

**TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE INTERNATIONAL BUSINESS COMPANIES ACT
(CAP. 291)**

AMENDED AND RESTATED

MEMORANDUM

AND

ARTICLES OF ASSOCIATION

of

LIVERMORE INVESTMENTS GROUP LIMITED

(formerly Empire Online Limited and before that Clevedon Services Limited)+

(amendment filed on 10th June 2005)

**TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE INTERNATIONAL BUSINESS COMPANIES ACT (CAP. 291)**

AMENDED AND RESTATED

**MEMORANDUM OF ASSOCIATION
of
LIVERMORE INVESTMENTS GROUP LIMITED**

1. NAME

The name of the Company is Livermore Investments Group Limited¹.

2. REGISTERED OFFICE

The registered office of the Company will be situate at Trident Chambers, PO Box 146, Road Town, Tortola, British Virgin Islands or at such place in the British Virgin Islands as the directors may from time to time determine.

3. REGISTERED AGENT

The registered agent of the Company will be Trident (BVI) Limited or such other person or company being a person or company entitled to act as a registered agent as the directors may from time to time determine.

4. GENERAL OBJECTS AND POWERS

The Objects for which the Company is established are:

4.1 To buy, sell, mortgage, lease, manage, build, develop, possess and generally deal in real properties; to buy, sell, underwrite, invest in, exchange or otherwise acquire, and to hold, manage, develop, deal with and turn to account any bonds, debentures, shares (whether fully paid or not), stocks, options, commodities, futures, forward contracts, notes, or securities of all types, precious metals, gems, works of art and other articles of value.

4.2 To borrow or raise money by the issue of debentures, debenture stock (perpetual or terminable), bonds, mortgages, or any other securities founded or based upon all or any of the assets or property of the Company or without any such security and upon such terms as to priority or otherwise as the Company shall think fit.

¹ The name of the Company was changed from Empire Online Limited to Livermore Investments Group Limited on 19 March 2007.

- 4.3** To guarantee loans and to lend money with or without guarantee or security to any persons, firms or corporations.
- 4.4** To engage in any other business or businesses whatsoever, or in any acts or activities, which are not prohibited under any law for the time being in force in the British Virgin Islands.
- 4.5** To do all such other things as are incidental to or the Company may think conducive to the attainment of all or any of the above objects.
- 4.6** And it is hereby declared that the intention is that each of the objects specified in each paragraph of this clause shall, except where otherwise expressed in such paragraph, be an independent main object and be in no way limited or restricted by reference to any inference from the terms of any other paragraph or the name of the Company.

5. EXCLUSIONS

The Company has no power to:

- 5.1** carry on business with persons resident in the British Virgin Islands;
- 5.2** own an interest in real property situate in the British Virgin Islands, other than a lease of property for use as an office from which to communicate with members or where books and records of the company are prepared or maintained;
- 5.3** carry on banking or trust business, unless it is licensed under the Banks and Trust Companies Act, 1990;
- 5.4** carry on business as an insurance or re-insurance company, insurance agent or insurance broker, unless it is licensed under an enactment authorising it to carry on that business;
- 5.5** carry on the business of company management unless it is licensed under the Company Management Act, 1990; or
- 5.6** carry on the business of providing the registered office or the registered agent for companies incorporated in the British Virgin Islands.

6. LIMITATION OF LIABILITY

The liability of the members of the Company is limited.

7. CURRENCY

The shares in the Company shall be issued in the currency of the United States of America.

8. AUTHORISED CAPITAL

The Company shall have no authorised capital but is authorised to issue up to 100,000,000 ordinary shares of no par value of a single class with a single series.

9. DESIGNATIONS, POWERS, PREFERENCES OF SHARES

All shares shall:

9.1 have one vote each;

9.2 be subject to redemption, purchase or acquisition by the Company for fair value; and

9.3 have the same rights with regard to dividends and distributions upon liquidation of the Company.

10. REGISTERED SHARES

The directors may issue shares as registered shares only and shares issued as registered shares shall not be exchanged for shares issued to bearer.

11. TRANSFERS OF SHARES

Shares in the Company may be transferred subject to any limitations contained in the Articles of Association.

12. AMENDMENT OF MEMORANDUM AND ARTICLES OF ASSOCIATION

Save as expressly stated in the Articles of Association the Company shall by Special Resolution (as defined in the Articles of Association) have the power to amend or modify this Memorandum of Association and/or its Articles of Association.

INTERTRUST (BVI) LIMITED hereby subscribes to this Memorandum of Association this 2nd day of January, 2002.

Signed on behalf of the subscriber Intertrust (BVI) Limited

SGD: Simon Filmer
by SIMON FILMER

in the presence of:

SGD: Nadine Hendrickson
NADINE HENDRICKSON

Tortola
British Virgin Islands

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AMENDED AND RESTATED

ARTICLES OF ASSOCIATION

of

LIVERMORE INVESTMENTS GROUP LIMITED

PRELIMINARY

1. OTHER REGULATIONS EXCLUDED

The following regulations shall constitute the regulations of the Company.

2. INTERPRETATION

2.1 In these regulations, the following definitions apply:

"Admission"

means the admission to trading on the AIM of the London Stock Exchange of the entire issued share capital of the Company to take place on or about 15th June 2005;

"Annual General Meeting"

a meeting of Members to be held in each year pursuant to Article 44;

"Articles"

the articles of association of the Company as amended from time to time;

"Auditors"

the auditors of the Company from time to time;

"Board"

the board of Directors or the Directors present at a duly convened and quorate meeting of Directors or a duly authorised committee of the Directors as the context requires;

"Business Day"

a day other than a Saturday, Sunday or a day on which banks are authorised to close in London;

"Capital"

the sum of the aggregate par value of all outstanding shares of the Company having a par value and shares with par value held by the Company as Treasury Shares plus:

- (a) the aggregate of the amounts designated as capital in respect of all outstanding shares without par value including shares without par value held by the Company as Treasury Shares, and
- (b) the amounts as are from time to time transferred from Surplus to capital by a Resolution of Directors;

"cash memorandum account"

an account so designated by the operator of the Relevant System concerned;

"certificated share"

a share in the capital of the Company that is not an uncertificated share and references to a share being held in certificated form shall be construed accordingly;

"clear days"

in relation to a period of notice or otherwise, that period excluding the day when the notice or other document is received or, if earlier, deemed to be received and the day for which it is sent or on which it is to take effect;

"communication"

has the same meaning as in the Electronic Communications Act 2000, being a statute in force in the United Kingdom, as amended or re-enacted from time to time;

"Companies Acts"

the International Business Companies Act (CAP. 291) and every other statute from time to time in force in the British Virgin Islands, insofar as the same applies to the Company and as the same may be amended or re-enacted from time to time, and **"Companies Act"** shall mean the International Business Companies Act (CAP. 291), as amended or re-enacted from time to time;

"Company"

Livermore Investments Group Limited, an international business company incorporated in the British Virgin Islands on 2 January 2002 with international business company number 475668;

"Director"

a director of the Company from time to time;

"Dividend"

a dividend declared by the Company from time to time;

"electronic address"

includes any number or address used for the purposes of electronic communications;

"electronic communication"

has the same meaning as in the Electronic Communications Act 2000, being a statute in force in the United Kingdom, as amended or re-enacted from time to time;

"entitled by transmission"

in relation to a share, entitled as a consequence of the death or bankruptcy of a Member or of another event giving rise to a transmission of entitlement by operation of law;

"executed"

includes signed, sealed or authenticated in some other way;

"General Meeting"

a meeting of the Members of the Company, including (where the context permits) an Annual General Meeting;

"Group"

the Company and any company which is a Subsidiary Undertaking of the Company from time to time;

"holder"

in relation to a share, the Member whose name is entered in the Share Register as the holder of that share;

"London Stock Exchange"

London Stock Exchange plc;

"Member"

a person who holds shares in the Company;

"Memorandum"

the Company's memorandum of association, as may be amended from time to time;

"month"

calendar month;

"Office"

the registered office of the Company from time to time;

"paid up"

paid up and/or credited as paid up;

"person with mental disorder"

person who is, or may be, suffering from mental disorder and an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a guardian, receiver, curator bonis or other person to exercise powers with respect to his property or affairs;

"Prescribed Amount"

shall, for the first Prescribed Period, be equal to five per cent of the number of shares in issue immediately following Admission and, for any other Prescribed Period, shall be stated in a relevant Special Resolution for the purposes of Article 5.2, or in either case any increased amount determined by a relevant Special Resolution;

"Prescribed Period"

means in the first instance the period commencing on the date on which the adoption of these Articles become effective and ending at the earlier of the end of the first Annual General Meeting and the date 15 months after the date upon which the adoption of these Articles becomes effective, and thereafter the period commencing at the end of each Annual General Meeting and ending at the end of the next succeeding Annual General Meeting, or, if shorter, the period of 15 months commencing from the end of any Annual General Meeting;

"Prescribed Rate"

an annual rate of interest equal to two per cent above the base lending rate (or any equivalent or successor lending rate) published from time to time by HSBC Bank PLC in London being the base lending rate prevailing at the close of

business in London on the day immediately preceding the day on which such rate falls to be determined;

"recognised person"

a recognised clearing house or a nominee of a recognised clearing house or of a recognised investment exchange which is designated for the purposes of section 185(4) of the UK Act;

"Resolution of Directors"

- (a) a resolution approved at a duly convened and constituted meeting of (or a meeting of a committee of) the Board by the affirmative vote of a simple majority of the Directors present at the meeting who voted and did not abstain; or
- (b) a resolution consented to in writing by all Directors or of all members of the committee, as the case may be;

except that where a Director is given more than one vote, he shall be counted by the number of votes he casts for the purpose of establishing a majority;

"Resolution of Members"

any resolution passed in accordance with these Articles and which is passed by a simple majority of those Members who (being entitled so to do) vote in person or by proxy (on a show of hands or on a poll, as the case may be) at the General Meeting at which such resolution is proposed;

"Relevant System"

has the meaning given to it by **Article 2.2.3**;

"seal"

the common seal of the Company and, as appropriate, any official or securities seal that the Company has or may be permitted to have under the Companies Acts;

"Secretary"

the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

"Share Register"

the register of Members and includes so far as relevant a related operator register of Members;

"Special Resolution"

a resolution passed by a majority of not less than three-fourths of those Members who (being entitled so to do) vote in person or by proxy (on a show of hands or on a poll, as the case may be) at the General Meeting at which such resolution is proposed;

"Sterling" or "GBP"

the lawful currency of the United Kingdom;

"Subsidiary Undertaking"

a subsidiary undertaking of the Company from time to time;

"Surplus"

the excess, if any, at the time of the determination of the total assets of the Company over the aggregate of its total liabilities, as shown in its books of account, plus the Company's Capital;

"Treasury Shares"

Shares in the Company that were previously issued but were repurchased, redeemed or otherwise acquired by the Company and not cancelled;

"UK Act"

the Companies Act 1985, being a statute in force in the United Kingdom, as amended or re-enacted from time to time;

"UKLA"

the Financial Services Authority acting in its capacity as the competent authority for the purposes of part VI of the Financial Services and Markets Act 2000, a statute in force in the United Kingdom, as may be amended or re-enacted from time to time;

"uncertificated share"

a share of a class in the capital of the Company which is recorded on the Share Register as being held in uncertificated form and title to which may, by virtue of the regulations governing the Relevant System, be transferred by means of a Relevant System and references to a share being held in uncertificated form shall be construed as a reference to that share being an uncertificated unit of security;

"United Kingdom" or "UK"

Great Britain and Northern Ireland.

2.2 In the Articles, unless the context otherwise requires:

- 2.2.1** references to persons include references to natural persons, companies and unincorporated bodies of persons;
- 2.2.2** words and expressions defined in the Companies Acts shall bear the same meaning in the Articles save that the word company shall include any body corporate (and excluding any modification of the Companies Acts not in force when these regulations became binding on the Company and words and expressions expressly defined in the Articles);
- 2.2.3** where the Articles refer to a Relevant System in relation to a share, the reference is to the Relevant System in which that share is a participating security at the relevant time;
- 2.2.4** writing shall include any method of reproducing words in a legible and permanent form;
- 2.2.5** references to any section or provision of any statute, if consistent with the subject or context, include any substituted section or provision of any amending, consolidating or replacement statute;
- 2.2.6** a meeting shall not be taken as requiring more than one person to be present if any quorum requirement can be satisfied by one person; and
- 2.2.7** references to shares includes all interests, beneficial or otherwise, in such shares.

2.3 In the Articles:

- 2.3.1** the contents pages and headings are for convenience only and do not affect the construction of the Articles;
- 2.3.2** words denoting the singular include the plural and vice versa; and
- 2.3.3** words denoting one gender include any other gender.
- 2.3.4** Where a Resolution of Members is required for any purpose, a Special Resolution is also effective for that purpose.

CAPITAL

3. AUTHORISED CAPITAL

As at the date on which the adoption of these Articles becomes effective the Company shall have no authorised share capital but, subject to **Article 5.2**, shall have the power to issue up to 1,000,000,000 ordinary shares of no par value.

4. POWER TO ATTACH CLASS RIGHTS

INTENTIONALLY DELETED

5. AUTHORITY OF BOARD TO ALLOT SHARES

5.1 Subject to **Article 5.2** below, all unissued shares which the Company is authorised to issue pursuant to **Article 3** shall be under the control of the Board and the Board is unconditionally authorised to exercise the power of the Company to allot shares, grant options over or otherwise dispose of the same to such persons and on such terms as it thinks fit at any time or times during the Prescribed Period and the Directors may after that period allot any shares or grant any such rights under this authority in pursuance of an offer or agreement made by the Company within that period. The authority given in this **Article 5.1** may be renewed, revoked, or varied by a Resolution of Members.

