,
- 9 2 7 any disposal of the whole or substantially the whole of the business of the Company or any Group Company or any of the shares in any Group Company,
- 9 2.8 the declaration, making or payment of any dividend or other distribution to the holders of the shares other than as expressly permitted under the Articles,
- 9.2 9 any change in the accounting reference date of the Company,
- 9 2 10 the appointment or removal of auditors to the Company (other than reappointment of an existing auditor),
- 9 2 11 the appointment of any director of the Company,
- 9 2.12 the acquisition of any interest in any share in the capital of any company by any Group Company,
- 9 2 13 the establishment of any employee share option scheme;
- 9 2 14 the calling of a meeting of the Company to effect or approve any matter which would by virtue of this Article be a variation of the class rights of the A Ordinary Shares,
- 9 2 15 the creation by any Group Company of any mortgage, charge, pledge, lien, encumbrance or other security interest (excluding an interest arising by operation of law in the ordinary course of business or as required by the Facility Documents); or
- 9 2.16 any Listing

9 3 None of the following events shall constitute a variation or abrogation of the rights attaching to any class of shares other than the rights of the holders of the A Ordinary Shares

9 3 1 the allotment of any shares which will rank *pari passu* in all respects with any existing class of shares,

9.3 2 an offer to the holders of any class of shares of the right to receive new shares of that class, credited as fully paid, instead of the whole or any part of a cash dividend specified by the Board,

9.3.3 any amendment to these Articles where authorised by special resolution of the Company provided that such amendment does not change the rights of the A Ordinary Shares to the material detriment of the B Ordinary Shares

9 4 For the purposes of this **Article 9**, the "Relevant Conditions" are as follows

9 4.1 any of the matters set out in **Article 5.3.4** have occurred or subsist, in accordance with their terms; and

9 4 2 the proposed variation, amendment or replacement of the special rights attaching to the A Ordinary Shares and/or B Ordinary Shares and/or C Ordinary Shares (taking into account any proposed variation, amendment or replacement of the special rights attached to the A Ordinary Shares or the Ordinary Shares which is to be made at the same time as the proposed variation, amendment or replacement of the special rights to the A Ordinary Shares, B Ordinary Shares or C Ordinary Shares) is not discriminatory as between the A Ordinary Shares and Ordinary Shares and shall apply to both equally

12 **PERMITTED TRANSFERS**

Notwithstanding the provisions of any other Article, the transfers set out in this **Article 12** shall be permitted without restriction and the provisions of **Articles 13** (Voluntary Transfers) and **14** (Change of Control) shall have no application, provided that, where not already a party and required to do so in accordance with the terms of the Investment Agreement, the transferee of any Shares shall accede to the Investment Agreement in accordance with the provisions of clause 15 of the Investment Agreement by entering into a deed of adherence thereto

12 1 **Permitted transfers by Investors**

- 12.1 1 Any Investor who is a body corporate shall be entitled to transfer all or any of its shares to any other body corporate which is for the time being its subsidiary or holding company or another subsidiary of its holding company (each such body corporate being a "**Related Company**") but if a Related Company whilst it is a holder of shares in the Company shall cease to be a Related Company in relation to the body first holding the relevant shares it shall, within 15 Business Days of so ceasing, transfer the shares held by it to such body or any Related Company of such body and failing such transfer the holder shall be deemed to have given a Transfer Notice pursuant to **Articles 13 and 15**
- 12 1 2 Any share held by or on behalf of an Investor that is an investment trust company whose shares are listed on a recognised investment exchange may be transferred to another such investment trust company
- 12.1.2.1 whose shares are so listed; and
- 12 1 2 2 which is also managed by the same manager of such transferor or by a holding company of such management company or any subsidiary company of such holding company.
- 12.1.3 An Investor may transfer shares to an Investor Associate or to any other member of its Investor Group
- 12 1 4 Any Investor may transfer shares to any partner of a limited partnership (or their nominees) acting in such capacity (provided such transfer is made in accordance with the fund or partnership agreement governing such entity or partnership) or to the holders of units in a unit trust (or their nominees) on a distribution in kind or otherwise under the relevant partnership agreement or trust deed
- 12 1.5 Any shares which are held by an Investor on behalf of any collective investment scheme (within the meaning of section 235 of FSMA), may be transferred to participants (within the meaning of that section), in the scheme in question
- 12.1.6 Any Investor may transfer any shares to the beneficial owner of the shares, including, without limitation, to any person who becomes a general partner, nominee or trustee for a limited partnership, unit trust or investment trust in place of, or in addition to, such Investor

- 12.1 7 Any Investor may transfer any shares to a Syndicatee (as defined in the Investment Agreement) pursuant to clause 15 of the Investment Agreement.

