

(No 3839469)

**THE COMPANIES ACTS 1985 TO 1989**

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**PRIVATE COMPANY HAVING A SHARE CAPITAL**

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**ARTICLES OF ASSOCIATION OF**

- of -

**THE FINE ART AUCTION GROUP LIMITED**

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Adopted on 30 October 2007  
Amended by special resolution dated 10<sup>th</sup> May 2012

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**PRELIMINARY**

**1 DEFINITIONS AND INTERPRETATION**

- 1 1 In the interpretation of these Articles, the headings shall not affect the construction and, unless the context otherwise requires, the following words and expressions shall bear the following meanings -

"**the Acts**" means the Companies Act 1985 (including amendments made to it by the Companies Act 1989), the Companies Act 1989, and in either case any statutory modification, amendment, variation or re-enactment of it for the time being in force,

"**Appropriate Offer**" has the meaning given in article 11,

"**Auditors**" means the auditors for the time being of the Company,

"**Board**" means the board of directors of the Company from time to time or, as the context may require, any duly authorised committee of it,

"**Business Day**" means any day other than a Saturday, Sunday or any day which is a public holiday in England,

**"Commencement Date"** means in relation to any Shareholder to whom article 10 (Leaver Provisions) applies, the date on which Shares are issued or transferred to that person or the date on which that person first commences employment with, or becomes a director of, the Company or any of its Subsidiaries,

**"Deferred Shares"** means the Deferred Shares of £0.01 each in the Company having the rights set out in Article 3.3,

**"Directors"** means the directors for the time being of the Company,

**"Fair Value"** means, in relation to any Share, the value of it as determined in accordance with article 13,

**"Disability"** means, in respect of a Leaver, permanent disability or if the Leaver is prevented by illness, injury or other incapacity from fully performing his or her obligations to the Company for an aggregate of 180 days in any period of 12 months,

**"Exempt Member"** means those persons who are the members of the Company at the date of the adoption of these Articles,

**"Group"** means the Company and any company which is a subsidiary of the Company, a holding company of the Company or a subsidiary of such holding company,

**"holder"** means, in respect of any share in the capital of the Company, the person or persons for the time being registered by the Company as the holder of that share,

**"Investors"** means Saffron Hill, SG Private Banking (Japan) Limited Trustee as RB Limited Partnership N-01, RB Investment and Consulting Co. Limited and Streatfield Capital LLP, and their respective Permitted Transferees from time to time,

**"Investor Majority"** means the holders of more than 50% of the Preferred Shares held by the Investors,

**"Leaver"** has the meaning given in article 10.1,

**"Lenders"** means BCFLT Limited and Ludwig Investments (Singapore) STE Limited, and their respective Permitted Transferees from time to time,

**"Lender Majority"** means the holders of more than 50% of the Preferred Shares held by the Lenders,

**"Listing"** means the admission of any part of the share capital of the Company to the Official List of the UK Listing Authority and their admission to trading on the London Stock Exchange's market for listed securities or the grant of permission for dealings in them on the Alternative Investment Market of the London Stock Exchange or to trading on any recognised investment exchange (as that term is used in the Financial Services and Markets Act 2000),

**"Ordinary Shares"** means the Ordinary Shares of £0.40 in the capital of the Company,

**"Ordinary Shareholders"** means any person registered as the holder of Ordinary Shares in the register of members of the Company,

**"Permitted Transferees"** means persons to whom Shares may be transferred pursuant to article 8,

**"Preferred £1 Shares"** means the preferred shares of £1 00 each in the capital of the Company having the rights set out in Article 3 2,

**"Preferred 25p Shares"** means the preferred shares of £0 25 each in the capital of the Company having the rights set out in Article 3 2,

**"Preferred Shares"** means each of the Preferred £1 Shares and the Preferred 25p Shares in the capital of the Company,

**"Preferred Shareholder"** means any person registered as the holder of Preferred Shares in the register of members of the Company,

**"Relevant Transfer"** means a sale or any other transfer of, or any undertaking to sell or transfer, any legal or equitable interest in a Share (including any voting right attached to it) or any right to purchase or subscribe for a Share including, but without limitation (i) the outright sale of any Shares or any interest in them, (ii) the grant to any person of any option to purchase Shares or any interest in them and/or the undertaking in favour of any person to sell any Shares or any interest in them, in either case at a future date, and (iii) any deemed transfer within the meaning of article 7 2,

**"Remuneration"** means the aggregate of salary, bonuses, payments in kind, ex gratia payments, commissions, pension contributions, participation in share options, profit sharing and incentive remuneration schemes and any other benefit flowing to a person or anyone connected with him by reason of that person's employment, office or directorship in or of the Company or any subsidiary,

**"Sale"** means (i) the acquisition by any person of 51 per cent of the Shares or all of the Shares not already owned by the acquirer, or (ii) the acquisition by any person of the whole or substantially the whole of the business and undertaking of the Company and its Subsidiaries,

**"Share Option Scheme"** means the employee share option scheme(s) of the Company, from time to time,

**"Share Scheme Limit"** means the maximum number of Shares which the Directors may allot, or grant rights to subscribe for, pursuant to the Share Option Scheme, being 600,090 Preferred 25p Shares;

**"Shares"** means the ordinary shares of £0 40 each in the capital of the Company, the preferred shares of £1 00 each in the capital of the Company and the preferred shares of £0 25 each in the capital of the Company,

"Table A" 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)

"Termination Date" means in relation to any Leaver, the date on which such a person ceased to be employed by the Company or any of its subsidiaries or, in the case of Termination for Cause due to voluntary resignation, the date on which such resignation is given,

"Termination for Cause" means, in relation to a Leaver

- (a) termination by the Company of the Leaver's employment in circumstances justifying summary dismissal,
- (b) termination by reason of misconduct in accordance with the terms of the Leaver's employment contract, or
- (c) the voluntary resignation of the Leaver prior to the second anniversary of the Commencement Date, in circumstances not amounting to constructive dismissal or arising out of death or Disability,

"Termination without Cause" means, in relation to a Leaver, termination by the Company of the Leaver's employment in circumstances other than Termination for Cause (excluding a termination by reason of incapacity or death),

- 1 2 Words and expressions defined in or having a meaning provided by the Acts (but excluding any statutory modification not in force on the date of adoption of these Articles) shall, unless the context otherwise requires, have the same meanings when used in these Articles

## 2 TABLE A

- 2 1 The regulations contained in Table A, save in so far as they are expressly excluded or varied by these Articles, and the regulations contained in these Articles shall together constitute the regulations of the Company
- 2 2 The regulations of Table A numbered 24, 40, 50, 53, 73 to 80 (inclusive), 82, 93, 95, 96, 97, 101 and 118 shall not apply to the Company

## SHARE RIGHTS

### 3 SHARE CAPITAL

- 3 1 Not used
- 3 2 The rights attached to the Preferred Shares are as follows

#### Income

- (a) The holders of Preferred Shares shall be entitled to participate on an equal basis with

the holders of Ordinary Shares in the profits of the Company which it may be determined to distribute from time to time