5.2 All unissued shares which the Company is authorised to issue from time to time shall, before being offered to any person whether or not such person is already a Member, be offered to the Members in proportion as nearly as may be to the number of the existing shares held by them respectively, unless the Company in General Meeting shall by Special Resolution otherwise direct. Such offer shall be made by written notice specifying the number of shares offered and a period (not being less than 14 days) within which the offer, to the extent not accepted, will be deemed to be declined. After the expiration of this period or, if earlier, on receipt of notice of non-acceptance, those shares so declined shall be offered to the Members who have within the said period accepted all the shares offered to them in the proportion aforesaid in like terms in the same manner and limited by a like period as the original offer. The Board may, in accordance with the provisions of this **Article 5.2**, allot, grant options over or otherwise dispose of such shares not accepted pursuant to such offers, taking into account any exclusions as the Directors may deem necessary to deal with problems arising in any overseas territory, and together with any shares not capable of being offered aforesaid except by way of fractions to such persons on such terms which are not more favourable to the subscribers therefor than the terms on which they were offered to the Members. The provisions of this **Article 5.2** shall not apply to:

5.2.1 a particular allotment of shares if these are to be paid for otherwise than in cash;

- 5.2.2** shares to be held under an employees' share scheme (having the definition set out in the UK Act);
- 5.2.3** shares proposed to be allotted for cash up to the Prescribed Amount permitted in a Prescribed Period;
- 5.2.4** an allotment of bonus shares; or
- 5.2.5** an allotment of shares which, as respects dividends and capital, carry a right to participate only up to a specified amount in a distribution.
- 5.3** Nothing in these Articles shall preclude the Directors from recognising a renunciation of the allotment of any share by the allottee in favour of some other person.
- 5.4** No share in the Company may be issued until the consideration in respect thereof is fully paid, and when issued the share is for all purposes fully paid and non-assessable save that a share issued for a promissory note or other written obligation for payment of a debt may be issued subject to forfeiture in the manner prescribed in these Articles.
- 5.5** Shares in the Company shall be issued for money, services rendered, personal property, an estate in real property, a promissory note or other binding obligation to contribute money or property or any combination of the foregoing as shall be determined by a Resolution of Directors.
- 5.6** Shares in the Company may be issued for such amount of consideration as the Directors may from time to time by Resolution of Directors determine, except that in the case of shares with par value, the amount shall not be less than the par value, and in the absence of fraud the decision of the Directors as to the value of the consideration received by the Company in respect of the issue is conclusive unless a question of law is involved. The consideration in respect of the issue of shares constitutes Capital to the extent of the par value and the excess constitutes Surplus.
- 5.7** A share issued by the Company upon conversion of, or in exchange for, another share or a debt obligation or other security in the Company, shall be treated for all purposes as having been issued for money equal to the consideration received or deemed to have been received by the Company in respect of the other share, debt obligation or security.
- 5.8** Treasury Shares may be disposed of by the Company on such terms and conditions (not otherwise inconsistent with these Articles) as the Company may by Resolution of Directors determine.
- 5.9** The Company may issue fractions of a share and a fractional share shall have the same corresponding fractional liabilities, limitations, preferences, privileges, qualifications, restrictions, rights and other attributes of a whole share of the same class or series of shares.

- 5.10** Upon the issue by the Company of a share without par value, if an amount is stated in the Memorandum to be authorised capital represented by such share then each share shall be issued for no less than the appropriate proportion of such amount which shall constitute Capital, otherwise the consideration in respect of the share constitutes Capital to the extent designated by Resolution of the Directors and the excess constitutes Surplus, except that the Directors must designate as Capital an amount of the consideration that is at least equal to the amount that the share is entitled to as a preference, if any, in the assets of the Company upon liquidation of the Company.

6. COMMISSIONS

The Company may exercise all powers of paying commission and brokerage conferred or permitted by the Companies Acts. Subject to the Companies Acts and the requirements of the UKLA, any such commission or brokerage may be satisfied in cash or by the allotment of fully or partly paid shares in the Company or the grant of an option to call for an allotment of shares or any combination of such methods as the Board may determine.

7. TRUSTS NOT RECOGNISED

Notwithstanding the laws of the British Virgin Islands and save as provided by the Articles or as ordered by a court of competent jurisdiction or otherwise required by law, no person shall be recognised (even when notice is given) by the Company as holding any share upon any trust and the Company shall not be bound by or required to recognise any equitable, contingent, future or partial interest in any share or any right whatsoever in respect of any share, other than an absolute right to the whole of the share in the holder.

8. REDEEMABLE SHARES

Subject to the Companies Acts and to any rights conferred on holders of any other shares, the Company may issue shares which are to be redeemed or are liable to be redeemed at the option of the Company.

9. PURCHASE, REDEMPTION OR ACQUISITION OF OWN SHARES

- 9.1** The Company may purchase, redeem or otherwise acquire and hold its own shares but only out of Surplus or in exchange for newly issued shares of equal value.

- 9.2** Subject to provisions to the contrary in:

9.2.1 the Memorandum or these Articles;

9.2.2 the designations, powers, preferences, rights, qualifications, limitations and restrictions with which the shares were issued; or

9.2.3 the subscription agreement for the issue of the shares,

the Company may not purchase, redeem or otherwise acquire its own shares without the consent of the Members whose shares are to be purchased, redeemed or otherwise acquired.

9.3 No purchase, redemption or other acquisition of shares shall be made unless the Directors (by a Resolution of Directors) determine that immediately after the purchase, redemption or other acquisition the Company will be able to satisfy its liabilities as they become due in the ordinary course of its business and the realisable value of the assets of the Company will not be less than the sum of its total liabilities, other than deferred taxes, as shown in the books of account, and its Capital and, in the absence of fraud, the decision of the Directors as to the realisable value of the assets of the Company is conclusive, unless a question of law is involved.

9.4 A determination by the Directors under the preceding Article is not required where shares are purchased, redeemed or otherwise acquired:

9.4.1 pursuant to a right of a Member to have his shares redeemed or to have his shares exchanged for money or other property of the Company;

9.4.2 by virtue of a transfer of Capital pursuant to Article 42.2;

9.4.3 by virtue of the provisions of Section 83 of the Companies Acts; or

9.4.4 pursuant to an order of the court.

9.5 Shares that the Company purchases, redeems or otherwise acquires pursuant to the preceding Article may be cancelled or held as Treasury Shares except to the extent that such shares are in excess of 80 percent of the issued shares of the Company in which case they shall be cancelled but they shall be available for reissue.

9.6 Where shares in the Company are held by the Company as Treasury Shares or are held by another company of which the Company holds, directly or indirectly, shares having more than 50 percent of the votes in the election of directors of the other company, such shares of the Company are not entitled to vote or to have dividends paid thereon and shall not be treated as outstanding for any purpose except for purposes of determining the Capital of the Company.

9.7 The Company may purchase, redeem or otherwise acquire its shares at a price lower than the fair value if permitted by, and then only in accordance with, the terms of:

9.7.1 the Memorandum or these Articles; or

9.7.2 a written agreement for the subscription for the shares to be purchased, redeemed or otherwise acquired which is approved by Special Resolution.

9.8 The Company may by a Resolution of Directors include in the computation of Surplus for any purpose the unrealised appreciation of the assets of the Company, and, in the absence of fraud, the decision of the Directors as to the value of the assets is conclusive, unless a question of law is involved.

9.9 The Company may give financial assistance for the acquisition of shares in the Company to the extent that it is not restricted or otherwise prohibited by the Companies Acts.

10. VARIATION OF CLASS RIGHTS

10.1 Subject to the Companies Acts, the rights attached to any class of shares may, whether or not the Company is being wound up, be modified, varied or abrogated:

10.1.1 in such manner (if any) as may be provided by those rights; or

10.1.2 in the absence of any such provision, either with the consent in writing of the holders of at least three fourths of the issued shares of the class (excluding any shares of that class held as Treasury Shares) or with the sanction of a Special Resolution passed at a separate meeting of the holders of that class voting in person or by proxy.

10.2 The rights attached to any class of share are not, unless otherwise expressly provided by the Articles or in the rights attaching to the shares of that class, deemed to be modified, varied or abrogated by the creation or issue of further shares ranking pari passu (save as to the date from which such further shares shall rank for dividend) with every other share of that class or subsequent to them or by the purchase or redemption by the Company of its own shares in accordance with the Companies Acts and the Articles.

11. CLASS RESOLUTIONS

11.1 A separate meeting for the holders of a class of shares shall be convened and conducted as nearly as possible in the same way as General Meeting except that the necessary quorum (other than at an adjourned meeting) is two persons, present in person or by proxy, holding or representing by proxy at least one third in nominal value of the capital paid up on the issued shares of the class and, at an adjourned meeting, one person holding shares of the class in question present in person or by proxy and any holder of shares of the class in question present in person or by proxy and entitled to vote at the meeting may demand a poll and shall be entitled on a poll to one vote for every share of that class of which he is the holder. No Member, other than a Director, is entitled to notice of a separate class meeting or to attend unless he is a holder of shares of that class and no vote may be given except in respect of a share of that class.

- 11.2** A resolution in writing or contained in an electronic communication executed by or on behalf of the holders of a class of shares who would have been entitled to vote on it if it had been proposed at a meeting at which he was present is as valid and effective as a resolution passed at a meeting duly convened and held and may consist of several documents in the same form each duly executed by or on behalf of one or more the holders of the class of shares.

DEPOSITORY INTEREST AND UNCERTIFICATED SHARES

12. DEPOSITORY INTERESTS AND UNCERTIFICATED SHARES

- 12.1** The Directors shall, subject always to the Companies Acts, any other applicable laws and regulations and the facilities and requirements of any Relevant System concerned and these Articles, have power to implement and/or approve any arrangements they may, in their absolute discretion, think fit in relation to (without limitation) the evidencing of title to and transfer of interests in shares in the capital of the Company in the form of depository interests or similar interests, instruments or securities, and to the extent such arrangements are so implemented, no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with the holding or transfer therefore or the shares in the capital of the Company represented thereby. The Directors may from time to time take such actions and do such things as they may, in their absolute discretion, think fit in relation to the operation of any such arrangements.
- 12.2** Subject to the Companies Acts, the Board may permit shares (or interests in shares) to be held in uncertificated form and to be transferred by means of a Relevant System of holding and transferring shares (or interests in shares) in uncertificated form and may determine that any class of shares shall cease to be a participating security. Where the Board permits shares (or interests in such shares) to be held in uncertificated form, **Articles 12.5 and 12.6** shall commence to have effect immediately prior to the time at which the operator of the Relevant System concerned permits the class of shares (or interests in such shares) to be a participating security.
- 12.3** Conversion of shares held in certificated form into shares (or interest in such shares) held in uncertificated form, and vice versa, may be made in such manner as the Board may in its absolute discretion think fit (subject to the facilities and requirements of the Relevant System).
- 12.4** Shares in the capital of the Company that fall within a certain class shall not form a separate class of shares from other shares in that class because any share in that class is held in uncertificated form or is permitted in accordance with the regulations of the Relevant System to become a participating security.

12.5 In relation to any class of shares (or interest in such shares) which is, for the time being, a participating security, and for so long as such class remains a participating security, no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with:

12.5.1 the holding of shares (or interest in such shares) of that class in uncertificated form;

12.5.2 the transfer of title to shares (or interest in such shares) of that class by means of a Relevant System; or

12.5.3 the requirements of the Relevant System

and, without prejudice to the generality of this Article, no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with the maintenance, keeping or entering up by the operator of the Relevant System, so long as that is permitted or required by the regulations governing the Relevant System, of an operator register of securities in respect of shares of that class in uncertificated form.

12.6 Without prejudice to the generality of **Article 12.4** and notwithstanding anything contained in these Articles, where any class of shares (or interest in such shares) is, for the time being, a participating security (such class being referred to hereinafter as the "**Relevant Class**"):

12.6.1 the register relating to the Relevant Class shall be maintained at all times in such place as may be determined by a Resolution of Directors; and

12.6.2 unless the Directors otherwise determine, shares of the Relevant Class held by the same holder or joint holder in certificated form and uncertificated form shall be treated as separate holdings.

13. COMPANY'S RIGHTS IN RESPECT OF UNCERTIFICATED SHARES

Where any class of shares (or interest in such shares) is a participating security and the Company is entitled under the Companies Acts or the Articles to sell, transfer, dispose of, forfeit, re-allot, accept the surrender of or otherwise enforce a lien over a share (or interest in such share) held in uncertificated form, the Company shall be entitled, subject to the Companies Acts and the Articles and the facilities and requirements of the Relevant System:

13.1 to require the holder of that uncertificated share (or interest in such share) by notice to change that share (or interest in such shares) into certificated form within the period specified in the notice and to hold that share in certificated form so long as required by the Company;

13.2 to require the holder of that uncertificated share (or interest in such share) by notice to give

any instructions necessary to transfer title to that share by means of the Relevant System within the period specified in the notice;

- 13.3** to require the holder of that uncertificated share (or interest in such share) by notice to appoint any person to take any steps, including without limitation the giving of any instructions by means of the Relevant System, necessary to transfer that share within the period specified in the notice;
- 13.4** to take any action that the Board considers appropriate to achieve the sale, transfer, disposal of, forfeiture, re-allotment or surrender of that share (or interest in such share) or otherwise to enforce a lien in respect of it; and
- 13.5** to assume that the entries on any record of securities maintained by it in accordance with the regulations governing the Relevant System and regularly reconciled with the relevant operator register of securities are a complete and accurate reproduction of the particulars entered in the operator register of securities and shall accordingly not be liable in respect of any act or thing done or omitted to be done by or on behalf of the Company in reliance upon such assumption; in particular, any provision of these Articles which requires or envisages that action will be taken in reliance on information contained in the register shall be construed to permit that action to be taken in reliance on information contained in any relevant record of securities (as so maintained and reconciled).

SHARE CERTIFICATES

14. RIGHT TO SHARE CERTIFICATE

- 14.1** Subject to the Companies Acts, a person (except a recognised person in respect of whom the Company is not required by law to complete and have ready for delivery a certificate) on becoming the holder of a share is entitled to receive within two months after allotment (or such other period as the terms of issue shall provide) or the lodgement of transfer without payment, one certificate for all the certificated shares of each class registered in his name. In the case of joint holders, the Company shall not be bound to issue more than one certificate to all the joint holders and the receipt of a certificate by whichever of them is named first in the Share Register shall be sufficient in respect of all of them. Where part of the shares comprised in a certificate are transferred, the Member transferring is entitled, without payment, to a certificate for his retained holding. Certificated shares of different classes may not be included in the same certificate.
- 14.2** Every certificate shall be issued under the seal or in accordance with **Articles** 127 or 128 or such other form of authentication as the Board may determine having regard to the terms of issue and the requirements of the UKLA and/or the London Stock Exchange and shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount paid up on them.

14.3 No Member shall be entitled to more than one certificate in respect of any one share held by him.

15. REPLACEMENT CERTIFICATES

15.1 Where a Member holds two or more certificates for certificated shares of one class, the Board may at his request, on surrender of the original certificates and without charge, cancel the certificates and issue a single replacement certificate.