12 2 Permitted Transfers by non-Investors

- 12 2 1 Subject to **Articles 12.2.2 to 12.2.7** inclusive, any holder who is an individual may at any time transfer shares held by him to a person or persons shown to the reasonable satisfaction of the Board to be

12 2 1.1 a Family Member of his; or

12 2 1 2 trustees to be held under a Family Trust in relation to that individual.

- 12 2 2 No shares shall be transferred under **Article 12.2.1** unless the transferee gives an undertaking, in a form satisfactory to the Lead Investor, to vote in accordance with the directions of the transferor of such shares.

- 12.2.3 Subject to **Article 12.2.6**, no shares shall be transferred under **Article 12.2.1** by an individual who previously acquired those shares by way of transfer under **Article 12.2.1** save to another individual who is a Family Member of the original holder of such shares or to trustees to be held under a Family Trust in relation to the original holder of such shares

- 12 2 4 No transfer of shares shall be made by a holder under **Article 12.2.1**

12.2.4.1 unless in the case of a transfer under **Article 12.2.1.2**, Investor Consent has been provided to the Company that the Lead Investor is satisfied

(a) that none of the costs incurred in establishing or maintaining the relevant Family Trust will be payable by any member of the Group, and

(b) with the terms of the instrument constituting such trust and with the identity of the trustees; and

12.2.4.2 if the proposed transfer will result in 50 per cent or more of the shares originally held by the holder being held by that holder's Family Trust and Family Members

- 12 2.5 Where shares are held by trustees under a Family Trust:

- 12.2.5.1 those shares may, on any change of trustees, be transferred by those trustees to any new trustee of that Family Trust,
- 12.2.5.2 those shares may at any time be transferred by those trustees to the settlor of that trust or any person to whom that settlor could have transferred them under **Article 12.2.1** if he had remained the holder of them, and
- 12.2.5.3 if any of those shares cease to be held under a Family Trust (other than by virtue of a transfer made under **Articles 12.2.4.1** or **12.2.4.2**), the trustees shall be deemed to have given a Transfer Notice in respect of all the shares then held by those trustees pursuant to **Article 15**
- 12.2.6 If:
- 12.2.6.1 any person has acquired shares as a Family Member of a holder by way of one or more transfers permitted under this **Article 12.2**; and
- 12.2.6.2 that person ceases to be a Family Member of that holder
- that person shall forthwith transfer all the shares then held by that person back to that holder, for such consideration as they agree, within 15 Business Days of the cessation, or, failing such transfer within that period, shall be deemed to have given a Transfer Notice in respect of all the shares then held by that person pursuant to **Article 15**
- 12.2.7 Subject to the provisions of **Article 15**, if the personal representatives of a deceased holder are permitted under these Articles to become registered as the holders of any of the deceased holder's shares and elect to do so, those shares may at any time be transferred by those personal representatives under **Article 12.2** to any person to whom the deceased holder could have transferred such shares under this Article if he had remained the holder of them. No other transfer of such shares by personal representatives shall be permitted under this **Article 12**.
- 12.2.8 The trustees of any Employee Trust may transfer shares held by them to the beneficiaries of such Employee Trust with Investor Consent, including but not limited to any transfers made immediately prior to a Realisation Event in accordance with clause 10.9 of the Investment Agreement.