### Capital

- (b) The Preferred Shares shall carry a preferential return on a return of capital in accordance with sub-clause (c)
- (c) On a liquidation, dissolution, or winding up of the Company the assets of the Company available for distribution among the members after payment of all other debts and liabilities of the Company (and of the costs, charges and expenses of any such winding-up) shall be applied strictly in the following order of priority
  - (i) first, in paying to the holders of Preferred Shares an amount equal to £2 50 in respect of each Preferred Share (the "**Liquidation Preference**"),
  - (ii) second, in paying to the holders of Preferred Shares and Ordinary Shares all declared but unpaid dividends on each Preferred Share and Ordinary Shares respectively held by them,
  - (iii) third, in paying to the holders of Ordinary Shares an amount equal to £1 00 in respect of each Ordinary Share,

and thereafter the remaining assets of the Company available for distribution shall be distributed between the holders of the Ordinary Shares and Preferred Shares *pro rata* (on the basis that all of the Preference Shares had been converted to Ordinary Shares at the appropriate conversion rate or as otherwise required by law

### Conversion

- (d) The fully paid Preferred Shares are convertible into fully paid Ordinary Shares at the rate of 2 5 Ordinary Shares for every one Preferred Share, but ignoring fractions and rounding down the number of Ordinary Shares arising on conversion to the nearest whole number of shares (as adjusted from time to time as set out in the following provisions of this clause) (the "**Conversion Rate**") at the option of a Preferred Shareholder immediately prior to a Sale or Listing, or in the case of a Listing, at any time thereafter
- (e) The right to convert shall be exercisable by the Preferred Shareholder completing a notice of conversion (a "**conversion notice**") and delivering it to the Company together with the certificate for the Preferred Shares the subject of the conversion notice
- (f) The "**conversion date**" for the conversion shall be the point in time immediately prior to a Sale or a Listing, or if made after a Listing, on the third Business Day following receipt by the Company of the conversion notice
- (g) Allotments of Ordinary Shares arising from conversion shall be effected on the conversion date Within 7 days after the conversion date, the Company shall forward

to each holder of the Preferred Shares which have been converted (at the risk of, and at no charge to, such holder) a definitive certificate for the appropriate number of fully paid Ordinary Shares and the certificates for the shares falling to be converted shall be deemed invalid for all purposes and the relevant holders shall be bound to deliver the same to the Company for cancellation. In the meantime transfers shall be certified against the register.

- (h) The Ordinary Shares to which a holder is entitled upon conversion shall for all purposes
  - (i) be credited as fully paid,
  - (ii) rank *equally* in all respects and form one class with the Ordinary Shares then in issue, and
  - (iii) entitle the holder to receive dividends and other distributions declared, made or paid on Ordinary Shares on or after the conversion.
- (i) If while any Preferred Shares remain capable of being converted into Ordinary Shares the Company shall make
  - (i) an issue of Shares by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve),
  - (ii) a sub-division or consolidation of Shares,
  - (iii) a distribution in specie,
  - (iv) a repayment or return of capital,
  - (v) a payment of extraordinary dividend,or any event similar to those described in (i) to (v) above shall occur, then the number of Ordinary Shares to result from any subsequent conversion of Preferred Shares shall be increased or decreased accordingly. If any doubt shall arise as to the applicable adjustment required to be made to the Conversion Rate, the certificate of the Auditors shall be conclusive and binding on all concerned.
- (j) While any Preferred Shares remain capable of being converted into Ordinary Shares, the Company shall not take any action which might have the effect of causing any Ordinary Shares arising upon conversion at the applicable conversion rate to be issued at a discount.
- (k) Conversion of the Preferred Shares may be effected in any manner the Board may decide and which the law may allow including, without limitation, by the subdivision and redesignation of each Preferred Share as the relevant number of Ordinary Shares at the applicable Conversion Rate and, if applicable, any relevant number of Deferred Shares.

- (l) The Company shall give not less than 30 days' prior notice to each holder of Preferred Shares of any proposed liquidation, dissolution, winding up Sale or Listing or, if such notice is not practicable, so much notice as is reasonably practicable in the circumstances
- (m) In the event that a holder of Preferred Shares or the Company is not satisfied with any certificate of the Auditors issued pursuant to this article and (if the holder of Preferred Shares) so notifies the Company and (in either case) the Auditors in writing within 14 days of receiving such certificate or learning of its contents (if a copy of such certificate is not sent to him), the matter shall be submitted as soon as practicable to an independent firm of chartered accountants as agreed between the relevant holder of Preferred Shares and the Board or in default of agreement as nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales, such firm of chartered accountants to be deemed to be an expert and whose decision as to the matter shall be final and binding on all persons save for manifest error The fees and expenses of the independent firm of chartered accountants shall be borne by the person who has submitted the matter to such firm

**Other rights**

- (n) Preferred Shares confer on the holders the right to receive notice and attend and vote at general meetings
- (o) On a vote taken at any general meeting on a show of hands, each holder of Preferred Shares present in person or, being a corporation, by a representative has one vote On a poll each holder of Preferred Shares present in person or by proxy or, being a corporation, by a representative, is entitled to one vote for every Preferred Share and/or Ordinary Share of which he is the holder

3 3 The rights attaching to the Deferred Shares are that a Deferred Share

- (a) shall not entitle its holder to receive any dividend or other distribution,
- (b) shall not entitle its holder to receive notice of, or to attend or vote at, any general meeting of the Company,
- (c) shall entitle its holder on a return of capital on a liquidation, dissolution or winding up (but not otherwise) only to repayment of the amount paid up on that share after payment in respect of each Ordinary Share of the capital paid up on it and the further payment of £1,000,000 on each Ordinary Share, and
- (d) shall not entitle its holder to any further participation in the income or capital of the Company

3 4 The Company may at its option at any time after the creation of any Deferred Share redeem on re-purchase all the Deferred Shares then in issue at a price of £1 00 for all the Deferred Shares to be redeemed on giving to their holders at least seven days' notice in writing of its intention so to do, fixing a time and place for the redemption on re-purchase, and at that time and place those holders shall be bound to surrender to the Company the certificates for



(and/or such other evidence as the Board may reasonably require to prove title to) their Deferred Shares and the Company shall pay the redemption moneys to one of the holders to be selected by lot

#### 4 VARIATION OF RIGHTS

4 1 Whenever the share capital of the Company is divided into different classes of shares, 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

- (a) with the consent in writing of the holders of more than three-fourths in nominal value of the issued shares of that class, or
- (b) with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of that class

4 2 All the provisions of these Articles relating to general meetings of the Company (and to the proceedings at such general meetings) shall, mutatis mutandis, apply to every separate general meeting referred to in article 4 1, except that -

- (a) the necessary quorum shall be two persons, present in person or by proxy or by duly authorised representative (if a corporation), who together hold or represent at least one-third in nominal value of the issued shares of the relevant class (unless all the shares of that class are registered in the name of a single holder, in which case the quorum shall be that holder, his proxy or duly authorised representative (if a corporation)), but so that if, at any adjourned meeting of such holders, such a quorum is not present, then those holders who are present (in person or by proxy or by a duly authorised representative (if a corporation)) shall be a quorum,
- (b) any holder of shares of the relevant class present in person or by proxy or by duly authorised representative (if a corporation) may demand a poll, and
- (c) the holders of shares of the relevant class shall, on a poll, have one vote in respect of every share of that class held by each of them