15.2 At the request of a Member, the Board may cancel a certificate and issue two or more in its place (representing certificated shares in such proportions as the Member may specify) on surrender of the original certificate and on payment of such reasonable sum as the Board may determine.

15.3 If any share certificate is worn out, defaced, destroyed or lost, the Board may cancel it and issue a replacement certificate on such terms as to provision of evidence and indemnity (with or without security) and to payment of exceptional out of pocket expenses incurred by the Company in the investigation of that evidence and the preparation of that indemnity and security as the Board may decide, but otherwise without charge and, where it is worn out or defaced, on delivery up of the old certificate.

FORFEITURE

16. NOTICE OF FORFEITURE

16.1 When shares issued for a promissory note or other written obligation for payment of a debt have been issued subject to forfeiture, the provisions of **Articles** 16 to 23 shall apply.

16.2 If a Member fails to make payment in accordance with the terms of the promissory note or other written obligation for payment of a debt, the Board may send a notice to him or to a person entitled by transmission to the share in respect of which payment is to be made requiring payment pursuant to a promissory note or other written obligations to pay a debt, together with any interest which may have accrued and all costs, charges and expenses incurred by the Company by reason of such non-payment.

17. SHARES LIABLE TO BE FORFEITED

The notice shall name a further day (not being less than 14 clear days following the date on which the notice is deemed received) on or before which, and the place where, the payment is to be made and shall state that if the notice is not complied with the shares, or any of them, in respect of which payment has not been made, will be liable to be forfeited.

18. FORFEITURE

If the notice referred to in the previous Article is not complied with, any share in respect of which it has been given may, at any time before payment required by the notice has been made, be forfeited and cancelled by a resolution of the Board. Such forfeiture shall include all dividends declared or other amounts payable in respect of the forfeited share and not actually paid before forfeiture.

19. NOTICE AFTER FORFEITURE

When a share has been forfeited, the Company shall send notice of the forfeiture to the person who was before forfeiture the holder of the share or the person entitled by transmission to the share. An entry of the fact and date of forfeiture shall be made in the Share Register. No forfeiture is invalidated by an omission to send such notice or to make those entries.

20. CANCELLATION OF FORFEITED SHARE

Subject to the Companies Acts, a forfeited share shall be cancelled.

21. EFFECT OF FORFEITURE

A Member whose shares have been forfeited shall cease to be a Member in respect of such shares and shall, if the share is a certificated share, surrender to the Company the certificate for the forfeited shares. The Company is under no obligation to refund any moneys to the Member whose shares have been forfeited and cancelled pursuant to these provisions. Upon forfeiture and cancellation of the shares the Member is discharged from any further obligation to the Company with respect to the shares forfeited and cancelled.

22. EVIDENCE OF FORFEITURE

An affidavit in writing or a statutory declaration that the deponent/declarant is the Secretary or a Director and that a share has been forfeited on a date stated in the declaration is conclusive evidence of the facts stated in the declaration as against all persons claiming to be entitled to the share and such declaration shall (subject, if necessary, to the execution of an instrument of transfer or transfer by means of the Relevant System, as the case may be) constitute good title to the share.

23. SURRENDER

The Board may accept a surrender of any share liable to be forfeited under this Article and in that case references in the Articles to forfeiture shall include surrender.

LIEN

24. LIEN ON SHARES NOT FULLY PAID

The Company has a first and paramount lien on every share issued for a promissory note or for any other binding obligation to contribute money or property or any combination thereof to the Company registered in the name of any Member, either alone or jointly with any other person, for all moneys payable in respect of the share, whether the due date for the payment has arrived or not. The lien extends to all dividends from time to time declared or other moneys payable in respect of the share but the Board may at any time declare any share to be exempt, in whole or in part, from this Article.

25. ENFORCEMENT OF LIEN BY SALE

For the purposes of enforcing the lien the Company may sell, in such manner as the Board thinks fit, any share on which the Company has a lien, if the due date for payment of the relevant amounts has arrived and payment is not made within 14 clear days after a notice in writing stating and demanding payment of the amounts presently payable and giving notice of intention to sell in default, has been given to the holder of the share or the person entitled by transmission to the share. To give effect to a sale, the Board may, if the shares are certificated shares, authorise a person to execute an instrument of transfer of shares in the name and on behalf of the holder or the person entitled by transmission to, or in accordance with the directions of, the purchaser. If the shares are uncertificated shares the Board may exercise any of the Company's powers under **Article 13.3** to effect the transfer of the shares to, or in accordance with the directions of, the purchaser. The purchaser is not bound to see to the application of the purchase money and his title to the share is not affected by any irregularity in or invalidity of the proceedings connected with the sale.

26. APPLICATION OF PROCEEDS OF SALE

The net proceeds of a sale effected by the preceding Article, after payment of the costs of the sale, shall be applied in or towards payment or satisfaction of so much of the sum in respect of which the lien exists as is presently payable. Any residue shall (whether the shares sold are certificated shares or uncertificated shares, subject to a like lien for any moneys not presently payable as existed upon the shares prior to the sale and, if the shares sold are certificated shares, on surrender to the Company for cancellation of the certificate for the shares sold or the provision of an indemnity (with or without security) as to any lost or destroyed certificate required by the Board) be paid to the holder of or the person entitled by transmission to the shares immediately prior to the sale.

TRANSFER OF SHARES

27. FORM OF TRANSFER

Subject to the Companies Acts and to the Articles, any Member may transfer all or any of his certificated shares (or interest in such shares) by instrument of transfer in any usual form or in such other form as the Board may approve and the instrument must contain the name and address of the transferee and be executed by or on behalf of the transferor but need not be under seal. The transferor is deemed to remain the holder of the share until the name of the transferee is entered in the Share Register in respect of it. Transfers of shares (or interest in such shares) in uncertificated form shall be effected by means of the Relevant System in accordance with the rules of such Relevant System, the Companies Acts and the Articles.

28. RIGHT TO REFUSE REGISTRATION

28.1 Subject to **Article 37**, the Board may refuse to register a transfer of a certificated share (or interest in such share) unless the instrument of transfer:

28.1.1 is in respect of only one class of shares;

28.1.2 is in favour of not more than four joint transferees;

28.1.3 is duly stamped (if required); and

28.1.4 is lodged at the Office or such other place as the Board may decide accompanied by the certificate for the shares to which it relates (save in the case of a transfer by a recognised person to whom no certificate was issued) and such other evidence (if any) as the Board may reasonably require to prove the title of the transferor and the due execution by him of the transfer or, if the transfer is executed by some other person on his behalf, the authority of that person to do so.

28.2 The Board may in its absolute discretion and without assigning any reasons therefor, refuse to register any transfer of a certificated share the consideration for which was a promissory note or other binding obligation to contribute money or property, provided that this discretion may not be exercised in such a way as to prevent dealings in the shares from taking place on an open and proper basis.

28.3 The Board may, in circumstances permitted by the London Stock Exchange, refuse to register the transfer of a certificated share provided that exercise of such powers does not disturb the market in the shares.

28.4 The Board may refuse to register the transfer of an uncertificated share (or interest in such share) in any circumstances where refusal is permitted by the London Stock Exchange,

and/or the rules and practices of the operator of the Relevant System provided that exercise of such powers does not disturb the market in the shares.

29. NOTICE OF REFUSAL TO REGISTER

If the Board refuses to register a transfer of any share it shall within two months after the date on which the transfer was lodged with the Company or the operator instruction was received, as the case may be, send to the transferee notice of the refusal.

30. FEES ON REGISTRATION

No fee shall be charged for the registration of a transfer or other document relating to or affecting the title to any share or for making any entry in the Share Register affecting the title to any share.

31. SUSPENSION OF REGISTRATION AND CLOSING OF REGISTER

Subject to the Companies Acts, the registration of transfers of shares or of any class of shares may be suspended at such times and for such periods as the Board may determine but the Share Register shall not be closed for more than 30 days in any year and the Board may not suspend the registration of transfers of any participating security without the consent of the operator of the Relevant System.

32. RETENTION OF INSTRUMENTS OF TRANSFER

Subject to **Article 33**, all instruments of transfer which are registered may be retained by the Company but any instrument of transfer which the Board refuses to register shall (except in the case of suspected fraud) be returned to the person depositing it when notice of the refusal is given.

33. DESTRUCTION OF DOCUMENTS

33.1 The Company may destroy:

33.1.1 all instruments of transfer of shares which have been registered or operator instructions for the transfer of shares, and all other documents on the basis of which any entry is made in the Share Register, at any time after the expiration of six years following the date of registration;

33.1.2 all dividend mandates or any variation or cancellation of them or notifications of change of address (including an electronic address) or name at any time after the expiration of two years from the date of recording them; and

33.1.3 all cancelled share certificates at any time after the expiration of one year from the date of cancellation,

and it shall conclusively be presumed in favour of the Company that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered and that every share certificate so destroyed was a valid certificate duly and properly cancelled and that every other document destroyed was a valid and effective document in accordance with the recorded particulars in the books or records of the Company.

33.2 This **Article 33** shall apply only to the destruction of documents in good faith and without notice of any claim to the Company (regardless of the parties to the claim) that the document might be relevant to the claim.

33.3 Nothing in this **Article 33** imposes on the Company any liability in respect of the destruction of any such document earlier than provided for in this **Article 33** or in any case where the conditions of this **Article 33** are not fulfilled.

33.4 References in this **Article 33** to the destruction of any document include references to its disposal in any manner.

TRANSMISSION OF SHARES

34. ON DEATH

If a Member dies, the survivor or survivors (where the deceased was a joint holder) and the executors or administrators of the deceased (where he was a sole or only surviving holder) shall be the only persons recognised by the Company as having any title to his interest in the shares. Nothing in the Articles releases the estate of a deceased holder (whether sole or joint) from any liability in respect of any share held by him.

35. ELECTION OF PERSON ENTITLED BY TRANSMISSION

35.1 Any person becoming entitled by transmission to a share may, upon such evidence as to title being provided as the Board may require and subject to these Articles, elect either to be registered himself as holder of the share or have a person nominated by him registered as holder. All the Articles relating to the transfer of shares apply to any such election as if the death or bankruptcy or other event giving rise to transmission had not occurred and the election was a transfer by the Member.

35.2 If any person becoming entitled by transmission to a certificated share elects to be registered himself he shall give notice in writing to the Company to that effect. If he elects to have another person registered, and the share is a certificated share, he shall execute an instrument of transfer of the share to that person. If he elects to become holder or have another person registered and the share is an uncertificated share, he shall take any action

the Board may require (including without limitation the execution of any document and the giving of any instruction by means of a Relevant System) to enable himself or that person to be registered as the holder of the share.

- 35.3** The Board may give notice requiring a person to make the election referred to in this **Article 35**. If that notice is not complied with within 60 days the Board may withhold payment of all dividends and other amounts payable in respect of the share until the election has been made.

36. RIGHTS ON TRANSMISSION

Subject to the Articles, a person becoming entitled by transmission to a share shall be entitled to receive, and may give a good discharge for, all benefits arising or accruing on or in respect of the share and the same dividends and other advantages to which he would be entitled if he were the registered holder of the share. However, the person entitled by transmission is not entitled to exercise any right conferred by membership in relation to meetings of the Company until he shall have been registered as a Member in respect of the share. Where a person becomes entitled by transmission to a share, the rights of the holder in relation to that share cease.

DISCLOSURE OF INTERESTS IN SHARES

37. DISCLOSURE OF INTEREST IN SHARES AND FAILURE TO DISCLOSE²

- 37.1** Notwithstanding the provisions of the Companies Acts, the provisions of Chapter 5 of the Disclosure Rules and Transparency Rules published by the UK Financial Services Authority ("**DTR 5**") which apply to UK companies whose securities are admitted to trading on AIM, as amended or re-enacted from time to time (the current wording of which is annexed to these Articles), insofar as those provisions relate to the requirement of the Members to disclose the percentage of voting rights held (as set out in DTR 5), shall be deemed to be incorporated into these Articles and shall bind the Company and the Members, and references to "an issuer" in such provisions shall be deemed to be references to the Company.

- 37.2** Notwithstanding the provisions of the Companies Acts, the provisions of Section 793 of the UK Act (the wording of which is annexed to these Articles) shall be deemed to be incorporated into these Articles and shall bind the Company and the Members and references in such section to "a public company" shall be deemed to be references to the Company.

- 37.3** Where notice is served by the Company under section 793 of the UK Act (a "**section 793 notice**") on a Member, or another person whom the Company knows or has reasonable

² Amended by resolution passed on 15 May 2007.

cause to believe to be interested in shares held by that Member, and the Member or other person has failed in relation to any shares (the "**default shares**", which expression includes any shares issued to such Member after the date of the section 793 notice in respect of those shares) to give the Company the information required within 14 days following the date of service of the section 793 notice, the Board may serve on the holder of such default shares a notice (a "**disenfranchisement notice**") whereupon the following sanctions apply, unless the Board otherwise decides:

37.3.1 the Member is not entitled in respect of the default shares to be present or to vote (either in person or by proxy) at a General Meeting or at a separate meeting of the holders of a class of shares or on a poll or to exercise other rights conferred by membership in relation to the meeting or poll;

37.3.2 where the default shares represent at least 0.25 per cent in nominal value of the issued shares of their class (calculated exclusive of any shares held as treasury shares);

37.3.3 a dividend (or any part of a dividend) or other amount payable in respect of the default shares shall be withheld by the Company, which has no obligation to pay interest on it, and the Member is not entitled to elect, under **Article 146**, to receive shares instead of a dividend; and

37.3.4 no transfer of any of the default shares shall be registered unless:

- (a) the transfer is an excepted transfer; or
- (b) the Member is not himself in default in supplying the information required and the Member proves to the satisfaction of the Board that no person in default in supplying the information required is interested in any of the shares the subject of the transfer; or
- (c) registration of the transfer is required by any Relevant System,

(and, for the purpose of ensuring this **Article 37.3.4** can apply to all shares held by the holder, the Company may, in accordance with the regulations of any Relevant System, issue written notification to the operator of the Relevant System requiring the conversion into certificated form of any shares held by the holder in uncertificated form).

38. REMOVAL OF SANCTIONS³

The sanctions under **Article 37** shall cease to apply seven days after the earlier of receipt by

³ Amended by resolution passed on 15 May 2007.

the Company of:

38.1 notice of registration of an excepted transfer, in relation to the default shares the subject of the excepted transfer; and

38.2 all information required by the section 793 notice, in a form satisfactory to the Board, in relation to any default shares.