12.3 Permitted Transfers by all Shareholders

- 12.3.1 Subject to **Article 9.2** any holder may at any time transfer any shares in accordance with the provisions of the Statutes to the Company.
- 12.3.2 Any holder may at any time transfer all or any of his shares to any other person with Investor Consent.
- 12.3.3 Any shares may be transferred pursuant to **Articles 14.6 and 14.7** (Drag along)

12.4 Transfer to a Secured Institution

Notwithstanding anything contained in these Articles, the Directors shall not decline to register any transfer of shares, nor may they suspend registration thereof, where such transfer

- 12.4.1 is to a Secured Institution; or
- 12.4.2 is delivered to the Company for registration by a Secured Institution in order to perfect its security over any Shares, or
- 12.4.3 is executed by a Secured Institution pursuant to the power of sale or other power under such security

For the purposes of these Articles, "**Secured Institution**" shall mean pursuant to the terms of the Investec Facility or the Templeman HSBC Facility any bank or institution to which any Shares have been charged by way of security, whether as agent for a group of banks or institutions or otherwise, or any nominee or any transferee of such a bank or institution, and furthermore notwithstanding anything to the contrary contained in these Articles no transferor of any shares in the Company or proposed transferor of such shares to a Secured Institution or its nominee and no Secured Institution or its nominee shall be required to provide any prior written notice to the Company or to offer the shares which are or are to be the subject of any transfer aforesaid to the shareholders for the time being of the Company or any of them, and no such shareholder shall have any right under the Articles or otherwise howsoever to require such shares to be transferred to them whether for consideration or not.

13 VOLUNTARY TRANSFERS

- 13.1 Subject to **Article 13.2** and except as permitted under **Article 11** any Seller who wishes to transfer shares shall give notice in writing (the "**Transfer Notice**") to the Company of his wish specifying:
 - 13.1.1 the number and class(es) of shares (the "**Sale Shares**") which he wishes to transfer,

- 13.1.2 the name of any third party to whom he proposes to sell or transfer the Sale Shares, and
- 13.1.3 the price at which he wishes to transfer the Sale Shares (the "**Transfer Price**")
- 13.2 No transfer shall be made under this **Article 13** unless the Seller has received the written consent of the Lead Investor following issue of the relevant Transfer Notice (save that such consent shall be deemed to be given in the case of a Deemed Transfer Notice).
- 13.3 The Seller may state in the Transfer Notice that he is only willing to transfer all the Sale Shares in which case no Sale Shares can be sold unless offers are received for all of them
- 13.4 Where any Transfer Notice is deemed to have been given in accordance with these Articles all the shares registered in the name of the Seller shall be included for transfer, and the provisions of **Article 13.2** shall not apply
- 13.5 No Transfer Notice or Deemed Transfer Notice once given or deemed to be given in accordance with these Articles shall be withdrawn unless the Seller is obliged to procure the making of an offer under **Articles 14.1 to 14.4** and is unable to procure the making of such an offer or the Lead Investor approves such withdrawal. In that event the Seller shall be entitled to withdraw such Transfer Notice without liability to any person, prior to completion of any transfer save that where the Lead Investor approves such withdrawal, the Seller shall bear all costs relating to such Transfer Notice or Deemed Transfer Notice
- 13.6 The Transfer Notice shall constitute the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price upon the following terms
- 13.6.1 the price for each Sale Share is the Transfer Price, (save in the case of a Deemed Transfer Notice where the Transfer Price will be as determined in accordance with either **Article 15.3.2** or **Article 15.4**),
- 13.6.2 the Sale Shares are to be sold free from all liens, charges and encumbrances together with all rights attaching to them
- 13.7 Each holder of shares shall state, in writing within 20 Business Days from the date of such Transfer Notice (which date shall be specified therein), whether he is willing to purchase any and, if so, how many of the Sale Shares which shall, if he so wishes, include an amount in excess of his Proportionate Entitlement as mentioned in **Article 13.8.3**.
- 13.8 Save as provided by **Article 15.3** for the purposes of allocation of the Sale Shares, the Sale Shares shall be treated as offered

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

13.8.2 to the extent not accepted by persons in column (2), to all persons in the category set out in the corresponding line in column (3) in the table below

(1) Class of Sale Shares	(2) First Offer to	(3) Second Offer to
A Ordinary Shares	Holders of A Ordinary Shares	Holders of B Ordinary Shares and C Ordinary Shares (pari passu as if they constituted one class)
Ordinary Shares	Warehouse	Holders of A Ordinary Shares, B Ordinary Shares and C Ordinary Shares (pari passu as if they constituted one class)

PROVIDED THAT any acceptance by the Company (as the Warehouse) assumes that the acceptance is given on the basis that the Company has, or will on the date of completion, have satisfied -