#### 5 SUBSCRIPTION RIGHTS

5 1 Notwithstanding any other provision of these Articles, and subject to any direction or authority contained in any resolution of the Company, the Board is generally and unconditionally authorised (for the purposes of section 80 of the Companies Act 1985) to allot relevant securities, or grant rights to subscribe for, convert securities into any Shares up to the amount of the authorised but unissued share capital of the Company to any person or persons and with, and subject to, such rights, conditions and restrictions as they may think fit but so that this authority shall expire on the day preceding the fifth anniversary of the date of the adoption of these Articles, save that the Directors are hereby authorised to allot any shares or grant any rights under this authority in pursuance of an offer or agreements to do so made by the Company under this authority on, or before, that date

5 2 Save in respect of any rights granted or to be granted over, or any allotment of, Shares

pursuant to a Share Option Scheme up to the Share Scheme Limit, all shares which the Company proposes to allot wholly for cash shall be offered in the first instance for subscription to the holders of the Preferred Shares pro rata and, in so far as such offer is not accepted, to all of the holders of the Ordinary Shares in the proportion that the aggregate nominal value of such shares for the time being held by each such holder bears to the total number of such shares in issue. Such offer shall be made by notice in writing specifying the number of shares to which the relevant holder is entitled and limiting a time (being not less than four weeks) within which the offer (if not accepted) will be deemed to have been declined. Holders who accept the offer shall be entitled to indicate that they would accept, on the same terms, shares (specifying a maximum number) which have not been accepted by other holders ("Excess Shares"). Any Excess Shares shall be allotted to holders who have indicated they would accept Excess Shares. Excess Shares shall be allotted pro rata to the aggregate number of Ordinary Shares held by holders accepting Excess Shares (provided that no such holder shall be allotted more than the maximum number of Excess Shares such holder has indicated he is willing to accept). After the expiration of such time, or upon receipt by the Company of an acceptance or refusal of every offer so made, the Board shall be entitled to dispose of any shares so offered, and which are not required to be allotted in accordance with this article 5.2, in such manner as the Board may think most beneficial to the Company. If, owing to the inequality of the number of new shares to be issued and the number of shares held by holders entitled to receive the offer of new shares, any difficulties shall arise in the apportionment of any such new shares amongst the holders such difficulties shall (in the absence of direction by the Company) be determined by the Board. The provisions of this article may be varied or disapplied in respect of any proposed allotment of shares in accordance with a special resolution of the members of the Company.

5.3 The provisions of article 5.2 above shall not apply to the exercise of a warrant for 90,000 Preferred Shares by the Dreweatt Neate Partnership, issued by the Company in consideration for the entry into of the Trademark Licence Agreement between 1) the Dreweatte Neate Partnership and 2) the Company dated 1 October 2007

5.4 The provisions of section 89(1) and section 90(1) to (6) (inclusive) of the Companies Act 1985 shall not apply to the Company

## 6 VOTING RIGHTS

A proxy shall be entitled to vote on a show of hands and regulation 54 of Table A shall be modified accordingly

## TRANSFER OF SHARES

## 7 GENERAL

7.1 No transfer of any share in the capital of the Company shall be made or registered unless such transfer complies with the provisions of these Articles. The Board shall sanction any transfer so made unless (i) the registration thereof would permit the registration of a transfer of shares on which the Company has a lien or (ii) the Board is otherwise entitled to refuse to register such transfer pursuant to these Articles

7 2 For the purposes of these Articles the following shall be deemed (but without limitation) to be a transfer by a holder of shares in the Company -

- (a) any direction (by way of renunciation or otherwise) by a holder entitled to an allotment or transfer of shares that a share be allotted or issued or transferred to some person other than himself, and
- (b) any sale or any other disposition of any legal or equitable interest in a share (including any voting right attached to it), (i) whether or not by the relevant holder, (ii) whether or not for consideration, and (iii) whether or not effected by an instrument in writing

## 8 PERMITTED TRANSFERS

8 1 The restrictions contained in article 9 shall not apply to a transfer of Shares which is

- (a) approved in writing by the members holding 75% of the issued shares of the Company,
- (b) pursuant to the acceptance of an Appropriate Offer,
- (c) by an individual holder (not being in relation to the Shares concerned a holder thereof as a trustee of any Family Trusts) to a Privileged Relation of such individual holder,
- (d) by any individual holder to trustees to be held upon Family Trusts related to such individual holder,
- (e) by any holder being a company (not being in relation to the Shares concerned a holder thereof as a trustee of any Family Trusts) to a member of the same group as the Transferor Company,
- (f) by any person entitled to a Share in consequence of the death or bankruptcy of an individual holder to any person to whom such individual holder, if not dead or bankrupt, would be permitted hereunder to transfer the same,
- (g) if the holder is a fund, partnership (including limited partnership), limited liability partnership, company, syndicate or other entity managed by a person or persons whose principal business is to make, manage or advise upon share investments (a "Financial Investor") (or, in any such case, a nominee on behalf of any such person) either
  - (i) to any participant or partner in or member of any such fund, partnership, company, syndicate or other entity,
  - (ii) to any company which is either the Financial Investor's holding company or another subsidiary of such holding company,
  - (iii) to any other fund managed by a Financial Investor,

- (iv) to any other partnership (including limited partnership or limited liability partnership), company or entity whose business is to hold shares for the benefit of employees or of consultants to a Financial Investor, or
- (v) to a nominee, trustee or custodian on behalf of any such person mentioned in (i) to (iv) above, and

any person mentioned in (i) to (v) above may transfer any such Shares to the Financial Investor or to any other person who falls within (i) to (v) above in relation to that Financial Investor,

- (h) a member who is either an employee, consultant, manager or adviser in relation to a Financial Investor or is a participant, partner or member of any fund, partnership, company, syndicate or other entity in relation to that Financial Investor may transfer any Shares to that Financial Investor or to any entity which falls within (i) to (v) in (g) above in relation to that Financial Investor,
- (i) if the holder is a partnership, to any LLP formed by the partners of that partnership for the purposes of continuing its business, and
- (j) if a Relevant Transfer Interest (as defined in article 9 1(a)) offered under and in accordance with articles 9 1 to 9 12, inclusive, comprises an undertaking or obligation to sell Shares at a future date (whether to the Accepting Transferees, as defined in article 9 5, or to any other person as contemplated in article 9 12), the sale of Shares pursuant to such undertaking or obligation

8 2 Where any Shares have been transferred under article 8 1 (d) or under paragraph (a) or (b) of this article to trustees of Family Trusts, the trustees and their successors in office may (subject to the provisions of article 8 1) transfer all or any of the Relevant Shares as follows

- (a) to the trustees for the time being of the Family Trust concerned on any change of trustees,
- (b) to the trustees for the time being of any other trusts being Family Trusts in relation to the same individual holder or deceased or former holder pursuant to the terms of such Family Trusts or pursuant to any power or discretion vested in the trustees of that Family Trust, and
- (c) to the relevant holder or former holder or any Privileged Relation of the relevant holder or deceased or former holder who has thereby become entitled to the Shares proposed to be transferred on the total or partial termination of, or pursuant to the terms of, the Family Trusts concerned or in consequence of the exercise of any such power or discretion