39. NOTICE TO PERSON OTHER THAN A MEMBER⁴

Where, on the basis of information obtained from a Member in respect of a share held by him, the Company issues a section 793 notice to another person, it shall at the same time send a copy of the section 793 notice to the Member, but the accidental omission to do so, or the non-receipt by the Member of the copy, does not invalidate or otherwise affect the application of **Article 37**.

40. INTEREST IN SHARES, FAILURE TO GIVE INFORMATION AND EXCEPTED TRANSFERS⁵

40.1 For the purpose of **Articles 37** to **39**:

40.1.1 "interested" has the same meaning as in sections 820 to 825 of the UK Act;

40.1.2 reference to a person having failed to give the Company the information required by a section 793 notice, or being in default in supplying such information, includes:

(a) reference to his having failed or refused to give all or any part of it; and

(b) reference to his having given information which he knows to be false in a material particular or having recklessly given information which is false in a material particular; and

40.1.3 "excepted transfer" means, in relation to shares held by a Member:

(a) a transfer pursuant to acceptance of a takeover offer for the Company (within the meaning of section 974 of the UK Act); or

(b) a transfer in consequence of a sale made through a recognised investment exchange (as defined in the Financial Services and

⁴ Amended by resolution passed on 15 May 2007.

⁵ Amended by resolution passed on 15 May 2007.

Markets Act 2000) (being a statute in force in the UK as may be amended or re-enacted from time to time) or another stock exchange outside the United Kingdom on which shares in the capital of the Company are normally traded; or

- (c) a transfer which is shown to the satisfaction of the Board to be made in consequence of a bona fide sale of the whole of the beneficial interest in the shares to a person who is unconnected with the Member and with any other person appearing to be interested in the shares.

40.2 Articles 37 to 40 are in addition to and without prejudice to the Companies Acts.

ALTERATIONS TO CAPITAL

41. INCREASE, REDUCTION, COMBINATION, AND DIVISION

The Company may by Resolution of the Members:

- 41.1** increase or reduce its authorised capital and in connection therewith the Company may in respect of any shares increase or reduce the number of such shares, increase or reduce the par value of any such shares or effect any combination of the foregoing;
- 41.2** combine and divide the shares, including issued shares, of a class or series into a larger number of shares of the same class or series; or
- 41.3** combine and divide the shares, including issued shares, of a class or series into a smaller number of shares of the same class or series,

provided, however, that where shares are divided or combined under **Articles** 41.2 and 41.3 of this Article, the aggregate par value of the new shares must be equal to the aggregate par value of the original shares.

42. INCREASE OR REDUCTION OF CAPITAL

- 42.1** The Capital of the Company may by a Resolution of Directors be increased by transferring an amount of the Surplus of the Company to Capital.
- 42.2** Subject to the provisions of the two next succeeding Articles, the Capital of the Company may, with the authority of a Special Resolution, be reduced by transferring an amount of the Capital of the Company to Surplus.
- 42.3** No reduction of Capital shall be effected that reduces the Capital of the Company to an amount that immediately after the reduction is less than the aggregate par value of all

outstanding shares with par value and all shares with par value held by the Company as Treasury Shares and the aggregate of the amounts designated as Capital of all outstanding shares without par value and all shares without par value held by the Company as Treasury Shares that are entitled to a preference, if any, in the assets of the Company upon liquidation of the Company.

- 42.4** No reduction of Capital shall be effected unless the Directors determine that immediately after the reduction the Company will be able to satisfy its liabilities as they become due in the ordinary course of its business and that the realisable assets of the Company will not be less than its total liabilities, other than deferred taxes, as shown in the books of the Company and its remaining Capital, and, in the absence of fraud, the decision of the Directors as to the realisable value of the assets of the Company is conclusive, unless a question of law is involved.

43. FRACTIONS

If, as the result of combination or division of shares, Members become entitled to fractions of a share, the Board may on behalf of the Members deal with the fractions as it thinks fit. In particular, the Board may:

- 43.1** sell fractions of a share to a person (including, subject to the Companies Acts, to the Company) for the best price reasonably obtainable and distribute the net proceeds of sale in due proportion amongst the persons entitled (except that if the amount due to a person is less than three US dollars (US\$3), or such other sum as the Board may decide, the sum may be retained for the benefit of the Company). Where certificated shares are to be sold, the Board may authorise a person to execute an instrument of transfer of shares to, or in accordance with the directions of, the purchaser and may cause the name of the purchaser or transferee to be entered in the Share Register as the holder of the shares. Where uncertificated shares are to be sold, the Board may do all acts and things it considers necessary or expedient to effect the transfer of the shares to, or in accordance with the directions of, the purchaser. The purchaser need not be further concerned with the application of the purchase money and the title of the transferee to the shares is not affected by an irregularity or invalidity in the proceedings connected with the sale; or
- 43.2** subject to the Companies Acts, issue to a Member credited as fully paid up by way of capitalisation the minimum number of shares required to round up his holding of shares to a number which, following combination or division, leaves a whole number of shares (such issue being deemed to have been effected immediately before consolidation or sub-division, as the case may be). The amount required to pay up those shares may be capitalised as the Board thinks fit out of Surplus, and applied in paying up in full the appropriate number of shares. A resolution of the Board approving the issue of shares in the manner described above has the same effect as if the shares were issued under **Article 148** (Capitalisation). In relation to the capitalisation the Board may exercise all the powers conferred on it by **Article 148** without a Resolution of Members.

GENERAL MEETINGS

44. ANNUAL GENERAL MEETING

An Annual General Meeting shall be held in each year (in addition to any other General Meetings which may be held in that year) and such meeting shall be specified as the Annual General Meeting in the notice calling it. Not more than 15 months shall elapse between the date of one Annual General Meeting and the date of the next. Subject to this Article and the Companies Acts, the Annual General Meeting shall be held in the United Kingdom at such time and place in the United Kingdom as the Board shall decide.

45. GENERAL MEETINGS

All meetings of the Members other than Annual General Meetings are called General Meetings (but unless the context requires otherwise, a General Meeting shall also mean an Annual General Meeting). All General Meetings shall be held at such time and place in the United Kingdom as the Board shall decide.

46. CONVENING OF GENERAL MEETINGS

The Board may convene a General Meeting whenever it thinks fit. The Board must convene a General Meeting on receipt of a requisition in accordance with the Companies Acts. In the case of a General Meeting convened on a requisition or by requisitionists, no business other than that stated in the requisition or proposed by the Board shall be transacted.

47. LENGTH AND FORM OF NOTICE

At least 21 clear days' notice of every Annual General Meeting and of every General Meeting at which it is proposed to pass a Special Resolution and at least 14 clear days' notice of every other General Meeting shall be given to such Members as are, under the Articles or the terms of issue of shares, entitled to receive such notices from the Company and to the Directors. Every notice of meeting shall specify whether the meeting is an Annual General Meeting or an General Meeting, the place, date and time of the meeting, if a meeting is convened to pass a Special Resolution or a Resolution of Members, the intention to propose the resolution as a Special Resolution or a Resolution of Members (as the case may be) and shall state, with reasonable prominence, that a Member entitled to attend and vote at the meeting is entitled to appoint one or more proxies to attend and, on a poll, vote instead of him and that a proxy need not also be a Member.

48. MEETING CALLED ON SHORT NOTICE

Subject to the Companies Acts, a meeting, although called by shorter notice than that specified in the preceding Article, is deemed to be duly called if it is so agreed:

48.1 in the case of an Annual General Meeting, by all the Members entitled to attend and vote at the meeting; and

48.2 in the case of any General Meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than 95 per cent of the votes of the shares having a right to attend and vote at the meeting.

49. SENDING NOTICES OF MEETINGS

49.1 Notice of a General Meeting or the Annual General Meeting shall be sent to a person in writing or by using electronic communications to such electronic address as may for the time being be notified by that person to the Company for that purpose or in accordance with the following provisions of this **Article** 49.

49.2 Notice of a General Meeting or the Annual General Meeting shall also be treated as sent to a person using electronic communications where:

49.2.1 the Company and that person have agreed that notices of General Meetings or the Annual General Meeting required to be given to that person may instead be accessed by him on a website;

49.2.2 the meeting is a meeting to which that agreement applies;

49.2.3 that person is notified, in a manner for the time being agreed between him and the Company for the purpose, of:

(a) the publication of the notice on a website;

(b) the electronic address of that website; and

(c) the place on that website where the notice may be accessed, and how it may be accessed; and

49.2.4 the notice continues to be published on that website throughout the period beginning with the giving of that notification and ending with the conclusion of the meeting,

and a notice treated in accordance with this Article as sent to any person is to be treated as so sent at the time of the notification mentioned in **Article** 49.2.3.

49.3 A notification given for the purposes of **Article** 49.2.3 must:

49.3.1 state that it concerns a notice of a General Meeting or Annual General Meeting

sent in accordance with the Articles and the Act;

49.3.2 specify the place, date and time of the meeting; and

49.3.3 state whether the meeting is to be an Annual General Meeting or a General Meeting.

49.4 Nothing in **Article** 49.2 shall invalidate the proceedings of a General Meeting where:

49.4.1 any notice that is required to be published as mentioned in **Article** 54.2.4 is published for a part, but not all, of the period mentioned in that Article; and

49.4.2 the failure to publish that notice throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the Company to prevent or avoid.

50. OMISSION TO SEND NOTICE

The accidental omission to send notice of any General Meeting or Annual General Meeting or, in cases where it is sent out with the notice, an invitation to appoint a proxy, to, or the non-receipt of either by, any person entitled to receive notice does not invalidate any resolution passed or proceedings held at that meeting.

PROCEEDINGS AT MEETINGS

51. QUORUM

No business shall be transacted at any meeting of the members unless a quorum is present when the meeting proceeds to business. Two persons entitled to vote, each being a Member or a proxy for a Member, shall be a quorum at any meeting including, without limitation, any adjourned meetings. The absence of a quorum does not prevent the appointment of a chairman in accordance with the Articles, which is not treated as part of the business of the meeting.

52. CHAIRMAN

The chairman of the Board or, in his absence, the deputy chairman shall preside at every meeting; but if there is no chairman or deputy chairman or neither is willing or able to preside or if neither is present within 15 minutes after the time fixed for the start of the meeting, the Directors present shall choose a Director or, if only one Director is present and willing to act, he shall be chairman. In default, the Members present in person or by proxy shall choose one of their number to be chairman of the meeting.

53. QUORUM NOT PRESENT

53.1 If within 15 minutes (or such longer period as the chairman in his absolute discretion may decide) from the time fixed for the start of a meeting a quorum is not present, or if during a meeting a quorum ceases to be present, the meeting, if convened by or on the requisition of Members, shall be dissolved. In any other case it shall stand adjourned to such time and place as the chairman of the meeting may decide not being later than 28 days after the time for which the original meeting was convened.

53.2 At an adjourned meeting if a quorum is not present within 15 minutes (or such longer period as the chairman in his absolute discretion may decide) from the time fixed for the start of the meeting or if during the adjourned meeting a quorum ceases to be present the adjourned meeting shall be dissolved.

53.3 The Company shall give not less than seven clear days' notice of any meeting adjourned for the lack of a quorum and the notice shall state the quorum requirement.

54. ADJOURNED MEETING

54.1 The chairman of the meeting may, with the consent of the meeting at which a quorum is present (and shall, if so directed by the meeting) adjourn any meeting from time to time and from place to place or for an indefinite period. Without prejudice to any other power which he may have under the Articles or at common law, the chairman may, without the consent of the meeting, interrupt or adjourn a meeting from time to time and from place to place or for an indefinite period if he decides that it has become necessary to do so in order to:

54.1.1 secure the proper and orderly conduct of the meeting; or

54.1.2 give all persons entitled to do so a reasonable opportunity of speaking and voting at the meeting; or

54.1.3 ensure that the business of the meeting is properly dealt with.

54.2 Whenever a meeting is adjourned for 14 days or more or for an indefinite period, at least seven clear days' notice, specifying the place, date and time of the adjourned meeting shall be given as in the case of an original meeting and the general nature of the business to be transacted.

54.3 Except in the circumstances set out in **Articles** 53.3 and 54.2, no Member shall be entitled to any notice of an adjournment or of the business to be transacted at an adjourned meeting. No business shall be transacted at any adjourned meeting other than the business which might have been transacted at the meeting from which the adjournment took place.

55. ACCOMMODATION OF MEMBERS AT MEETING

If it appears to the chairman that the meeting place specified in the notice convening the meeting is inadequate to accommodate all Members entitled and wishing to attend, the meeting will be duly constituted and its proceedings will be valid if the chairman is satisfied that adequate facilities are available to ensure that a Member who is unable to be accommodated is able:

- 55.1** to participate in the business for which the meeting has been convened;
- 55.2** to hear and see all persons present who speak (whether by the use of microphones, loud-speakers, audio-visual communications equipment or otherwise), whether in the meeting place or elsewhere; and
- 55.3** to be heard and seen by all other persons present in the same way.

56. SECURITY

The Board may make any arrangement and impose any restriction it considers appropriate to ensure the security of a meeting including, without limitation, the searching of a person attending the meeting and the restriction of the items of personal property that may be taken into the meeting place. The Board is entitled to refuse entry to a meeting to a person who refuses to comply with these arrangements or restrictions.

57. ORDER OF MEETING

The chairman shall take such action as he thinks fit to promote the orderly conduct of general meetings. The decision of the chairman on points of order, matters of procedure or arising incidentally out of the business of the meeting shall be final and conclusive, as shall be his determination, in good faith, whether any point or matter is of such a nature.

58. AMENDMENT OF RESOLUTIONS

If an amendment proposed to a resolution under consideration is ruled out of order by the chairman of the meeting, the proceedings on the substantive resolution are not invalidated by an error in his ruling.

59. MEMBERS' RESOLUTION IN WRITING OR IN ELECTRONIC FORM

A resolution in writing or contained in an electronic communication executed by or on behalf of all the Members who would have been entitled to vote on it if it had been proposed at a meeting at which he was present is as valid and effective as a resolution passed at a meeting duly convened and held and may consist of several documents in the same form each duly executed by or on behalf of one or more Members. If the resolution in writing is

described as a Special Resolution or as a Resolution of Members, it has effect as such.