13.8.2.1 the requirements of the Statutes to purchase the shares in question; and

13.8.2.2 any requirement for consent under **Article 9.1**

If any such shares accepted by the Company cannot be bought back at completion by the Company due to the Company being unable to comply with **Articles 13.8.2.1** and **13.8.2.2**, then this **Article 13** shall take effect as if no acceptance was given by the Company

13.8.3 Subject always to the order of priorities set out in **Articles 13.8.1** and **12.8.2** the Sale Shares shall (save in respect of any offer of Sale Shares to the Warehouse, which shall be offered in such numbers and proportions as the Leaver Committee shall direct) be treated as offered on terms that, in the event of competition, the Sale Shares offered shall be sold to the holders accepting the offer in proportion (as nearly as may be) to their existing holdings of shares of the class or classes to which the offer is made (the "**Proportionate Entitlement**") It shall be open to each such holder to specify if he is willing to purchase Sale Shares in excess of his Proportionate Entitlement ("**Excess Sale**")

Shares") and, if the holder does so specify, he shall state the number of Excess Sale Shares

13.8.4 Within three Business Days of the expiry of the invitation made pursuant to **Article 13.1** or pursuant to any Transfer Notice deemed to be given (or sooner if all holders of shares have responded to the invitation and all the Sale Shares shall have been accepted in the manner provided in **Article 13.8**), the Board shall allocate the Sale Shares in the following manner

13.8.4.1 if the total number of Sale Shares applied for is equal to or less than the available number of Sale Shares the Company shall allocate the number applied for in accordance with the applications; or

13.8.4.2 if the total number of Sale Shares applied for is more than the available number of Sale Shares, each holder shall be allocated his Proportionate Entitlement (or such lesser number of Sale Shares for which he may have applied) in the order of priorities set out in **Article 13.8**, applications for Excess Sale Shares shall be allocated in accordance with such applications or, in the event of competition, (as nearly as may be) to each holder applying for Excess Shares in the proportion which shares held by such holder bears to the total number of shares held by all such holders applying for Excess Sale Shares PROVIDED THAT such holder shall not be allocated more Excess Sale Shares than he shall have stated himself willing to take,

and in either case the Company shall forthwith give notice of each such allocation (an "**Allocation Notice**") to the Seller and each of the persons to whom Sale Shares have been allocated (a "**Member Applicant**") and shall specify in the Allocation Notice the place and time (being not later than ten Business Days after the date of the Allocation Notice) at which the sale of the Sale Shares shall be completed

13.9 Subject to **Article 13.10**, upon such allocations being made as set out in **Article 13.8**, the Seller shall be bound, on payment of the Transfer Price, to transfer the Sale Shares comprised in the Allocation Notice to the Member Applicants named therein at the time and place therein specified free from any lien, charge or encumbrance. If he makes default in so doing, one of the Directors, or some other person duly nominated by a resolution of the Board for that purpose, shall forthwith be deemed to be the duly appointed attorney of the Seller with full power to execute, complete and deliver in the name and on

behalf of the Seller a transfer of the relevant Sale Shares to the Member Applicant and all such consents written resolutions and proxies as the appointed attorney shall consider to be necessary or desirable for the purposes of any general meeting of the Company relating to or associated with or required to enable the sale of the Sale Shares to proceed and any Director may receive and give a good discharge for the purchase money on behalf of the Seller and (subject to the transfer being duly stamped) enter the name of the Member Applicant in the register of members as the holder or holders by transfer of the Sale Shares so purchased by him or them. The Board shall forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such money on trust (but without interest) for the Seller until he shall deliver up his certificate or certificates for the relevant shares (or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate) to the Company when he shall thereupon be paid the purchase money.

13.10 If the provisions of **Article 13.3** apply and if the total number of shares applied for by Member Applicants is less than the number of Sale Shares then the Allocation Notice shall refer to such provision and shall contain a further invitation, open for ten Business Days, to those persons to whom Sale Shares have been allocated to apply for further Sale Shares and completion of the sales in accordance with the preceding paragraphs of this **Article 13** shall be conditional upon all Sale Shares being sold.