8 3 If and whenever any of the Relevant Shares held on Family Trusts come to be held otherwise than upon Family Trusts, except in circumstances where a transfer of them is authorised under these Articles to be and is to be made to the person or persons entitled to them, it shall be the duty of the trustees holding the Relevant Shares to notify the Directors

in writing that such event has occurred and the trustees shall be bound, if and when required in writing by the Directors so to do, to give a Transfer Notice in respect of the Relevant Shares

8 4 If a Transferee Company ceases to be a member of the same group (as defined below) as the Transferor Company from which (whether directly or by a series of transfers under article 8 1) the Relevant Shares derived, it shall be the duty of the Transferee Company to notify the Directors in writing that such event has occurred and (unless the Relevant Shares are thereupon transferred to the Transferor Company or to a member of the same group as the Transferor Company, any such transfer being deemed to be authorised under the foregoing provisions of this clause) the Transferee Company shall be bound, if and when required in writing by the Directors so to do, to give a Transfer Notice in respect of the Relevant Shares

8 5 For the purposes of article 8 1

- (a) the expression "**Privileged Relation**", as regards any particular individual holder or deceased or former individual holder, means the husband or wife or the widower or widow of the individual and all the lineal descendants and ascendants of that individual and for the purposes aforesaid a step-child or adopted child or illegitimate child of any person shall be deemed to be a lineal descendant of such person and of the lineal ascendants of such person,
- (b) the expression "**Family Trusts**", as regards any particular individual holder or deceased or former individual holder, means trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the Shares in question is for the time being vested in any person other than that individual and/or Privileged Relations of that individual and so that for the purposes aforesaid a person shall be deemed to be beneficially interested in a share if such share or the income thereof is or may become liable to be transferred or paid or applied or appointed to or for the benefit of such person or any voting or other rights attaching thereto are or may become liable to be exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons,
- (c) the word "**company**" includes any body corporate,
- (d) the expression "**a member of the same group**", as regards any company, means a company which is for the time being a holding company or a subsidiary of that company or a subsidiary of any such holding company (as such terms are defined in the Acts),
- (e) the expression "**Transferor Company**" means a company (other than a Transferee Company) which has transferred or proposes to transfer Shares to a member of the same group,
- (f) the expression "**Transferee Company**" means a company for the time being holding

Shares in consequence, directly or indirectly, of a transfer or series of transfers of Shares between members of the same group (the relevant Transferor Company in the case of a series of such transfers being the first transferor in such series), and

- (g) the expression "**the Relevant Shares**" means and includes (so far as the same remain for the time being held by the trustees of any Family Trusts or by any Transferee Company) the Shares originally transferred to such trustees or Transferee Company and any additional Shares issued to such trustees or Transferee Company by way of capitalisation or acquired by such trustees or Transferee Company in exercise of any right or option granted or arising by virtue of the holding of the Relevant Shares or any of them or the shares thereby conferred

## 9 TRANSFERS: PRE-EMPTION

9 1 A holder (the "**Transferor**") who wishes to make a Relevant Transfer to any person shall give the Company prior written notice (the "**Transfer Notice**") that he desires to make the Relevant Transfer specifying

- (a) the terms of the Relevant Transfer including (i) the subject matter of the Relevant Transfer (the "**Relevant Transfer Interest**"), (ii) if the Relevant Transfer Interest is an immediate sale of Shares, the price at which he is willing to transfer those Shares (the "**Sale Price**"), and (iii) if the Relevant Transfer Interest is the grant of an option to purchase or the obligation to sell Shares in the future, the price, if any, at which he is willing to grant such option (the "**Grant Price**") and the price payable on exercise of such option (the "**Strike Price**"),
- (b) if he has received a bona fide arm's length offer from any person (including, for the avoidance of doubt, any holder of shares in the Company (the "**Third Party Offeror**"), the price offered by such Third Party Offeror (the "**Offer Price**") for the Relevant Interest, and the other terms offered by the Third Party Offeror,
- (c) the security that will be required from holders who accept the offer contained in the Transfer Notice in respect of the purchase price for the Relevant Transfer Interest, and
- (d) whether or not the Relevant Transfer is conditional on the entire Relevant Transfer Interest (or such lesser part thereof as may be stipulated by the Transferor) being sold or transferred (a "**Transfer Condition**") and in the absence of any stipulation the Relevant Transfer shall be deemed to be conditional on the entire Relevant Transfer Interest being sold or transferred (provided that in any case where a Transfer Notice shall be deemed to have been given pursuant to these Articles there shall be no Transfer Condition),

and once delivered to the Company, the Transfer Notice shall not be revocable except with the sanction of Board

9 2 A Transfer Notice shall constitute the Company as the Transferor's agent for the Relevant Transfer, on the terms of the Transfer Notice and the Board shall promptly (but in any event within 5 Business Days of the date of the Transfer Notice) by notice in writing (the

"Pre-emptive Notice"), offer the Relevant Transfer Interest to the other holders for the time being other than the Transferor (the "Transferee(s)") pro rata to their respective percentage shareholdings of the issued share capital of the Company at the date of the Transfer Notice, on the basis that each Preferred Share has been converted into Ordinary Shares at the Conversion Rate immediately prior to the date of the Transfer Notice

9 3 The Pre-emptive Notice shall specify a time (not being more than 10 Business Days) within which the offer contained therein must be accepted or in default will lapse ("**Acceptance Period**") Such offer shall also permit any holder desiring to purchase a share of the Relevant Transfer Interest in excess of his pro rata entitlement thereto ("**Excess Relevant Transfer Interest**") to indicate in his reply his desired Excess Relevant Transfer Interest

9 4 The Pre-emptive Notice shall -

- (a) set out the terms of the Transfer Notice (and the Pre-emptive Notice shall be deemed to include a condition to the effect that the offer contained in the Pre-emptive Notice is subject to the terms set out in the Transfer Notice), provided that in the case of a deemed Transfer Notice pursuant to article 10, the price for the Relevant Transfer Interest shall be determined in accordance with Article 10 1,
- (b) state, if applicable, the identity of the Third Party Offeror,
- (c) contain a statement that, without prejudice to the Transfer Condition, each Transferee can apply for such part of the Relevant Transfer Interest they so choose (which for the avoidance of doubt includes zero),
- (d) invite each Transferee(s) to state in writing within a period of not more than 10 Business Days from the date of the Pre-emptive Notice (which date shall be specified therein), whether and to what extent he is willing to purchase the Relevant Transfer Interest, and
- (e) contain a statement as to the pro rata entitlement of each Transferee in respect of the Relevant Transfer Interest

9 5 If all or any of the Transferee(s) shall apply for the Relevant Transfer Interest on the terms (including any Transfer Condition) of and at the price set out in the Transfer Notice within the Acceptance Period (the "**Accepting Transferee(s)**") the Board shall promptly give notice in writing to the Transferor (the "**Acceptance Notice**") specifying the extent of the Relevant Transfer Interest applied for by each Accepting Transferee(s) and the place and time for completion of the Relevant Transfer, which shall be not more than 10 Business Days following the date of the Acceptance Notice, which date shall be specified therein, and otherwise shall be on the terms set out in the Transfer Notice