VOTING

60. METHOD OF VOTING

60.1 At a meeting of the Members, a resolution put to the vote of the meeting is decided on a show of hands unless, before or on the declaration of the result of the show of hands, a poll is demanded by:

60.1.1 the chairman of the meeting; or

60.1.2 no fewer than five Members present in person or by proxy and entitled to vote at the meeting; or

60.1.3 a Member or Members present in person or by proxy and representing in aggregate not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting; or

60.1.4 by a Member or Members present in person or by proxy holding shares in the Company conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.

60.2 Unless a poll is demanded and the demand is not withdrawn a declaration by the chairman of the meeting that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority, and an entry to that effect in the minute book of the Company, is conclusive evidence of the fact without proof of the votes recorded in favour of or against such resolution.

61. PROCEDURE ON A POLL

61.1 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time (not being more than 30 days from the date of the meeting or the adjourned meeting at which such poll is demanded) and place and in such manner as the chairman of the meeting directs and the result of the poll is deemed to be the resolution of the meeting at which the poll is demanded. No notice need be given of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case, at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

61.2 If a poll is properly demanded, it shall be taken in such manner as the chairman directs. He may appoint scrutineers, who need not be Members, and may fix a time and place for

declaring the result of the poll. The result of the poll is deemed to be the resolution of the meeting at which the poll is demanded.

61.3 The demand for a poll may be withdrawn but only with the consent of the chairman. A demand withdrawn in this way validates the result of a show of hands declared before the demand is made. In the case of a poll demanded before the declaration of the result of show of hands, where the demand is subsequently duly withdrawn, the meeting shall continue as if the demand had not been made.

61.4 The demand for a poll (other than on the election of the chairman or on a question of adjournment) does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

62. CASTING VOTE

In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting is entitled to a further or casting vote in addition to the votes to which he may be entitled as a Member.

63. OBJECTION TO AND ERROR IN VOTING

Any objection raised to the qualification of any voter, or to the counting of or failure to count any vote, does not invalidate the decision of the meeting on any resolution unless it is raised at the meeting or adjourned meeting at which the vote objected to is tendered or at which the error occurs. Any objection or error shall be referred to the chairman of the meeting and only invalidates the decision of the meeting on any resolution if the chairman decides that the same is of sufficient magnitude to affect the decision of the meeting. The decision of the chairman on such matters is final and conclusive.

64. VOTES OF MEMBERS

64.1 Subject to any special terms as to voting upon which any share may be issued, or may be held, and subject to the Articles, on a show of hands every Member present in person and entitled to vote shall have one vote and on a poll every Member present in person or by proxy and entitled to vote shall have one vote for every share of which he is the holder.

64.2 If any Member is a person with mental disorder or is otherwise incapacitated he may vote, whether on a show of hands or on a poll, by his guardian, receiver, curator bonis or other person authorised for that purpose and appointed by the court either personally or by proxy if such evidence as the Board may reasonably require of the authority of the person claiming to exercise the right to vote is received at the Office (or other place or electronic address specified in accordance with the Articles for the receipt of appointments of proxy) within the time limits prescribed by the Articles for the receipt of appointments of proxy for use at the meeting or adjourned meeting or poll at which such person is to vote.

64.3 If two or more persons are jointly entitled to a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other holders of the share and seniority is determined by the order in which the names stand in the Share Register.

65. RESTRICTION ON VOTING RIGHTS

No Member is entitled to be present or to be counted in the quorum or vote, either in person or by proxy, at any meeting of the Members or at any separate meeting of the holders of a class of shares or on a poll or to exercise other rights conferred by membership in relation to the meeting or poll, unless all moneys due and payable under a promissory note or other written obligations to pay a debt in respect of the Member's share or shares have been paid. This restriction ceases on payment of the amount outstanding and all costs, charges and expenses incurred by the Company by reason of non-payment.

66. VOTING BY PROXY

A proxy need not be a Member and a Member may appoint one or more than one person to act as his proxy. On a poll votes may be given in person or by proxy and a Member entitled to more than one vote need not, if he votes, use all of his votes or cast all the votes he uses in the same way. The appointment of a proxy does not prevent a Member from attending and voting in person at the meeting or an adjournment or on a poll. The appointment of a proxy is (unless the contrary is stated in it) valid for an adjournment of the meeting as well as for the meeting or meetings to which it relates. The appointment of a proxy is valid for 12 months following the date of execution unless terminated earlier.

67. APPOINTMENT OF MORE THAN ONE PROXY

If a Member appoints more than one person to act as his proxy the appointment of each proxy shall specify the shares held by the Member in respect of which each proxy is to vote and no Member may appoint more than one proxy (save in the alternate) to vote in respect of any one share held by that Member. When two or more valid but differing appointments of proxy are received for the same share for use at the same meeting, the one which is last validly received (regardless of its date or the date of its execution) shall be treated as replacing and revoking the other or others as regards that share. If the Company is unable to determine which of any of such two or more valid but differing instruments of proxy was last received, none of them shall be treated as valid in respect of that share.

68. EXECUTION OF PROXY

The appointment of a proxy shall be in any usual form or in such other form as the Board may approve executed by the appointor or his attorney who is authorised so to execute, or if the appointor is a corporation, executed under its seal or signed by an officer of the

corporation or an attorney or other person authorised so to sign. The Board may require evidence of authority of such officer or attorney or other person.

69. PROXY VALID THOUGH AUTHORITY REVOKED

A vote given or poll demanded by a proxy or authorised representative of a company is valid notwithstanding termination of his authority unless notice of the termination is received at the Office (or at such other place at which the instrument of proxy was duly received or, where the appointment of the proxy was contained in an electronic communication, at the electronic address at which such appointment was duly received) at least 24 hours before the time fixed for holding the meeting or adjourned meeting at which the vote is given or the poll demanded or (where the poll is taken other than on the same day as the meeting or adjourned meeting) the time fixed for the taking of the poll at which the vote is cast.

70. PROXY CAN DEMAND A POLL

The appointment of a proxy is deemed (unless the contrary is stated in it) to confer authority to demand or join in demanding a poll and to vote on a resolution or other business which may properly come before the meeting or meetings for which it is given as the proxy thinks fit.

71. RECEIPT OF APPOINTMENTS OF PROXY

71.1 The appointment of a proxy and the power of attorney or other authority, if any, under which it is executed, or a copy of the authority notarially certified, or certified in some other way approved by the Board, shall be:

71.1.1 in the case of an instrument in writing, received at such place as may be specified for that purpose in the notice convening the meeting or in any form of appointment of proxy sent out by the Company in relation to the meeting or if no place is so specified at the Office at least 48 hours before the time fixed for holding the meeting or adjourned meeting or the taking of a poll at which the person named in the instrument proposes to vote; or

71.1.2 in the case of an appointment contained in an electronic communication, where an electronic address has been specified for the purpose of receiving electronic communications:

- (a) in the notice convening the meeting; or
- (b) in any form of appointment of proxy sent out by the Company in relation to the meeting; or
- (c) in any invitation contained in an electronic communication to appoint

a proxy issued by the Company in relation to the meeting,

received at such electronic address at least 48 hours before the time fixed for holding the meeting or adjourned meeting or the taking of a poll at which the person named in the appointment proposes to vote; or

71.1.3 in the case of a meeting adjourned for less than 28 days but more than 48 hours or in the case of a poll taken more than 48 hours after it is demanded, received as required by **Articles** 71.1.1 and 71.1.2 at least 24 hours before the time fixed for the holding of the adjourned meeting or the taking of the poll; or

71.1.4 in the case of a meeting adjourned for not more than 48 hours or in the case of a poll not taken immediately but taken not more than 48 hours after it was demanded, received at the adjourned meeting or at the meeting at which the poll was demanded by the chairman of the meeting or by the Secretary or by a Director.

71.2 The appointment of a proxy not delivered or received in accordance with this **Article** 71 is invalid.

71.3 In **Article** 71.1.2 and **Article** 71.4, "electronic address" includes, in the case of any Uncertificated Proxy Instructions permitted pursuant to **Article** 71.4, an identification number of a participant in the Relevant System concerned.

71.4 Without limiting the foregoing, in relation to any shares which are held in uncertificated form, the Directors may from time to time permit appointments of a proxy to be made by means of an electronic communication in the form of an Uncertificated Proxy Instruction, (that is, a properly authenticated dematerialised instruction, and/or other instruction or notification, which is sent by means of the Relevant System concerned and received by such participant in that system acting on behalf of the Company as the Directors may prescribe, in such form and subject to such terms and conditions as may from time to time be prescribed by the Directors (subject always to the facilities and requirements of the Relevant System concerned)); and may in a similar manner permit supplements to, or amendments or revocations of, any such Uncertificated Proxy Instruction to be made by like means. The Directors may in addition prescribe the method of determining the time at which any such properly authenticated dematerialised instruction (and/or other instruction or notification) is to be treated as received by the Company or such participant. The Directors may treat any such Uncertificated Proxy Instruction which purports to be or is expressed to be sent on behalf of a holder of a share as sufficient evidence of the authority of the person sending that instruction to send it on behalf of that holder.

72. SENDING INVITATIONS TO APPOINT AS PROXY

Subject to the Companies Acts, the Board may, at the expense of the Company, send to all

or none of the persons entitled to receive notice of and to vote at a meeting, invitations to appoint as proxy (with or without provision for their return prepaid) either in blank or nominating in the alternative any one or more of the Directors or the chairman of the meeting or any other person or persons. If sent, the form of appointment shall provide for two-way voting (without prejudice to a right to abstain) on all resolutions set out in the notice of meeting.

73. COMPANY ACTING BY AUTHORISED REPRESENTATIVE

A company which is a Member may, by resolution of its directors or other governing body, authorise any person to act as its representative at any meeting of the Company or at any separate meeting of the holders of a class of shares and (except as otherwise provided in these Articles) such representative shall be entitled to exercise the same powers on behalf of the company which he represents as that company could exercise if it were an individual Member. That company is, for the purposes of the Articles, treated as being present in person at a meeting if the representative is present. All references to attending and voting in person shall be construed accordingly. A Director, the Secretary or any other person authorised for the purpose by the Secretary may require the representative to produce a certified copy of the resolution of authorisation before permitting him to exercise his powers.

APPOINTMENT OF DIRECTORS

74. POWER OF COMPANY TO APPOINT DIRECTORS

Subject to the Companies Acts and these Articles, the Company may, by Resolution of Members, appoint a person who is willing to act to be a Director, either to fill a vacancy or as an addition to the Board, but the total number of Directors may not exceed a maximum number fixed in accordance with the Articles.

75. NUMBER OF DIRECTORS

Unless and until otherwise determined by the Company by Resolution of Members the number of Directors is not subject to a maximum but must not be fewer than two.

76. POWER OF THE BOARD TO APPOINT DIRECTORS

The Board may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an addition to the Board, but the total number of Directors may not exceed a maximum number fixed in accordance with the Articles. A Director so appointed shall hold office only until the dissolution of the Annual General Meeting following next after his appointment, unless he is reappointed during the meeting. A Director so retiring shall not be taken into account in determining the number of Directors who are to retire by rotation at such meeting.

77. NO SHARE QUALIFICATION

A Director shall not require a share qualification, but shall (whether he holds shares or not) be entitled to attend and speak at any General Meeting or Annual General Meeting of, or at any separate meeting of the holders of any class of shares in, the Company.

EXECUTIVE DIRECTORS

78. APPOINTMENT OF EXECUTIVE DIRECTORS

The Board may appoint one or more of its body to hold executive office, including the office of managing or joint or assistant managing director or to any other office (save that of auditor) or employment in the Company. Any such appointments shall be on such terms (including remuneration) and for such period as the Board may determine, subject to the Companies Acts.

79. TERMINATION OF EXECUTIVE OFFICE

The appointment of any Director to any executive office may be terminated by the Board, without prejudice to any claim he may have for damages for breach of contract. A Director appointed to any executive office shall not automatically cease to be a Director if he ceases from any cause to hold that executive office.

80. POWERS OF EXECUTIVE DIRECTOR

The Board may delegate to a Director holding any executive office any of the powers, authorities and discretions exercisable by the Board for such time and on such terms and conditions as it thinks fit. The Board may revoke or alter the terms and conditions of the delegation and may retain or exclude the right of the Board to exercise the delegated powers, authorities or discretions collaterally with the executive Director.

ROTATION, RETIREMENT AND REMOVAL OF DIRECTORS

81. TERM OF OFFICE BY DIRECTOR

81.1 A Director shall be removed from office by a Resolution of Directors if:

81.1.1 he becomes prohibited by law from being a Director; or

81.1.2 he becomes bankrupt under the laws of any jurisdiction or compounds with his creditors; or

81.1.3 he is a person with mental disorder; or

81.1.4 he does not attend any Board meetings for a period of six consecutive months without the Board's permission;

and such removal shall have effect without prejudice to any claim he may have for damages for breach of contract.

81.2 A Director may resign his office by giving written notice of his resignation to the Company and the resignation shall have effect from the date the notice is received by the Directors or the Secretary or tendered at a Board meeting.

82. NO RETIREMENT ON ACCOUNT OF AGE

No person is disqualified from being or becoming a Director by reason of his having attained the age of 70 or any other age. No Director shall be removed from his office because he has attained the age of 70 or any other age. Where any meeting of the Company is convened at which, to the knowledge of the Board, a Director will be proposed for appointment or reappointment who will at the date of the meeting be 70 or more, the Board shall give notice of his age in the notice convening the meeting or in any document accompanying the notice, but the accidental omission to do so shall not invalidate any proceedings or any appointment or reappointment of that Director at that meeting.

83. RETIREMENT BY ROTATION

Each Director shall retire from office at the third Annual General Meeting after that at which he was last elected, save that at the first Annual General Meeting following the adoption of these Articles Noam Lanir and Richard Rosenberg shall retire and, if they so wish, offer themselves up for re-election to the Board, and at the Second Annual General Meeting following adoption of these Articles, Yossi Pereg and Andrew Burns (or any other non-executive Director other than Richard Rosenberg) shall retire and, if they so wish, offer themselves up for re-election to the Board.

84. DIRECTORS SUBJECT TO RETIREMENT

Subject to the Companies Act and the Articles, the Directors to retire by rotation at the Annual General Meeting in every year shall be in addition to any Director who wishes to retire and not to offer himself for reappointment and any Director to retire under **Article 76** (Power of the Board to appoint Directors).

85. POSITION OF RETIRING DIRECTOR

A Director who retires at an Annual General Meeting, whether by rotation or otherwise, may, if willing to act, be reappointed. If he is not reappointed or deemed reappointed, he may retain office until the meeting appoints someone in his place or, if it does not do so,

until the end of the meeting.