13.11 In the event of all the Sale Shares not being sold under the preceding paragraphs of this **Article 13** the Seller may, at any time within three calendar months after receiving confirmation from the Company that the pre-emption provisions herein contained have been exhausted, transfer all the Sale Shares (if **Article 13.2** does apply) or any Sale Shares which have not been sold (if **Article 13.2** does not apply) to any person or persons at any price not less than the Transfer Price PROVIDED THAT.

13.11.1 the Board shall refuse registration of the proposed transferee unless the Company has Investor Consent to transfer the Sale Shares

13.11.2 if the provisions of **Article 13.3** applied to the Transfer Notice, the Seller shall not be entitled, save with the written consent of all the other holders of shares of the Company, to sell hereunder only some of the Sale Shares comprised in the Transfer Notice to such person or persons,

13.11.3 any such sale shall be a bona fide sale and the Board may request such information as it reasonably deems necessary to satisfy itself that the Sale Shares are being sold in pursuance of a bona fide sale for not less than the Transfer Price without any deduction, rebate or allowance

whatsoever to the Buyer and, if not so satisfied, may refuse to register the instrument of transfer;

13 11 4 the Board shall refuse registration of the proposed transferee if such transfer obliges the Seller to procure the making of an offer in accordance with **Articles 14.1 to 14.4**, until such time as such offer has been made and, if accepted, completed

14 **CHANGE OF CONTROL**

Tag along

14.1 Subject to **Article 14.2**, in the event of any transfer of shares by a Seller, the Seller shall procure the making, by the proposed transferee of the Seller's Shares, of a Tag Along Offer to all of the other holders of shares of the Company. Every holder or recipient of such offer, on receipt of a Tag Along Offer, shall be bound within 20 Business Days of the date of such offer (which date shall be specified therein) either to accept or reject such offer in writing (and in default of so doing shall be deemed to have rejected the offer). Until such Tag Along Offer has been made and completed the Board shall not sanction the making and registration of the relevant transfer or transfers

14.2 The provisions of **Article 14.1** and **14.6** shall not apply to any transfer of shares

14 2 1 pursuant to **Article 12** (other than **Article 12.3.3**),

14 2 2 to any person who was an original party to the Investment Agreement

14 3 "**Tag Along Offer**" means an unconditional offer, open for acceptance for not less than 20 Business Days, to purchase the Tag Proportion of shares held by the recipients of a Tag Along Offer or shares which recipients may subscribe free from all liens, charges and encumbrances at a price per share equal to the highest price per share (exclusive of stamp duty, stamp duty reserve tax and commission) paid or offered to be paid by any transferee referred to in **Article 14.1** (or any person with whom such transferee is connected with or with whom such transferee is acting in concert) for shares (inclusive of the shares giving rise to the obligation to make the Tag Along Offer) whether pursuant to a relevant transfer or otherwise within the period of one year ending on the proposed date of completion of such transfer of shares. The relevant Tag Along Offer price shall, if not to be satisfied solely in cash, be satisfied in the same pro-rata combination of cash and other consideration as the relevant Seller proposes to receive

14.4 "Tag Proportion" means the proportion that the Seller's shares proposed to be transferred in accordance with Article 14.1 bears to the total number of shares such Seller holds or is interested in

14.5 In the event of disagreement, the calculation of the relevant Tag Along Offer price shall be referred to the Auditors and Articles 32.1 and 32.2 shall apply

Drag along

14.6 If the Original Investors (in Articles 14.6 and 14.7, the "Investor Sellers") wish to transfer all of their Shares to any person (the "Buyer") or a person acting in concert with the Buyer (other than a transfer in accordance with Article 12), pursuant to the terms of a bona fide arms length transaction which would result in the Buyer (together with any person acting in concert with or connected to the Buyer) holding interests (as defined in sections 820 to 825 of the 2006 Act) over all of the issued and to be issued A Ordinary Shares, then the Investor Sellers shall also have the option (the "Drag Along Option") to require all other holders and any persons who would become holders upon the exercise of any options, warrants or other rights to subscribe for Shares which exist at the date the Drag Along Notice is given (the "Called Shareholders"), to transfer with full title guarantee all their Shares (including any Shares issued pursuant to any options, warrants or rights to subscribe existing at the date the Drag Along Notice is given) in the Company to the Buyer, or as the Buyer directs. The Investor Sellers may exercise the Drag Along Option by giving written notice to that effect (a "Drag Along Notice") to each Called Shareholder. A Drag Along Notice shall specify