9 6 The Directors shall by notice in writing allocate to the Accepting Transferees their respective pro rata entitlements, any Relevant Transfer Interest which remains unallocated shall be allocated amongst those holders who have indicated that they wish to acquire Excess Relevant Transfer Interests, pro rata to their respective percentage holdings of the issued share capital of the Company at the date of the Transfer Notice, until either the entire Relevant Transfer Interest shall have been fully allocated or until all Accepting Transferees

have been allocated Relevant Transfer Interests up to the maximum amount of Excess Relevant Transfer Interests for which they have applied, subject in each case to the terms of any Transfer Condition

- 9 7 If any Relevant Transfer Interest shall not be capable of being offered to the Transferee(s) in proportion to their existing holdings, except by way of fractions, the same shall be offered to the Accepting Transferee(s) in the closest proportions of whole numbers as the Board may decide
- 9 8 Without prejudice to the Transfer Condition, no Accepting Transferee(s) shall be obliged to take, and shall not be allocated, more of the Relevant Transfer Interest than he shall have applied for
- 9 9 Provided that the Transfer Condition has been fulfilled, and provided that the security for payment of the purchase price required by the Transferor (as set out in the Transfer Notice) has been delivered to the Transferor, the Transferor shall be bound to transfer the Relevant Transfer Interest to the Accepting Transferee(s) on the terms specified in the Transfer Notice at the time and place specified in the Acceptance Notice, and payment of the purchase price for the Relevant Transfer Interest shall, when made (as required by the Transfer Notice) be made to the Company as agent for the Transferor. If the Transferor fails to transfer the Relevant Transfer Interest to the holders to whom they have been allocated under clause 9 6, at the date, time and place specified in the Acceptance Notice, any person appointed by the Board shall be deemed to have been appointed attorney of the Transferor with full power to execute, complete and deliver, in the name of and on behalf of the Transferor, transfer(s) of the Relevant Transfer Interest to the Accepting Transferee(s) against payment to the Company (as agent for the Transferor) in full of the purchase price in respect thereof (as required by and in accordance with the Transfer Notice). On payment to the Company, the Accepting Transferee(s) shall be deemed to have obtained good discharge for this payment
- 9 10 Either the Company shall pay the price for the Relevant Transfer Interest to the Transferor immediately or the Company shall pay the price for the Relevant Transfer Interest into a separate bank account on trust for the Transferor, in which event the Company shall procure transfer thereof to the Transferor on demand by or on behalf of the Transferor
- 9 11 After transfer of the Relevant Transfer Interest and receipt in full by the Transferor of the purchase price in respect thereof, the validity of the proceedings shall not be questioned by any person
- 9 12 If
- (a) the offer of the Relevant Transfer Interest on the terms of the Transfer Notice is not accepted by the Transferee(s) within the Acceptance Period, or
  - (b) any Transfer Condition is not fulfilled, or
  - (c) the Transferor does not receive payment in full of the purchase price in respect of the Relevant Transfer Interest against transfer of the Relevant Transfer Interest to the Accepting Transferee(s),



the Transferor shall be entitled, during the period of three months after the date that was set for completion of the Relevant Transfer in the Acceptance Notice or, if none after the expiry of the Acceptance Period (the "Sale Period") to make a Relevant Transfer of the entire Relevant Transfer Interest to any person (and if the Transfer Notice was subject to Transfer Condition, then such Relevant Transfer shall be subject to the same Transfer Condition PROVIDED THAT the price for such Relevant Transfer Interest shall not be less than (i) if the Relevant Transfer comprises an immediate sale of Shares, the Sale Price or the Offer Price, as the case may be, or (ii) if the Relevant Transfer Interest comprises the grant of an option or other right or rights to acquire Shares at a future date, the aggregate of the Grant Price and the Strike Price. The Board shall be entitled to require the Transferor to furnish to the Company such information and evidence as it may reasonably require to be satisfied that the Transferor has complied with the provision of this clause 9.12

- 9.13 For the purposes of article 9.14, the following shall be deemed to be a "relevant event" -
- (a) save as otherwise provided or permitted in these Articles, a direction in any form whatever by any holder entitled to an allotment (other than as provided for herein) or transfer of Shares to the effect that all or any of the Shares be allotted or transferred to some person other than himself,
  - (b) a sale or other disposition of any legal or equitable interest in any Share by any holder otherwise than in accordance with the above provisions,
  - (c) if any holder becomes bankrupt, compounds with his creditors, suffers execution against his effects or an administration order or other like order is made against him, and
  - (d) if any holder commits a material breach of his obligations under these Articles and, in the case of a breach capable of remedy, fails to remedy it within 60 calendar days of being required to do so in writing by the Board and/or any other holder
- 9.14 If a relevant event occurs in relation to any holder, he shall be deemed to have given a Transfer Notice to the Company in respect of all of the Shares registered in its name (or which have been allotted to it) immediately prior to the happening of the relevant event and if the Transfer Notice fails to specify a price, the price will be such price as is agreed between the Transferor and the Board or, in the absence of agreement, as determined by the Company's auditors in accordance with the provisions of article 13 (in which event the Transferor shall bear the costs of the Expert Valuer (as defined in article 13.2)) In any such case the provisions of this article 9 (save as regard price which will be governed in accordance with this article 9.15) shall apply mutatis mutandis
- 9.15 Without prejudice to this article 9, for the purpose of ensuring that a transfer of Shares is duly authorised, or that no circumstance has arisen whereby a Transfer Notice is deemed to have been given, the Board shall be entitled to require any holder, the legal representatives of a deceased holder or a person named as transferee in a transfer lodged for registration to furnish to the Company such information and evidence as the Board in its absolute discretion shall require regarding any matter it deems relevant to that purpose. If such information and evidence is not provided to the reasonable satisfaction of the Board, the

Board shall be entitled to refuse to register the transfer. If no Transfer Notice is or has been provided in circumstances where it should have been provided, the Board shall be entitled to require the holder to provide a Transfer Notice in respect of the relevant Shares. If such Transfer Notice is not provided within 30 calendar days of the Board so requiring it to be provided, the Transfer Notice shall be deemed to have been given at the expiration of such period of 30 days and the provisions of this article 9 shall apply mutatis mutandis.

9 16 Notwithstanding the foregoing but subject to article 9 18, the Board may decline to register a transfer of Shares on which the Company has a lien or of a Share (not being a fully paid Share) to a person who is not already a member and of whom they shall not approve. The Board may also refuse to register a transfer unless -

- (a) it is lodged at the Company's registered office or at such other place as the Board may appoint and is accompanied by the certificate for the Share to which it relates and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer, and
- (b) it is in respect of only one class of Shares, and
- (c) it is in favour of not more than four transferees

9 17 Subject to the provisions of this article 9, the Board shall register any transfer of Shares made pursuant to or permitted by this article 9 but shall be entitled to refuse to register any other transfer.

9 18 As from the date a Transfer Notice is deemed to have been given pursuant to article 9 15 (if a relevant event shall have occurred) until such time as the provisions of article 9 have been complied with in relation to the Relevant Transfer Interest comprised in the Transfer Notice the shares in respect of which such notice is given shall cease to entitle the holder thereof (or any proxy) to any voting rights (whether on a show of hands or on a poll) otherwise attaching to such shares or to any further shares issued in right of such shares or in pursuance of any offer made to the holder thereof whether such rights would otherwise have been exercisable at a general meeting of the Company or any separate meeting of the class in question.