86. DEEMED REAPPOINTMENT

The Company, at the meeting at which a Director retires by rotation, may fill the vacated office and, if it does not do so, the retiring Director is, if willing, deemed reappointed, unless at such meeting it is expressly resolved not to fill such vacated office or unless a resolution for the reappointment of such Director is put to the meeting and lost.

87. ELIGIBILITY OF NEW DIRECTORS

No person other than a Director retiring at the meeting is eligible for appointment or reappointment as a Director at any General Meeting or Annual General Meeting unless he is recommended by the Board for election, or, not less than seven nor more than 42 days before the day fixed for the meeting, notice in writing to the Secretary at the Office executed by a Member qualified to be present and vote at the meeting has been sent of his intention to propose such person for appointment or reappointment, accompanied by notice in writing, executed by the person to be proposed, of his willingness to be appointed or reappointed. The notice from the Member shall give the particulars in respect of that person which would (if he were appointed or reappointed) be required to be included in the Company's register of Directors.

88. VOTING ON RESOLUTION FOR APPOINTMENT

Every resolution of a General Meeting for the appointment or reappointment of a Director shall relate to one named person and a single resolution for the appointment or reappointment of two or more persons as Directors is void, unless a Resolution of Members that the resolution is proposed in this way has first been agreed to by the meeting without any vote being given against it.

89. REMOVAL BY RESOLUTION OF MEMBERS

Subject to any power under the Companies Acts to remove a Director, the Company may by Resolution of Members remove any Director before the expiration of his period of office (without prejudice to a claim for damages for breach of contract) and may, subject to the Articles, by Resolution of Members appoint another Director, who is willing to act, in his place. A person appointed in place of a Director so removed shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last appointed or reappointed a Director.

DIRECTORS' REMUNERATION, EXPENSES AND BENEFITS

90. DIRECTORS' FEES

There shall be available to be paid out of the funds of the Company to the Directors as fees in each year an aggregate sum not exceeding an amount to be determined by the Board but in any event an aggregate amount not exceeding US\$750,000, such sum to be divided among such Directors in such proportions as the Board may decide or, in default of agreement, equally. Any Director holding the office of director for part of a year shall, unless otherwise agreed, be entitled only to a proportionate part of such fee. The Company may by Resolution of Members increase the amount of the fees payable under this Article. A fee payable pursuant to this Article is distinct from any salary, remuneration or other amount payable to him under any other Article and accrues from day to day.

91. EXPENSES

The Directors are entitled to be repaid all reasonable travelling, hotel and other expenses properly incurred by them in the performance of their duties as Directors, including their expenses of travelling to and from meetings of the Board or committees of the Board or General Meetings or separate meetings of the holders of a class of shares and any expenses incurred by them in obtaining independent professional advice.

92. REMUNERATION OF EXECUTIVE DIRECTORS

The remuneration of a Director appointed to hold employment or executive office in accordance with the Articles may be a fixed sum of money or in whole or in part by participation in profits or otherwise as the Board may determine and may be in addition to or instead of a fee payable to him for his services as Director pursuant to the Articles.

93. ADDITIONAL REMUNERATION

The Board may grant reasonable additional remuneration and expenses to any Director who, at the request of the Board, goes or resides abroad or renders any special or extra services to the Company, which may be paid by way of a lump sum, participation in profits or otherwise as the Board may determine.

94. DIRECTORS' PENSIONS AND OTHER BENEFITS

94.1 The Board may establish, maintain, participate in or contribute to or procure the establishment or maintenance of, participation in or contribution to any pension, superannuation, benevolent or life assurance fund, scheme or arrangement (whether contributory or otherwise) for the benefit of, and give or procure the giving of donations, gratuities, pensions, allowances, benefits and emoluments to, any persons who are or were at any time in the employment or service of or who have at any time been Directors of the

Company or of any company which is or was a member of the Group or any of their predecessors in business (and for any member of his family, including a spouse or former spouse or a person who is or was dependent on him). Any Director or former Director shall be entitled to participate in and retain for his own benefit any such donations, gratuities, pensions, allowances, benefits or emoluments. The Board may arrange for this to be done by the Company either alone or in conjunction with any other person.

- 94.2** Subject to the Companies Acts, the Board may establish and maintain any employees' share scheme, share option or share incentive scheme and establish and (if any such scheme so provides) contribute to any scheme for the purchase by or transfer, allotment or issue to trustees of shares in the Company or its holding company to be held for the benefit of employees (including Directors) of the Company and lend money to such trustees or employees to enable them to purchase such shares.

INTERESTS OF DIRECTORS

95. PERMITTED INTERESTS

Subject to the Companies Acts and to **Article 96** (Declaration of Director's interest), a Director, notwithstanding his office:

- 95.1** may hold any other office or place of profit with the Company (except that of auditor) in conjunction with his office of director and on such terms as to remuneration and otherwise as the Board may arrange. Any Director may act by himself or through his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for such professional services;
- 95.2** may enter into or otherwise be interested in a contract, arrangement, transaction or proposal with the Company or in which the Company is otherwise interested either in connection with his tenure of an office or place of profit and either as vendor, purchaser or otherwise;
- 95.3** may be a member or director or other officer of or employed by or a party to a contract, transaction, arrangement or proposal with or be otherwise interested in a company promoted by the Company or in which the Company is otherwise interested;
- 95.4** unless otherwise agreed, is not liable to account to the Company for any remuneration, profit or other benefit received by him by virtue of such office, employment, contract, arrangement, transaction or proposal and no such contract, arrangement, transaction or proposal is avoided on the grounds of any such interest or benefit.

96. DECLARATION OF DIRECTOR'S INTEREST

- 96.1** Notwithstanding the provisions of the Companies Acts, the provisions of Sections 317(1) to 317(4) inclusive and 317(8) and 317(9) of the UK Act (the wording of which is annexed to

these Articles) shall be deemed to be incorporated into these Articles and shall bind the Company and the Members and references in such sections to "a Company" shall be deemed to be references to the Company.

- 96.2** Without prejudice to the requirements of the Companies Acts, a Director who is in any way, directly or indirectly, interested in a contract, arrangement, transaction or proposal with the Company shall declare the nature of his interest at the meeting of the Board at which the question of entering into the contract, arrangement, transaction or proposal is first taken into consideration, if he knows his interest then exists, or, in any other case, at the next meeting of the Board after he knows that he is or has become interested. For the purposes of this Article, a general notice given to the Board by a Director to the effect that he is to be regarded as having an interest (of the nature and extent specified in the notice) in any contract, arrangement, transaction or proposal in which a specified person or class of persons is interested is a sufficient declaration of interest in relation to that contract, transaction, arrangement or proposal. An interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge is not treated as his interest.
- 96.3** The provisions of Sections 318(1)(2)(3)(5)(6)(7)(10) and (11) of the UK Act (the wording of which is annexed to these Articles) shall be deemed to be incorporated into these Articles and shall bind the Company and the Members save that references in these sections to "every company" and "a company" shall be deemed to be a reference to the Company and the provisions of Section 318(3)(c) of the UK Act shall be deemed to read "its principal place of business in the Republic of Cyprus".
- 96.4** The provisions of Sections 319(1)(2)(3)(5)(6) and (7) of the UK Act shall be deemed to be incorporated into these Articles and shall bind the Company and the Members save that references in these sections to "a company" shall be deemed to be references to the Company.
- 96.5** The provisions of Section 320(1) of the UK Act (the wording of which is annexed to these Articles) shall be deemed to be incorporated into these Articles and shall bind the Company and the Members save that the reference to "a company" in Section 320(1) shall be deemed to be a reference to the Company. For the purposes of this Article a non-cash asset is of the requisite value if at the time the arrangement in question is entered into its value is not less than GBP2,000 but (subject to that) exceeds GBP10,000 or 10 per cent of the Company's asset value, that is the value of the Company's net assets determined by reference to the accounts prepared and laid before General Meeting in accordance with the provisions of the Companies Acts in respect of the last preceding year in respect of which such accounts have been so prepared and laid, or where no accounts have been so prepared and laid before that time, the amount of the Company's paid up share capital.
- 96.6** The provisions of Sections 324(1)(2) and (6) of the UK Act (the wording of which is annexed to these Articles) shall be deemed to be incorporated into these Articles and shall

bind the Company and the Members, save that the references to "a company" in those sections shall be deemed to be references to the Company.

96.7 The provisions of section 325 of the UK Act (the wording of which is annexed to these Articles) shall be deemed to be incorporated into these Articles and shall bind the Company and the Members save that Section 325(1) shall be deemed to read "the Company shall keep a register for the purposes of **Article** 92.2 and references to Section 324 shall be references to **Article** 96.2.

97. LIMITATIONS ON VOTING OF INTERESTED DIRECTOR

Except as provided in this Article, a Director may not vote in respect of any contract, arrangement, transaction or proposal to which the Company is or is to be a party and in which he is, to his knowledge, materially interested, directly or indirectly, otherwise than by virtue of his interest in shares or debentures or other securities of or otherwise in or through the Company. This prohibition does not apply to any resolution concerning any of the following matters namely:

97.1 the giving to him of a guarantee, security or indemnity in respect of money lent or obligations incurred by him or by any other person at the request of or for the benefit of the Company or any of its Subsidiary Undertakings;

97.2 the giving to a third party of a guarantee, security or indemnity in respect of a debt or obligation of the Company or any of its Subsidiary Undertakings for which he himself has assumed responsibility, in whole or in part, under a guarantee or indemnity or by the giving of security;

97.3 a contract, arrangement, transaction or proposal concerning an offer of shares or debentures or other securities of or by the Company or any of its Subsidiary Undertakings for subscription or purchase in which offer he is or may be entitled to participate as a holder of securities or in the underwriting or sub-underwriting of which the Director is to participate;

97.4 a contract, arrangement, transaction or proposal to which the Company is or is to be a party concerning any other company in which he is interested directly or indirectly and whether as an officer or shareholder or otherwise ("**relevant company**"), if he is not, directly or indirectly, the holder of or beneficially interested in one per cent or more of a class of equity share capital of the relevant company (calculated exclusive of any shares of that class in that relevant company held as treasury shares) or of the voting rights available to members of the relevant company or able to cause one per cent or more of those voting rights to be cast at his direction (and for the purposes of this Article, shares held by a Director as bare or custodian trustee and in which he has no beneficial interest, shares comprised in a trust and in which the Director's interest is in reversion or is in remainder, if and so long as another person is entitled to receive the income from the trust, and shares comprised in an authorised unit trust scheme in which the Director is interested only as a unit holder are disregarded);

- 97.5** a contract, arrangement, transaction or proposal concerning the adoption, modification or operation of a pension, superannuation or similar scheme or retirement, death or disability benefits scheme or personal pension plan or employees' share scheme under which he may benefit and which has been approved by or is subject to and conditional on approval by a relevant tax authority for taxation purposes or which does not accord to any Director as such any privilege or benefit not accorded to the employees to whom the scheme or fund relates;
- 97.6** a contract, arrangement, transaction or proposal for the benefit of employees of the Company or any of its Subsidiary Undertakings under which the Director benefits in a similar manner to the employees and which does not accord to any Director as such any privilege or benefit not accorded to the employees to whom it relates; or
- 97.7** a contract, arrangement, transaction or proposal concerning the maintenance or purchase of any insurance policy which the Company is permitted by law to purchase and/or maintain for the benefit of Directors or for the benefit of persons including Directors.

98. RESTRICTIONS ON VOTING

A Director may not vote or be counted in the quorum on a resolution of the Board or committee of the Board concerning his own appointment (including fixing or varying the terms of his appointment or its termination) as the holder of an office or place of profit with the Company or any company in which the Company is interested. Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment or its termination) of two or more Directors to offices or places of profit with the Company or any company in which the Company is interested, such proposals shall be divided and a separate resolution considered in relation to each Director. In such cases each of the Directors concerned (if not otherwise debarred from voting under the Articles) is entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.

99. MATERIALITY OF DIRECTOR'S INTEREST

If any question arises at any meeting of the Directors or any committee of Directors as to the materiality of a Director's interest or as to the entitlement of any Director to vote or be counted in a quorum and such question is not resolved by his voluntarily agreeing to abstain from voting or being counted in a quorum, the question shall be decided by a resolution of the remaining Directors or committee members present at the meeting and in the case of an equality of votes the chairman (unless he is the Director the materiality of whose interest or entitlement to vote is in issue) shall have a second or casting vote which shall be conclusive and binding.

100. DIRECTOR'S INTEREST EXTENDS TO CONNECTED PERSONS

For the purpose of **Articles** 95 to 100, the interest of a person who is connected (within the meaning of Section 346 of the UK Act) with a Director is treated as the interest of the Director and, in relation to an alternate director, the interest of the Director appointing him shall be treated as the interest of the alternate director in addition to any interest which the alternate director otherwise has. **Articles** 95 to 100 apply to an alternate director as if he were a Director otherwise appointed.

POWERS AND DUTIES OF DIRECTORS

101. POWERS OF THE BOARD

Subject to the Companies Acts, the Memorandum and these Articles and to directions given by the Company in General Meeting or Annual General Meeting, the business of the Company shall be managed by the Board, which may exercise all the powers of the Company. No alteration of the Memorandum or of these Articles and no direction made by the Company in General Meeting or Annual General Meeting invalidates any prior act of the Board which would have been valid if the alteration or direction had not been made. The general powers given by this Article shall not be limited by any special authority or power given to the Directors by any other Article.

102. DELEGATION TO COMMITTEES

The Board may delegate any of the powers, authorities and discretion exercisable by the Board for such time and on such terms and conditions as it thinks fit to a committee consisting of one or more Directors and (if it thinks fit) one or more other persons, but only if a majority of the members of the committee are Directors or alternate directors and no resolution of the committee shall be effective unless a majority of the members of the committee present at the meeting concerned are Directors or alternate directors. The Board may grant the power to sub-delegate, may revoke or alter the terms and conditions of the delegation or discharge the committee in whole or in part and may retain or exclude the right of the Board to exercise the delegated powers, authorities or discretions collaterally with the committee. Where the Articles refer to the exercise of a power, authority or discretion by the Board and that power, authority or discretion has been delegated by the Board to a committee, those Articles shall be construed as permitting the exercise of the power, authority or discretion by the committee.