14.6.1 that the Called Shareholders are, or will, in accordance with this Article 14.6 and Articles 14.7 and 14.8, be required to transfer with full title guarantee all their Shares (including any Shares to be issued pursuant to any options, warrants or rights to subscribe, existing at the date the Drag Along Notice is given once exercised) free from all liens, charges and encumbrances,

14.6.2 the price at which such Shares are to be transferred (which shall be an equal price per Share for the Ordinary Shares as for the A Ordinary Shares but subject to the aggregate proceeds of sale being distributed in accordance with Article 6). Such price shall be satisfied in cash, securities or otherwise in any combination (provided that the amount of cash payable for each Ordinary Share shall be no lower than the amount of cash payable for each A Ordinary Share and the combination shall be the same pro rata for the Ordinary Shares as the A Ordinary Shares) and the manner of satisfaction shall be stated in the Drag Along Notice; and

- 14 6 3 the documents required to be executed by the Called Shareholder, the time period within which those documents should be delivered to the Company, and
- 14 6 4 the proposed date of completion of the sale of the Shares the subject of the Drag Along Notice
- 14 7 In the event of a disagreement as to the "equal value per share" specified in **Article 14.5.2**, the matter shall be referred to the Auditors for determination and **Articles 32.1** and **32.2** shall apply
- 14 8 Upon any person, following the issue of a Drag Along Notice becoming a holder of Shares pursuant to the exercise of any option, warrant or other right to subscribe for or acquire Shares ("**a New Member**"), a Drag Along Notice, on the same terms as the previous Drag Along Notice, shall be deemed to have been served upon the New Member who shall thereupon be bound to sell and transfer all such Shares acquired by him to the Buyer or as the Buyer may direct and the provisions of this **Article 14.7** shall apply mutatis mutandis to the New Member save that completion of the sale of such Shares shall take place forthwith upon the Drag Along Notice being deemed served on the New Member or, if later, upon the date of completion under the previous Drag Along Notice
- 14 9 If the Called Shareholders (or any of them which shall include any New Member) shall make default in transferring their Shares within any time period specified in the Drag Along Notice (including any Shares issued pursuant to any options, warrants or rights to subscribe existing at the date of the Drag Along Notice once exercised) in accordance with the provisions of any Drag Along Notice and pursuant to **Articles 14.6**, and **14.7**, the provisions of **Article 13.8** (references therein to the Seller, Sale Shares, Allocation Notice and Member Applicant being read as references to the holder making such default, the Shares in respect of which such default is made, the Drag Along Notice and the Buyer respectively) shall apply to the transfer of such Shares mutatis mutandis but the Transfer Price shall be the price offered for such Shares as set out in **Article 13.5** and the provisions of **Article 13.7** shall not apply
- 14 10 A Drag Along Notice shall be served in accordance with **Article 35**
- 14.11 A Drag Along Notice may be revoked at any time prior to the completion of the sale of the Shares of the Called Shareholder by the service of a written notice.

15. **COMPULSORY TRANSFERS**

- 15 1 In this **Article 15**, a "**Transfer Event**" means, in relation to any holder of Shares:

- 15 1 1 a holder who is an individual becoming bankrupt unless the Lead Investor and the Leaver Committee notify the Company within twelve months of the matters coming to their attention that such event is not a Transfer Event in relation to that holder for the purposes of this **Article 15.1**;
- 15.1.2 a holder making any arrangement or composition with his creditors generally unless the Lead Investor and the Leaver Committee notify the Company within twelve months of the matter coming to their attention that such event is not a Transfer Event in relation to that holder for the purposes of this **Article 15.1**,
- 15.1.3 a holder becoming a Leaver unless the Lead Investor and the Leaver Committee notify the Company within twelve months of the matter coming to their attention that such event is not (in whole or in part) a Transfer Event in relation to that holder for the purposes of this **Article 15.1**,
- 15 1 4 a holder dealing with or disposing of, attempting to deal with or dispose of, any share or any interest in it otherwise than in accordance with these Articles unless the Lead Investor and the Leaver Committee notify the Company within twelve months of the matter coming to their attention that such event is not a Transfer Event in relation to that holder for the purposes of this **Article 15.1**, and
- 15.1.5 a holder failing to make a transfer of shares required by **Articles 12.1.1** or **12.2.5** unless the Lead Investor and the Leaver Committee notify the Company and the relevant holder within six months of the matter coming to their attention that such event is not a Transfer Event in relation to that holder for the purposes of this Article
- 15 2 Upon the happening of any Transfer Event and if so directed by the Lead Investor, the holder in question and any other holder who has acquired shares from him under a permitted transfer (directly or by means of a series of two or more permitted transfers) under **Article 12.2** shall be deemed to have immediately given a Transfer Notice in respect of all the shares then held by him and which in the case of a transferee of shares were the shares received directly or indirectly from the holder who is the immediate subject of the Transfer Event (a "**Deemed Transfer Notice**"). A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same shares except for shares which have then been validly transferred pursuant to that Transfer Notice