## 10 LEAVER PROVISIONS

10 1 Save as may be decided otherwise by the Board, if a holder of any Shares who is not an Exempt Member, shall cease to be a Director or employee of the Company or any of its Subsidiaries (other by reason of death or Disability) then such person (the "Leaver") (provided that at the date of such cessation or termination the Leaver is interested in Shares) shall (if he has not already done so) be deemed to have served a Transfer Notice in respect of those Shares on the 5<sup>th</sup> day after such cessation of employment. The Leaver's Shares shall be offered in the first instance to the Preferred Shareholders and, in so far as such offer is not accepted, to all of the Ordinary Shareholders. On a transfer under this article

- (a) if the Leaver leaves as a result of Termination without Cause, the Transfer Notice shall relate to all of the Leaver's Shares and the price specified in such Transfer

Notice shall be the Fair Value, or

- (b) if the Leaver leaves due to Termination for Cause, the Transfer Notice shall relate to all the Shares and the price specified in such transfer notice shall be the lower of (i) the price at which the Shares were issued or transferred to the Leaver and (ii) the Fair Value

10 2 For the purposes of article 10 1, the Fair Value shall be calculated as at the Termination Date (other than in the case of permanent disability when the Fair Value shall be calculated as at the date on which the Transfer Notice is actually given or deemed to be given) in accordance with the provisions of article 13 If the Fair Value is required to be determined pursuant to article 10 1(b) the costs of the Expert Valuer (as defined in Article 13 2) shall be borne by the Leaver

10 3 If there shall be any dispute as to whether or not the termination of a Leaver's service contract constituted Termination for Cause, the matter shall be referred to a Queen's Counsel experienced in employment law and agreed by the Leaver and the Board or in default of agreement within 14 days, such Queen's Counsel as shall be nominated by the then President of the Bar Council upon the application of either the Leaver or the Board ("Q.C.") The Q.C shall be instructed to give his opinion in writing as to whether (having had all relevant facts explained to him) the circumstances in which the Company dismissed the Leaver constitute Termination for Cause or Termination without Cause Upon the request of the Leaver, the Company shall instruct the Q C within 28 days of written request by the Leaver and the Leaver shall have a proper opportunity prior to the Q C giving his written opinion to make written representations to the Q C and to see a copy of the Company's instructions to the Q C prior to making his written representations The costs of the Q C shall be borne as he shall decide or in the absence of his decision, by the party against whom the opinion of the QC is to be construed

10 4 Where any Transfer Notice is issued pursuant to article 10 1, the Shares subject to it shall be offered as the Board shall decide to one or more persons who are, or are intended to become, employees of the Company or its Subsidiaries, to any trustee of the time being of any employee share option trust or similar arrangement established for the benefit of the employees of the Company, to the Company to be repurchased, to the holders of the Company pro rata in accordance with article 9 (and the operation of article 9 shall apply mutatis mutandis to such offer), or to such other persons as the Board shall decide

10 5 An authorisation of the Board or a Transfer Notice deemed to be served pursuant to this clause shall not be revocable in any circumstances unless the Board so agrees

## 11 CHANGE OF CONTROL; DRAG ALONG

11 1 If the effect of any transfer of Shares by a Transferor would if completed, be to

- (a) enable any person or persons connected with each other or persons acting in concert with each other, not being either Investors or Lenders, to obtain Control over or increase Control beyond that number of Shares in the Company which in aggregate confer more than 50 per cent of the voting rights normally exercisable at general meetings of the Company,

- (b) enable the Investors or the Lenders, in either case together with any person or persons connected with them or persons acting in concert with them, to acquire Control over a number of Shares in the Company which in aggregate confer more than 65 per cent of the voting rights normally exercisable at general meetings of the Company,

the Transferor shall procure the making by the proposed Third Party Offeror, (or other person or persons to whom it is proposed to transfer such shares to), of an Appropriate Offer to all the Transferees (other than any person or persons connected with each other or acting in concert with each other who shall as a consequence of the proposed transfer obtain such Control) An Appropriate Offer, shall remain open for acceptance for 28 calendar days of the date of such offer (which date shall be specified therein) Until such Appropriate Offer has been made and completed the Board shall not sanction the making and registration of the relevant transfer or transfers

11 2 For the purposes of this article 11 -

- (a) "**Control**" shall mean the right, by virtue of holding shares in, or the possession of voting power in or in relation to, the Company or any other body corporate, to exercise or procure the exercise of the voting rights attached to the relevant shares,
- (b) "**acting in concert**" shall have the meaning set out in the City Code on Takeovers and Mergers,
- (c) "**connected**" means in the context of determining whether one person is connected with another, shall be determined in accordance with the provisions of section 839 of the Income and Corporation Taxes Act 1989, and
- (d) "**Appropriate Offer**" means an unconditional offer, open for acceptance for not less than 28 days, to purchase all the Shares held by the recipients of an Appropriate Offer at a price equal to the higher of -
  - (i) Fair Value for the Shares, as determined by the auditors pursuant to article 13, or
  - (ii) the highest price per share (exclusive of stamp duty, stamp duty reserve tax and commission) paid or to be paid by any person or persons referred to in article 11 1 for the Shares (inclusive of the shares giving rise to the obligation to make the Appropriate Offer) within the period of one year prior to and on the proposed date of completion of such transfer of shares, plus such further amount equal to any other consideration (in cash or otherwise) received or receivable by the holders of such shares 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 such shares, multiplied by the number of Shares,

PROVIDED THAT the amount paid for each Share (however calculated) shall be increased by the amount of all (if any) unpaid arrears and accruals of any dividend such arrears and accruals, if any, to be calculated down to (and including) the date of completion of the Appropriate Offer

- 11 3 In the event of disagreement, the calculation of the relevant Appropriate Offer price shall be referred to an umpire (acting as expert and not as arbitrator) nominated by the parties concerned (or in the event of disagreement as to nomination appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales) whose decision shall (in the absence of fraud and manifest error) be conclusive and binding on the Company and upon all its holders for the purposes of these Articles
- 11 4 If the holders of not less than 75% in nominal value of the issued share capital to which the Appropriate Offer is made (the ‘**Accepting Shareholders**’’) accept an Appropriate Offer, then the Third Party Offeror shall give written notice to the remaining holders of the issued share capital (the ‘**Other Shareholders**’’) of the acceptance of the Appropriate Offer and the Other Shareholders shall thereupon become bound to accept the Appropriate Offer and to transfer their Shares to the Third Party Offeror (or his/their nominees) with full title guarantee on the date specified by the Third Party Offeror
- 11 5 If any Other Shareholder shall not, within 5 Business Days of being required to do so, execute and deliver transfers in respect of the Shares held by him and deliver the certificate(s) in respect of the same (or a suitable indemnity in lieu thereof), then any Accepting Shareholder shall be entitled to execute, and shall be entitled to authorise and instruct such person as he thinks fit to execute, the necessary transfer(s) and indemnities on the Other Shareholder's behalf and, against receipt by the Company (on trust for such Shareholder) of the consideration payable for the relevant Shares, deliver such transfer(s) and certificate(s) or indemnities to the Third Party Offeror (or his nominee) and register such Third Party Offeror (or his nominee) as the holder thereof and, after such registration, the validity of such proceedings shall not be questioned by any person
- 11 6 Upon any person, following the issue of a notice pursuant to Article 11 4, becoming a member of the Company, or increasing an existing holding of Shares, pursuant to the exercise of a pre-existing option to acquire shares in the company (“**New Member**”), a notice shall be deemed to have been served upon the New Member on the same terms as the previous notice who shall thereupon be bound to sell and transfer all such Shares acquired by him to the Third Party Offeror or as the Third Party Offeror may direct on the terms of the Appropriate Offer and the provisions of this Article shall apply mutatis mutandis to the New Member save that completion of the sale of such Shares shall take place forthwith upon the notice being deemed served on the New Member