103. LOCAL MANAGEMENT

The Board may establish local or divisional boards or agencies for managing the affairs of the Company in a specified locality and may appoint any persons to be members of a local or divisional board or agency and may fix their remuneration and may delegate to any local or divisional board or agency any of the powers, authorities and discretions exercisable by

the Board for such time and on such terms and conditions as it thinks fit. The Board may grant the power to sub-delegate, may revoke or alter the terms and conditions of the appointment or delegation and may retain or exclude the right of the Board to exercise the delegated powers, authorities or discretions collaterally with the local or divisional board or agency and may authorise the members of any local or divisional board or agency (or any of them) to fill any vacancy and to act notwithstanding any vacancy. Subject to any terms and conditions imposed by the Board, the proceedings of a local or divisional board or agency with two or more members are governed by those Articles that regulate the proceedings of the Board, so far as applicable.

104. POWER OF ATTORNEY

The Board may by power of attorney or otherwise appoint any company, firm or person to be the agent or attorney of the Company and may delegate to that company, firm or person any of the powers, authorities and discretions exercisable by the Board for such purposes and for such time and on such terms and conditions as it thinks fit. The Board may grant the power to sub-delegate, may revoke or alter the terms and conditions of the appointment or delegation and may retain or exclude the right of the Board to exercise the delegated powers, authorities or discretions collaterally with the attorney or agent.

105. EXERCISE OF VOTING POWERS

The Board may exercise or cause to be exercised the voting powers conferred by shares in the capital of another company held or owned by the Company, or a power of appointment to be (exercised by the Company, in any manner it thinks fit (including the exercise of such power in favour of the appointment of a Director as an officer or employee of that company or in favour of the payment of remuneration to the officers or employees of that company).

BORROWING POWERS

106. BORROWING POWERS

106.1 Subject to the Companies Acts and to this **Article** 106, the Board may exercise all the powers of the Company to borrow money.

106.2 The Board shall restrict the borrowings of the Company and exercise all voting and other rights or powers of control exercisable by the Company in relation to its Subsidiary Undertakings so as to secure (as regards Subsidiary Undertakings so far as by such exercise they can secure) that the aggregate principal amount (including any premium payable on final repayment) remaining undischarged of all moneys borrowed by the Group does not at any time without the previous sanction of a Resolution of Members exceed a sum equal to two times the adjusted capital and reserves.

106.3 "**Adjusted capital and reserves**" means a sum equal to the aggregate of:

- 106.3.1** the Capital of the Company; and
- 106.3.2** the amount standing to the credit of the consolidated capital and revenue reserves of the Group (including any pool of funds in the Company's Surplus referred to as the "share premium account" and the "capital redemption reserve") plus or minus the credit or debit balance, as the case may be, of the consolidated profit and loss account all as shown in the then latest audited consolidated balance sheet of the Group but adjusted as may be appropriate to reflect any variation since the date of that balance sheet in the amounts referred to in **Article** 106.3.1 and in the consolidated capital and revenue reserves of the Group and so that for the purpose of making such adjustments, if any issue or proposed issue of shares by the Company for cash has been underwritten, then such shares shall be deemed to have been issued and the amount (including any premium) of the subscription moneys payable in respect thereof (not being moneys payable later than six months after the date of allotment) shall, to the extent so underwritten, be deemed to have been paid up on the date when the issue of such shares was underwritten (or, if such underwriting was conditional, on the date when it became unconditional) , including, without limitation:
- (a) any alteration resulting from any company becoming or ceasing to be a Subsidiary Undertaking since the date of the latest audited consolidated balance sheet of the Group and any variation in the interests of the Company in its Subsidiary Undertakings since such date; and
 - (b) any alteration which would result from any transaction contemplated at the time when the adjusted total of the Capital and reserves is being computed or from any transaction carried out contemporaneously;
- 106.3.3** after deducting any amounts attributable to goodwill (but after adding back goodwill arising on consolidation);
- 106.3.4** after adding back any sums set aside or providing for taxation;
- 106.3.5** after deducting the amount of all dividends declared, recommended, made or paid by a member of the Group to a person other than a member of the Group out of profits accrued up to and including the date of, but not provided for in, the latest audited consolidated balance sheet;
- 106.3.6** after making such other adjustments (if any) as the Auditors consider appropriate.

106.4 For the purposes of this **Article** 106, the following (if not otherwise taken into account) are deemed to be moneys borrowed:

106.4.1 the principal amount outstanding in respect of any debentures or of any loan capital (whether secured or unsecured) of any member of the Group which are not beneficially owned within the Group;

106.4.2 the principal amount outstanding under any acceptance credit (not being an acceptance in relation to the purchase or sale of goods or services in the ordinary course of trading) opened by any bank or accepting house on behalf of or in favour of any member of the Group;

106.4.3 the nominal amount of any issued Capital and the principal amount of any debentures or other borrowed moneys of any person outside the Group the redemption or repayment of which is guaranteed or secured or is the subject of an indemnity given by any member of the Group and the beneficial interest in which redemption or repayment is not owned by a member of the Group;

106.4.4 any fixed or minimum premium payable on final redemption or repayment of any borrowings which constitute moneys borrowed for the purposes of this **Article** 106;

106.4.5 the principal amount of any preference share capital of any Subsidiary Undertaking owned otherwise than by a member of the Group; and

106.4.6 the amounts which would be shown as outstanding in respect of any hire purchase commitments or finance lease obligations in an audited consolidated balance sheet for the Group, if such a balance sheet had been prepared in accordance with relevant generally accepted accounting principles or international accounting standards.

106.5 For the purpose of this **Article** 106 the following are not and are treated as not moneys borrowed:

106.5.1 all intra Group borrowings;

106.5.2 amounts borrowed for the purpose of and applied within six months following being made in repaying (with or without any premium) any borrowings which constitute moneys borrowed for the purposes of this **Article** 106;

106.5.3 the proportion of the borrowings which constitute moneys borrowed for the purpose of this **Article** 106 of a partly owned Subsidiary Undertaking which corresponds to the proportion of its equity capital that is not beneficially owned, directly or indirectly, by another member of the Group;

- 106.5.4** temporary debit balances with the bankers of any member of the Group or shown in a member's own books of account, in each case, arising by virtue of delay in clearing funds not exceeding 10 days;
- 106.5.5** for a period of six months after the date on which a company becomes a member of the Group, moneys borrowed equal to the amount of borrowings outstanding of such a company at the date when it becomes a member to the extent that they exceed any increase in the limit referred to **Article** 106.2 arising out of the adjustments made to the adjusted capital and reserves on account of the transaction whereby such company becomes a member of the Group and of any other transaction effected during such period of six months whereby the minority interest (if any) in such member is reduced;
- 106.5.6** moneys advanced or paid to any member of the Group (or its agents or nominees) by customers of any member of the Group as unexpended customer receipts or progress payments pursuant to any contract between such customer and a member of the Group;
- 106.5.7** moneys held by any member of the Group whether on deposit or current account or otherwise in connection with any scheme for the benefit of employees or their dependants;
- 106.5.8** amounts due to trade creditors.
- 106.5.9** No lender or other person dealing with the Company shall be concerned to see or inquire whether the limit set out in this **Article** 106 is observed. No debt incurred or security given in excess of such limit is invalid or ineffectual except in the case of express notice given to the lender or the recipient of the security at the time when the debt is incurred or security given that the limit imposed by the Articles has been or will be exceeded.
- 106.5.10** A report or certificate of the Auditors as to the amount of the adjusted capital and reserves or the aggregate amount of moneys borrowed or to the effect that the limit imposed by this **Article** 106 has not been or will not be exceeded at any particular time or times is conclusive and binding on all concerned. Nevertheless the Board may at any time act in reliance on a bona fide estimate of the amount of the adjusted capital and reserves or the aggregate amount of moneys borrowed and if in consequence the limit on moneys borrowed set out in this **Article** 106 is inadvertently exceeded, the amount of moneys borrowed equal to the excess may be disregarded for 60 days after the date on which by reason of a determination of the Auditors or otherwise the Board becomes aware that this situation has or may have arisen.

106.5.11 Borrowed moneys of the Company or any one or more of its Subsidiary Undertakings expressed in or calculated by reference to a currency other than Sterling shall be translated into Sterling by reference either to the rate of exchange specified in a forward purchase contract, back to back loan, swap or other arrangement taken out or entered into to reduce the risk associated with fluctuations in rates of exchange or, if there is no such agreement, to the rate of exchange used for the conversion of such currency in the latest audited balance sheet of the relevant member of the Group or, if no such conversion was required or has yet taken place, by reference to the rate of exchange or approximate rate of exchange ruling on such date and determined on such basis as the Auditors may determine or approve.

107. POWERS TO MORTGAGE

The Board may exercise all the powers of the Company to mortgage or charge all or part of the Company's undertaking, property and assets, both present and future, and, subject to the Companies Acts, may issue or sell any bonds, loan notes, debentures and other securities for such purposes and on such terms as it thinks fit and whether outright or as collateral security for a debt, liability or obligation of the Company or a third party.

PROCEEDINGS OF THE BOARD

108. BOARD MEETINGS

The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit.

109. QUORUM

The quorum necessary for the transaction of business shall be two persons present in person or by alternate director. A Director shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.

110. NOTICE OF BOARD MEETINGS

A Director may, and on the request of a Director, the Secretary shall, at any time call a meeting of the Board. It shall be necessary to send at least 3 days' notice of a meeting of the Board to all the Directors and notice is treated as duly given to a Director if it is given to him personally or by word of mouth or sent to him by whatever means at his last known address or at another address or an electronic address from time to time notified by him to the Company for this purpose. A Director may waive the requirement that notice be sent to him of a Board meeting either prospectively or retrospectively. Neither the accidental failure to send notice of a meeting of the Board to any Director nor the non-receipt in any case of such notice if sent shall invalidate the meeting or any resolution passed or business

transacted at the meeting.

111. VOTING

Questions arising at any meeting of the Board shall be decided by a majority of votes. In the case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

112. CHAIRMAN OF THE BOARD

The Board may elect a chairman or deputy chairman, who shall preside at its meetings, but if no such chairman or deputy chairman is elected, or if at any meeting neither the chairman nor deputy chairman is present within five minutes after the time fixed for the start of the meeting or if neither of them is willing to act as chairman, the Board shall choose one of its number to be chairman of such meeting. The Board may decide the period for which he is or they are to hold office and may at any time remove him or them from office.

113. PROCEEDINGS OF A COMMITTEE

113.1 Proceedings of a committee of the Board shall be conducted in accordance with any regulations that may from time to time be imposed upon it by the Board. Subject to those regulations and this **Article 113**, proceedings of a committee shall be governed by the Articles regulating the proceedings of the Board, so far as applicable.

113.2 Where the Board resolves to delegate any of its powers, authorities and discretions to a committee of one or more unnamed Directors, notice of a meeting of that committee need only be sent to the Director or Directors who form the committee.

114. VALIDITY OF PROCEEDINGS OF BOARD OR COMMITTEE

All acts done in good faith by any meeting of the Board or of a committee of the Board or by any person acting as a Director, alternate director or committee are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Director or person acting or that they or any of them were disqualified from holding office or had ceased to hold office or were not entitled to vote, as valid as if every such person had been duly appointed and was qualified to be and had continued to be a Director, alternate director or member of a committee and entitled to vote.

115. MINUTES OF PROCEEDINGS

The Board shall cause minutes to be made of all appointments of officers and committees made by the Board and of any remuneration fixed by the Board and the names of the Directors present at all meetings of the Board and committees of the Board, the Company or the holders of a class of shares or debentures and all orders, resolutions and proceedings of such meetings and any such minutes of any meeting, if purporting to be signed by the

chairman of the meeting, or by the chairman of the next succeeding meeting shall be conclusive evidence without any further proof of the matters stated in them.

116. PARTICIPATION BY TELEPHONE, ETC

A Director or his alternate director or a member of a committee of the Board may participate in a meeting of the Board or of a committee of the Board through the medium of conference telephone or video conference or similar form of communication equipment notwithstanding that the persons participating may not all be meeting in one particular place if all persons participating in the meeting are able to hear and speak to each other throughout the meeting. A person participating in this way is deemed to be present in person at the meeting and is counted in a quorum and entitled to vote. The meeting is deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.

117. BOARD RESOLUTION IN WRITING OR IN ELECTRONIC FORM

A resolution in writing or contained in an electronic communication signed by or on behalf of all the Directors entitled to receive notice of a Board meeting and not being less than a quorum or by all members of a committee of the Board is as valid and effective as a resolution passed at a Board meeting (or committee meeting, as the case may be) and may consist of several documents in the same form each duly signed by or on behalf of one or more of the Directors (or members of the committee) and any such resolution need not be signed by an alternate director if it is signed by the Director appointing him and a resolution signed by an alternate director need not be signed by the Director appointing him.

118. NUMBER OF DIRECTORS LESS THAN MINIMUM

If the number of Directors is reduced below the minimum number fixed in accordance with the Articles, the continuing Directors or Director may act only for the purpose of appointing an additional Director or Directors to make up that minimum or convening a General Meeting of the Company for the purpose of making such appointment. An additional Director appointed in this way holds office (subject to the Articles) only until the dissolution of the next Annual General Meeting after his appointment unless he is reappointed during the meeting.

ALTERNATE DIRECTORS

119. APPOINTMENT

A Director (other than an alternate director) may, by notice executed by the appointing Director sent to the Secretary at the Office, or in any other manner approved by the Board, appoint another Director or any other person approved by the Board and willing to act to be his alternate director. No appointment of an alternate director who is not already a Director

is effective until his consent to act as a Director in the form prescribed by the Companies Acts is received at the Office. An alternate director need not be a Member and is not counted in reckoning the number of Directors for the purpose of **Article 75** (Number of Directors).

120. PARTICIPATION IN BOARD MEETINGS

An alternate director is entitled to notice of meetings of the Board and all committees of the Board of which the Director appointing him is a member and to attend and vote as a Director at any such meeting at which the Director appointing him is absent and to exercise all the powers, rights, duties and authorities of the Director appointing him except that it shall not be necessary to give notice of such meetings to an alternative director who is absent from the United Kingdom save in any case where such absent alternate director leaves an address or an electronic address for the purpose in which case a notice sent to that address or contained in an electronic communication sent to such electronic address shall be deemed to constitute notice to the alternate director at the time when it is dispatched or sent. A Director acting as alternate director has, in addition to his own vote, a separate vote at meetings of the Board and committees of the Board for each Director for whom he acts as alternate director but he counts as only one for the purpose of determining whether a quorum is present.