15.3 The shares the subject of any Deemed Transfer Notice shall be offered for sale in accordance with **Article 13** as if they were Sale Shares in respect of which a Transfer Notice had been given save that

15 3 1 a Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event or, if later, the date upon which the Lead Investor becomes aware that the relevant event is a Transfer Event and has notified the Company that the relevant event is a Transfer Event;

15 3 2 subject to **Article 15.4**, the price at which the Sale Shares shall be transferred (the "**Sale Price**") shall be the Fair Value;

15 3 3 the provisions of **Article 13.2** shall not apply to a Deemed Transfer Notice;

15 3 4 **Article 13.10** will not apply to a Deemed Transfer Notice and either the Seller may retain any Sale Shares for which Buyers are not found or, with prior Investor Consent, the Seller may sell all or any of those Sale Shares to any person (including any holder) at any price per Sale Share which is not less than the Sale Price and pending any sale the provisions of **Article 5.3.5** shall continue to apply;

15 3 5 the Sale Shares shall be sold together with all rights attaching thereto as at the date of the Transfer Event, and

15 3 6 in the case of an Intermediate Leaver, the sale shares shall be treated as offered:

15 3 6 1 in the first instance, to the Warehouse,

15 3.6 2 to the extent not accepted by the Warehouse, to the holders of B Ordinary Shares and C Ordinary Shares (pari passu as if they constituted a single class), and

15 3 6 3 to the extent not accepted by the holders of B Ordinary Shares and/or C Ordinary Shares, to the holders of A Ordinary Shares

and **Article 13.8** shall be modified accordingly

15 4 The Sale Price for any Sale Shares which are the subject of a Deemed Transfer Notice given as a consequence of a Transfer Event arising due to a holder being a Leaver shall:

15 4 1 in the case of a Good Leaver, be the higher of their Issue Price and Fair Value; and

- 15.4.2 in the case of an Intermediate Leaver, their Issue Price or such higher amount as the Leaver Committee may decide (but no higher than Fair Value), and
- 15 4.3 in the case of a Bad Leaver, be the lower of their Issue Price and their Fair Value
- 15.5 For the purpose of **Article 15.1.3** the date upon which a holder becomes a Leaver shall be
- 15 5 1 where a contract of employment or directorship is terminated by the employer by giving notice to the employee of the termination of the employment or directorship, the date of that notice (whether or not a payment is made by the employer in lieu of all or part of the notice period required to be given by the employer in respect of such termination);
- 15.5.2 where a contract of employment or directorship is terminated by the employee by giving notice to the employer of the termination of the employment or directorship, the date of that notice,
- 15 5 3 save as provided in **Article 15.5.1** where an employer or employee wrongfully repudiates the contract of employment and the other accepts that the contract of employment has been terminated, the date of such acceptance,
- 15 5 4 where a contract of employment is terminated under the doctrine of frustration, the date of the frustrating event, and
- 15 5 5 where a contract of employment or directorship is terminated for any reason other than in the circumstances set out in **Articles 15.5.1 to 15.5.4** above, the date on which the action or event giving rise to the termination occurs
- 15 6 The Leaver Committee shall have the power to re-classify an Intermediate Leaver as a Good Leaver during the 12 month period commencing on the relevant Transfer Event.