## 12 COMPLIANCE AND DISENFRANCHISEMENT

- 12 1 For the purpose of ensuring
- (a) that a transfer of shares is duly authorised under these Articles,
  - (b) that no circumstances have arisen whereby a Transfer Notice is required to be or ought to have been given under these Articles, or

- (c) whether an Appropriate Offer pursuant to article 11 is required to be or ought to have been made,

the Board may require any member or the legal personal representatives of any deceased member or any person named as transferee in any transfer lodged for registration or such other person as the Board or a holder may reasonably believe to have information relevant to such purpose, to furnish to the Company such information and evidence as the Board may think fit regarding any matter which they deem relevant to such purpose, including (but not limited to) the names, addresses and interests of all persons respectively having interests in the shares from time to time registered in the holder's name

12 2 Failing such information or evidence being furnished to enable the Board to determine to its reasonable satisfaction that no such Transfer Notice is required to be or ought to have been given, or that no such offer is required to be or ought to have been made, or that as a result of such information and evidence the Board is reasonably satisfied that such Transfer Notice is required to be or ought to have been given, or that such an offer is required to be or ought to have been made

- (a) where the purpose of the enquiry by the Board was to establish whether a Transfer Notice is required to be or ought to have been given, then a Transfer Notice shall be deemed to have been given by the holder of the relevant shares in respect of such shares, or
- (b) where the purpose of the enquiry by the Board was to establish whether an Appropriate Offer pursuant to article 11 is required to be or ought to have been made, then the shares held by or on behalf of the person or persons connected with each other or acting in concert with each other who has or have (as the case may be) acquired the relevant number or percentage of shares as are referred to in Article 11, such shares shall cease to entitle the relevant holder or holders (or any proxy) to voting rights (whether on a show of hands or on a poll and whether exercisable at a general meeting of the Company or at a separate meeting of the class in question) otherwise attaching to such shares or to any further shares issued in right of such shares or in pursuance of an offer made to the relevant holders to the extent that will result in such person or persons aforesaid only being able to control that percentage of the voting rights attaching to the Preferred Shares and Ordinary Shares that such person or persons were in a position to control prior to the obligation to procure the making of an Appropriate Offer arising

### 13 VALUATION OF SHARES

13 1 In the event that the Fair Value is required to be determined under these Articles, such price shall be the amount which the Expert Valuer (as defined in article 13 2 below) shall certify in writing to be the fair value of the relevant Shares as at the date of the Transfer Notice (subject to article 10.2) as between -

- (a) a willing buyer and a willing seller contracting on bona fide arm's length terms,
- (b) on the basis that the relevant Shares are capable of being transferred without

restriction,

- (c) without discount for minority or premium for majority, and
  - (d) having regard to the fair value of the business of the Company as a going concern (including its goodwill)
- 13 2 The Expert Valuer shall be an independent firm of chartered accountants as agreed between the relevant holder of the Shares which are the subject of a Transfer Notice and the Board within 5 Business Days of the date of the Transfer Notice or the Termination Date (as the case may be) or in default of agreement on such firm, a firm nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales (the "Expert Valuer")
- 13 3 In so certifying, the Expert Valuer shall act as experts and not as arbitrators and their decision shall be conclusive and binding on the Company and upon all of the holders for the purposes of these Articles
- 13 4 The costs of the Expert Valuer shall, save as provided in articles 9 14 and 10 2, be borne by the Company

## GENERAL

### 14 GENERAL MEETINGS

- 14 1 No business shall be transacted at any general meeting unless a quorum of holders is present at the time when the meeting proceeds to business and for its duration. A quorum shall be two persons, present in person or by proxy or by duly authorised representative (if a corporation), who together hold or represent at least one-third in nominal value of all issued shares entitled to attend and vote at that meeting. If a meeting is adjourned under regulation 41 of Table A 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 that adjourned meeting the meeting will further stand adjourned to the same day in the next week at the same time and place or to such time and place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for that adjourned meeting, the holders then present shall form a quorum, and regulation 41 of Table A shall be modified accordingly
- 14 2 A poll may be demanded at a general meeting either by the chairman of the meeting or by any holder who is present in person, by proxy or by duly authorised representative (if a corporation) and who, in any such case, has the right to vote at the meeting, and regulation 46 of Table A shall be modified accordingly
- 14 3 Regulation 37 of Table A shall be modified by the deletion of the words "eight weeks after receipt of the requisition" and the substitution for them of the words "28 days after receipt of the requisition or, subject to obtaining any necessary consents to the meeting being held on short notice, such earlier date as may be specified in the notice requisitioning the meeting"

15      **WRITTEN RESOLUTIONS**

A resolution in writing executed by and on behalf of each member (and in the case of a corporation which holds a share or shares in the capital of the Company, the signature of any director or the secretary of such corporation shall be sufficient) who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in like form (which form may, for the avoidance of doubt, include facsimile or electronic copies) each executed by or on behalf of one or more members save that this paragraph shall not apply to resolutions passed pursuant to sections 303 and 391 of the Companies Act 1985 (as amended)

16      **RETIREMENT OF DIRECTORS**

The Directors shall not be liable to retire by rotation and, accordingly, the second and third sentences of regulation 79 of Table A shall not apply to the Company, in regulation 78 of Table A, the words "Subject as aforesaid" and the words "and may also determine the rotation in which any additional directors are to retire" shall be deleted, and the last sentence of regulation 78 shall be deleted

17      **DIRECTORS**

The maximum number of Directors shall be eight

18.      **APPOINTMENT AND REMOVAL OF DIRECTORS**

18 1      The Lenders shall be entitled, by notice in writing to the Company signed by a Lender Majority, to appoint 1 Director and by like notice in writing to remove a Director appointed under this Clause and appoint another in his place (the "**Lender Director**")

18 2      The Investors shall be entitled, by notice in writing to the Company signed by a Investor Majority, to appoint 1 Director and by like notice in writing to remove a Director appointed under this Clause and appoint another in his place (the "**Investor Director**")

18 3      No person shall be appointed a Director at any general meeting unless either -

(a)      he is recommended by the majority of Directors, or

(b)      not less than 14 nor more than 35 clear days before the date appointed for the general meeting, notice signed by a member qualified to vote at the general meeting has been given to the Company of the intention to propose that person for appointment, together with notice signed by that person of his willingness to be appointed

18 4      Subject to article 18 3, the Company may by ordinary resolution in general meeting appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director

18 5      Subject to this article 18, the Directors may, appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director



18 6 The office of any Director shall be vacated if -

- (a) in the case of a Lender Director or an Investor Director, he is removed from office in accordance with article 18 2 or 18 3 as the case may be,
- (b) he shall resign by notice to the Company,
- (c) he shall become prohibited by law from acting as a Director,
- (d) he becomes bankrupt or makes any arrangement or composition with his creditors generally,
- (e) in England or elsewhere an order shall be made by any court claiming jurisdiction in that behalf on the ground (however formulated) of mental disorder for his detention or for the appointment of a guardian or receiver or other person (by whatever name called) to exercise powers with respect to his property or affairs,
- (f) he shall be absent from meetings of the Directors for three consecutive months without leave and the Directors shall resolve that his office be vacated, or
- (g) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983, or in Scotland under the Mental Health (Scotland) Act 1960,

and the provisions of regulation 81 of Table A shall be extended accordingly

## 19 DIRECTORS REMUNERATION

- 19 1 The Directors shall be entitled to such Remuneration as the Board may, in its absolute discretion, unanimously determine and, unless the resolution provides otherwise, the Remuneration shall be deemed to accrue from day to day
- 19 2 If any Director shall be called upon to perform extra services or to make special exertions for any purposes of the Company, the Company may remunerate the Director so doing either by a fixed sum or by a percentage of the profits or otherwise as may be determined by unanimous consent of the Board, and such Remuneration may be either in addition to or in substitution for any other Remuneration to which he may be entitled as a Director
- 19 3 The Directors may be paid any reasonable travelling, hotel or other out of pocket expenses which the Directors may properly incur in the performance of their duties

## 20 ALTERNATE DIRECTORS

- 20 1 The appointment by any Director of an alternate director shall not be subject to approval by a resolution of the Board and regulation 65 of Table A shall be modified accordingly In regulation 67 of Table A the words "but, if" and the words following them (to the end of that regulation) shall be deleted
- 20 2 An alternate Director shall not be entitled (as such) to receive any Remuneration from the

Company, save that he may be paid by the Company such part (if any) of the Remuneration otherwise payable to his appointor as such appointor may, by notice in writing to the Company from time to time, direct, and the first sentence of regulation 66 of Table A shall be modified accordingly

- 20 3 A Director, or any such other person as is mentioned in regulation 65 of Table A, may act as an alternate director to represent more than one Director, and an alternate director shall be entitled at any meeting of the Board (or of any committee 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 shall count as only one for the purpose of determining whether a quorum is present at (and during) any such meeting

## 21 PROCEEDINGS OF DIRECTORS

- 21 1 Notice of a meeting of any committee of the Board or any meeting of the full Board shall be given to all Directors notwithstanding the fact that any Director is absent from the United Kingdom, and Regulation 88 of Table A shall be modified accordingly Unless otherwise agreed by a majority of the Directors in any particular case, at least ten Business Days written notice shall be given to each of the Directors of every meeting of the Directors Each such notice shall (i) be sent to the address notified from time to time by each Director to the Secretary as his address for the service of such notices (or if no address has been supplied, to his last known address), (ii) specify a reasonably detailed agenda, (iii) be accompanied by any relevant papers, and (iv) if sent less than 10 Business Days before the date of the meeting, delivered by hand or be sent by courier, facsimile transmission or e-mail
- 21 2 The quorum at a Board meeting shall always be not less than two Directors but must include both the Lender Director and the Investor Director (or their respective alternates) unless either of them have waived their right to be included in the quorum for any particular meeting or period of time by written notice to the Company If a quorum is not present within half an hour of the time appointed for the meeting or ceases to be present, the Director(s) present shall adjourn the meeting to a specified place and time not less than three Business Days after the original date At the adjourned meeting the quorum shall be any two Directors Notice of the adjourned meeting shall be given by the secretary of the Company to all Directors An alternate Director shall be counted in the quorum in the same capacity as his appointor but so that not less than two individuals will constitute a quorum Regulation 89 of Table A shall be modified accordingly
- 21 3 Any Director or member of a committee of the Board may participate in a meeting of the Board or such committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear and speak to each other, and any Director or member of a committee participating in a meeting in this manner shall be deemed to be present in person at such meeting
- 21 4 A Director need not hold any Shares to qualify him as a Director but he shall be entitled to receive notice of and attend at all general meetings of the Company and at all separate general meetings of the holders of any class of shares in the capital of the Company
- 21 5 Questions arising at any meeting of Directors shall, unless otherwise determined by these

Articles, be determined by a simple majority of votes. In all cases where the determination of a question arising at any meeting of Directors is necessary, save for unanimous determination, fractions of a vote shall be taken into account and in the case of an equality of votes the chairman of the board of directors shall not have a second or casting vote. Regulation 88 of Table A shall be modified accordingly.

- 21 6 A resolution in writing signed by all the Directors entitled to receive notice of a meeting of Directors or a committee of Directors shall be as valid and effectual as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held and may consist of several documents in like form (which form may, for the avoidance of doubt, include facsimile or electronic copies) each signed by one or more Directors (save in the case of electronic copies which need not be signed but shall be subject to such terms and conditions as the Board may decide), but (without prejudice to the foregoing) a resolution signed by an alternate Director need not also be signed by his appointor and, if it is signed by Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.

## 22 LIEN

- 22 1 The lien conferred by regulation 8 of Table A shall attach also to fully paid up shares and to all shares registered in the name of any person indebted or under liability to the Company (whether he shall be the sole registered holder of such share(s) or shall be one of two or more joint holders).
- 22 2 The liability of any member who has not paid a call shall be increased by the addition at the end of the first sentence of regulation 18 of Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment"

## 23 NOTICES

Subject to the Acts, any notice to be given by or to the Company, by or to any director or by or to any member may be validly given by facsimile (to a facsimile number notified by such member or such director to the Company in writing at its registered address) or by electronic mail (to an electronic mail address notified by such member or such director to the Company in writing at its registered address) and regulations 111 and 112 of Table A shall be extended accordingly.

## 24 THE SEAL

- 24 1 If the Company has a seal it shall only be used with the authority of the Board or of a committee of the Board. The Board may determine who shall sign any instrument to which the seal is affixed and, unless otherwise so determined, it shall be signed by a Director and by the secretary or a second Director. The obligation under regulation 6 of Table A relating to the sealing of share certificates shall apply only if the Company has a seal.
- 24 2 The Company may exercise the powers conferred by section 39 of the Companies Act 1985 with regard to having an official seal for use abroad, and such powers shall be vested in the Board.

**INDEMNITY**

Subject to the provisions of the Acts, every Director or other officer of the Company shall be indemnified out of the assets of the Company against all costs, charges, expenses, losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by any court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company. No Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the proper execution of the duties of his office or in relation thereto. This article 25 shall only have effect in so far as its provisions are not avoided by section 310 of the Companies Act 1985. The Board shall have power to purchase and maintain for any Director or other officer of the Company and the auditors of the Company insurance against any liability which, by virtue of any rule of law, would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company.