16. VALUATION OF SHARES

- 16 1 In the event that the Auditors are required to determine the price at which shares are to be transferred pursuant to these Articles, the Company shall instruct and engage the Auditors (which instructions shall be made as soon as practicable following the time it becomes apparent that a valuation pursuant to this **Article 16** is required), to give their written opinion as to the price on the basis that

- 16.1.1 the open market value of each share shall be the sum which a willing buyer would agree with a willing seller as at the date the Transfer Notice or Deemed Transfer Notice is given to be the purchase price for all the class of shares of which the sale shares form part, divided by the number of issued shares then comprised in that class,
- 16.1.2 there shall be no addition of any premium or subtraction of any discount by reference to the size of the holding the subject of the Transfer Notice or Deemed Transfer Notice or in relation to any restrictions on the transferability of the sale shares (and shall assume that the entire issued share capital of the Company is being sold) and comprises only of Ordinary Shares; and
- 16.1.3 any difficulty in applying either of the foregoing bases shall be resolved by the Auditors as they think fit in their absolute discretion
- 16.2 In the event that the Auditors decline to accept an instruction to provide a valuation pursuant to this **Article 16**, then the price will be determined by a firm of independent chartered accountants, such accountants to be instructed as agreed between the Lead Investor and the relevant Manager(s) or, failing any such agreement, as may be appointed by the President of the Institute of Chartered Accountants of England and Wales on the application of either party
- 16.3 **Articles 32.1** and **32.2** shall apply to any determination under this Article by the Auditors or such accountants appointed pursuant to **Article 16.2** and references to Auditors in those **Articles 32.1** and **32.2** shall include such accountants.

23 INVESTOR DIRECTOR AND CHAIRMAN

- 23.1 The Lead Investor may from time to time appoint up to two persons to be directors, each with the title of investor director (an "**Investor Director**" which expression shall, where the context so permits, include a duly appointed alternate of such a director) and from time to time remove the Investor Director(s) from office
- 23.2 There shall not be more than two directors bearing the title of Investor Director in office at any time.
- 23.3 Any appointment or removal of an Investor Director shall be in writing served on the Company signed by an Investor Majority and shall take effect at the time it is served on the Company or produced to a meeting of the Board, whichever is earlier. Any such appointment or removal by a corporation may be signed on its behalf by its duly authorised representative

- 23.4 Notice of meetings of the Board shall be served on any Investor Director who is absent from the United Kingdom at the address for service of notice on each Investor under the Investment Agreement. The third sentence of regulation 88 of Table A shall not apply
- 23.5 Upon written request by an Investor Majority the Company shall procure that the Investor Director(s) is forthwith appointed as a director of any other member of the Group to any committee of the Board or the board of any member of the Group
- 23.6 Regulation 81(e) of Table A shall not apply to the Investor Director or the Chairman
- 23.7 Where any decision is to be made by any member of the Group in relation to the exercise, enforcement or waiver of its rights under the Offer Document (as defined in the Investment Agreement) or against any holder of Ordinary Shares or any director or person connected with any such holder or director, any such decision shall be within the exclusive power of the Investor Director(s) (or either of them) (to the exclusion of the other directors but after consultation with a majority thereof) who shall have (without limitation) exclusive authority in relation to the conduct of any proceedings of whatever nature arising in connection with any such rights and no other director shall have power to settle or compromise any such claim.
- 23.8 Subject to **clause 8.6** of the Investment Agreement, the Lead Investor may from time to time, in addition to the Investor Director, appoint any person to be and the chairman of the Board ("**Chairman**") and remove from the office of chairman a person so appointed **Article 23.3** shall apply to any such appointment or removal mutatis mutandis Regulation 91 of Table A shall be modified accordingly The fee payable to the Chairman shall be at such rate agreed between the Board and the Chairman and, in the absence of agreement, shall be determined by the Investor Director(s)
- 23.9 If the provisions of **Article 5.3.5** apply, the Investor Director(s) shall be entitled to exercise such number of votes at any meeting of the Board or of any committee of which he is/they are a member which is equal to one vote more than half of the total number of votes exercisable at such a meeting or, in the event that this would result in his apparently being entitled to exercise a fractional number of votes (for example 2.5 with a Board of 5) the number of votes he is entitled to exercise should be rounded down to the nearest whole number