121. REMUNERATION AND EXPENSES

The fee payable to an alternate director shall be payable out of the fee payable to the Director appointing him and shall consist of such portion (if any) of the fee as shall be agreed between the alternate director and the Director appointing him. The Company shall, however, repay to an alternate director expenses incurred by him in the performance of his duties if the Company would have been required to repay the expenses to him had he been a Director. An alternate director is entitled to be indemnified by the Company to the same extent as if he were a Director.

122. REVOCATION OF APPOINTMENT

A Director may, by notice sent to the Secretary, revoke the appointment of his alternate director. If a Director dies or ceases to hold the office of Director, the appointment of his alternate director ceases automatically. If a Director retires at any meeting (whether by rotation or otherwise) but is reappointed by the meeting at which such retirement took effect, any appointment made by him under this Article which was in force immediately prior to his retirement shall continue to operate after his reappointment as if he had not so retired. The appointment of an alternate director ceases on the happening of an event which, if he were a Director otherwise appointed, would cause him to vacate office.

123. RESPONSIBILITY

An alternate director is not deemed to be the agent of the Director appointing him but is

responsible for his own acts and defaults and is deemed to be an officer of the Company.

ASSOCIATE DIRECTORS

124. APPOINTMENT OF ASSOCIATE DIRECTOR

The Board may appoint any person, not being a Director, to be an "associate director" of the Company or to an office or employment having a designation or title including the word "director" or may attach to an existing office or employment that designation or title and, subject to the provisions of any contract between him and the Company and rights attaching thereto, may terminate the appointment or use of that designation or title.

125. EFFECT OF APPOINTMENT

The appointment of a person to be an associate director or the inclusion of the word "director" in the designation or title of an office or employment shall not, save as otherwise agreed between him and the Company, affect the terms and conditions of his employment and shall not imply that the person has power to act as a Director or is entitled to receive notice of or attend or vote at meetings of the Directors and he is not deemed to be a Director for any of the purposes of the Articles.

126. POWERS, DUTIES AND REMUNERATION

The powers, duties and remuneration of an associate director or of any person having a designation or title including the word "director" shall be determined by the Board and the Board shall have the right to enter into any contract on behalf of the Company or transact any business of any description without the knowledge or approval of such persons, except that no act shall be done that would impose any personal liability on any or all of such persons except with his or their knowledge and consent.

SEALS

127. APPLICATION OF SEALS

A seal may be used only by the authority of a resolution of the Board or a committee of the Board. The Board may decide who will sign an instrument to which a seal is affixed (or, in the case of a share or other security certificate, on which the seal may be printed) either generally or in relation to a particular instrument or type of instrument. The Board may also decide, either generally or in a particular case, that a signature may be dispensed with or applied by mechanical means.

128. SIGNING OF SEALED DOCUMENTS

Unless otherwise decided by the Board, certificates for shares or debentures or other

securities (subject to the provisions of the relevant instrument) need not be signed or, if signed, a signature may be applied by mechanical or other means or may be printed and every other instrument to which a seal is affixed shall be signed by two Directors or one Director and the Secretary.

129. SEAL FOR USE FOR SHARE CERTIFICATES AND ABROAD

The Board may exercise all the powers of the Company conferred by the Companies Acts with regard to having an official seal kept by virtue of the Companies Acts and an official seal for use abroad.

SECRETARY

130. APPOINTMENT AND REMOVAL OF SECRETARY

Subject to the Companies Acts, the Board may appoint and may remove a Secretary or joint secretaries and may appoint and remove one or more assistant or deputy secretaries on such terms and conditions as it thinks fit.

131. AUTHORITY OF OTHER PERSON TO ACT AS SECRETARY

Anything by the Articles required or authorised to be done by or to the Secretary may, if the office is vacant or there is no Secretary capable of acting, be done by or to any joint assistant or deputy secretary or, if there is no joint, assistant or deputy secretary capable of acting, by or to any officer of the Company authorised generally or specifically in that behalf by the Board. Any provision of the Articles requiring or authorising a thing to be done by or to a Director and the Secretary is not satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

132. AUTHENTICATION OF DOCUMENTS

132.1 Any Director or the Secretary or any person appointed by the Board for the purpose shall have power to authenticate any documents affecting the constitution of the Company and any resolutions passed by the Company or holders of a class of shares or the Board or any committee of the Board and any books, records, documents and accounts relating to the business of the Company and to certify copies or extracts as true copies or extracts.

132.2 A document purporting to be a copy of a resolution, or an extract from the minutes of a meeting of the Company or of the Board or of any committee of the Board which is certified as such in accordance with **Article** 132.1 shall be conclusive evidence in favour of all persons dealing with the Company on the faith thereof that such resolution has been duly passed or, as the case may be, that such extract is a true and accurate record of proceedings at a duly constituted meeting.

- 132.3** The Board may decide the terms and conditions upon which a document contained in an electronic communication which is required by the Articles to be executed or signed is to be treated as validly executed or signed.

REGISTERS

133. REGISTER OF DIRECTORS' INTERESTS

The register of Directors' interests shall be kept and shall be open to the inspection of any Member or of any other person between the hours of 10 am and noon on each Business Day. The said register shall be produced at the commencement of each Annual General Meeting and shall remain open and accessible during the continuance of the meeting to any person attending such meeting.

134. OTHER REGISTERS

The register of Directors, the register of Officers, the register of mortgages, charges and other encumbrances, the Share Register, the register of interests in shares, any overseas branch register and all other associated registers and indices shall be kept in accordance with the Companies Acts and the fee to be paid by a person other than a creditor or Member for each inspection of any register is the maximum sum decided by the Board.

DIVIDENDS

135. RECORD DATES

Notwithstanding any other Article, but subject to the Companies Acts and any preferential or other special rights attached to shares, the Company or the Board may fix any date as the record date for a dividend, distribution, allotment or issue. The record date may be on or at any time within six months before or after a date on which the dividend, distribution, allotment or issue is declared, made or paid.

136. ENTITLEMENT TO DIVIDENDS

If any share is issued on terms that it shall rank for dividend as from a particular date then it shall rank for dividend as from that date.

137. DECLARATION OF DIVIDENDS

Subject to the Companies Acts and the Articles, the Board may, with the prior authority of a Resolution of Members declare a dividend to be paid to the Members according to their respective rights and interests. No dividend shall exceed the amount recommended by the Board.

138. INTERIM DIVIDENDS

Subject to the Companies Acts, the Board may in its absolute discretion declare and pay to the Members such interim dividends (including a dividend payable at a fixed rate) as appear to the Board to be justified by the profits of the Company available for distribution and the Company's financial and trading position. If the authorised capital of the Company is divided into different classes, the Board may pay interim dividends in respect of shares which rank after shares conferring preferred rights, unless at the time of payment a preferential dividend is in arrears. If the Directors act in good faith they shall not incur any liability to the holders of shares conferring preferred rights for any loss that they may suffer by reason of the lawful payment of an interim dividend on any shares ranking after those with preferred rights.

139. PAYMENT OF DIVIDENDS IN KIND

The Board may, with the prior authority of a Resolution of Members, direct that dividends may be satisfied in whole or in part by the distribution of specific assets including shares, debentures or other securities of any other company. The Board may make all such valuations, adjustments and arrangements and issue all certificates or documents of title as may seem to it to be expedient with a view to facilitating the distribution and may vest assets in trustees on trust for the persons entitled to the dividend as may seem to the Board to be expedient. Where any difficulty arises in respect of such distribution, the Board may settle it as it thinks expedient, and in particular may issue fractional shares or authorise any person to sell and transfer any fractions or may ignore fractions altogether.

140. METHOD OF PAYMENT

140.1 The Company may pay any dividend, interest or other amount payable in cash in respect of any share by cheque, dividend warrant or money order or by direct debit or a bank or other funds transfer system or by such other method as the holder or joint holders of the share in respect of which the payment is made may by notice direct. In respect of uncertificated shares, where the Company is authorised to do so by or on behalf of the holder or joint holders in such manner as the Board shall from time to time consider sufficient, the Company may also pay any such dividend, interest or other amount and send electronic tax vouchers in respect of any such dividend interest or other amount by means of the Relevant System concerned (subject always to the facilities and requirements of that Relevant System).

140.2 Any joint holder may give an effective receipt for a dividend, interest or other amount paid in respect of the share.

140.3 The Company may send a cheque, warrant or order by post (by airmail where the recipient is overseas):

- 140.3.1** in the case of a sole holder, to his registered address; or
- 140.3.2** in the case of joint holders, to the registered address of the person whose name stands first in the Share Register; or
- 140.3.3** in the case of a person or persons entitled by transmission to a share, as if it were a notice given in accordance with **Article** 165 (Notice in case of entitlement by transmission); or
- 140.3.4** in any case, to a person and address that the person or persons entitled to the payment may by notice direct.
- 140.4** Payment of the cheque, warrant or order, the collection of funds from or transfer of funds by a bank in accordance with such direct debit or bank or other transfer or, in respect of shares in uncertificated form, the making of payment in accordance with the facilities and requirements of the Relevant System concerned shall be a good discharge to the Company.
- 140.5** Every cheque, warrant or order is sent at the risk of the person entitled to the payment and shall be made payable to or to the order of the person or persons entitled or to such other person as the holder or joint holders may by notice direct.
- 140.6** Every such payment made by direct debit or a bank or other funds transfer or by another method at the direction of the holder or joint holders shall be made to the holder or joint holders or to or through such other person as the holder or joint holders may by notice in writing direct. In respect of uncertificated shares, every such payment or delivery of electronic tax vouchers made by means of the Relevant System concerned shall be made in such manner as may be consistent with the facilities and requirements of the Relevant System concerned.
- 140.7** Without prejudice to the generality of the foregoing, in respect of shares in uncertificated form, such payment may include the sending by the Company or by any person on its behalf of an instruction to the operator of the Relevant System to credit the cash memorandum account of the holder or joint holders or, if permitted by the Company, of such person as the holder or joint holders may by notice direct. The Company shall not be responsible for any loss of any such cheque, warrant or order and any payment or delivery of any electronic tax voucher made by direct debit, bank or other funds transfer system or such other method shall be at the sole risk of the holder or joint holders.
- 140.8** Without prejudice to the generality of the foregoing, if any such cheque, warrant or order has or shall be alleged to have been lost, stolen or destroyed, the Board may, on request of the person entitled to it, issue a replacement cheque, warrant or order subject to compliance with such conditions as to evidence and indemnity and the payment of out of pocket expenses of the Company in connection with the request as the Board may think fit.

141. CESSATION OF PAYMENT OF DIVIDEND

If a cheque, warrant or order in respect of a dividend, or other amount payable in respect of a share, is returned undelivered or left uncashed or transfer made by a bank or other funds transfer systems is not accepted on:

141.1 two consecutive occasions; or

141.2 one occasion and the Board, on making reasonable enquiries, has failed to establish any new address or account of the person concerned,

then the Board may determine that the Company shall cease sending or transferring a dividend, or other amount payable in respect of that share, to the person concerned until he notifies the Company of an address or account to be used for that purpose.

142. DIVIDENDS DO NOT BEAR INTEREST

No unpaid dividend, or other amount payable in respect of a share, bears interest as against the Company unless otherwise provided by the rights attached to the share.

143. DEDUCTION FROM DIVIDEND

The Board may deduct from any dividend or other amounts payable to a person in respect of a share, either alone or jointly with any other person, all amounts due from him, either alone or jointly with any other person, to the Company in respect of a share.

144. UNCLAIMED DIVIDENDS

All unclaimed dividends, interest or other amounts payable by the Company in respect of a share may be invested or otherwise made use of by the Board for the benefit of the Company until claimed and the payment of any unclaimed dividend, interest or other amount payable by the Company in respect of a share into a separate account or the investment of it does not constitute the Company a trustee in respect of it. Any dividend which has remained unclaimed for a period of 12 years from the date it became due for payment is forfeited and ceases to remain owing by the Company.

145. DIVIDEND MAY BE WITHHELD

Without prejudice to **Articles 37 to 40**, the Board may withhold payment of a dividend (or part of a dividend) payable to a person entitled by transmission to a share until he has provided any evidence of his right that the Board may reasonably require.

146. PAYMENT OF SCRIP DIVIDENDS

- 146.1** Subject to the Companies Acts, but without prejudice to **Article 37**, the Board may, with the prior authority of a Resolution of Members, allot to those holders of a particular class of shares who have elected to receive them further shares of that class or ordinary shares, in either case paid up ("**new shares**"), instead of cash in respect of all or part of a dividend or dividends specified by the resolution, subject to any exclusions, restrictions or other arrangements the Board may in its absolute discretion consider necessary or expedient to deal with legal or practical problems under the laws of, or the requirements of a recognised regulatory body or a stock exchange in, any territory.
- 146.2** Where a resolution under **Article 146.1** is to be proposed at a General Meeting or an Annual General Meeting and the resolution relates wholly or partly to a dividend to be declared at that meeting, then the resolution declaring the dividend is deemed to take effect at the end of that meeting.
- 146.3** A resolution under **Article 146.1** may relate to a particular dividend or to all or any dividends declared or paid within a specified period, but that period may not end later than the beginning of the fifth Annual General Meeting following the date of the meeting at which the resolution is passed.
- 146.4** The Board may make any provision it considers appropriate in relation to an allotment made under this **Article 146**, including but not limited to:
- 146.4.1** the giving of notice to holders of the right of election offered to them;
 - 146.4.2** the provision of forms of election (whether in respect of a particular dividend or dividends generally);
 - 146.4.3** determination of the procedure for making and revoking elections;
 - 146.4.4** the place or address or electronic address at which, and the latest time by which, forms of election and other relevant documents must be received in order to be effective; and
 - 146.4.5** the disregarding or rounding up or down or carrying forward of fractional entitlements, in whole or in part, or the accrual of the benefit of fractional entitlements to the Company (rather than to the Members concerned).
- 146.5** The dividend (or that part of the dividend in respect of which a right of election has been offered) is not declared or payable on shares in respect of which an election has been duly made ("**elected shares**"); instead new shares are allotted to the holders of the elected shares on the basis of allotment calculated as in **Article 146.4**. For that purpose, the Board may resolve to capitalise out of Surplus (including out of any pool of funds in the Company's

Surplus referred to as the "share premium account", the "capital redemption reserve" or out of the profit and loss account), a sum equal to the aggregate nominal amount of the new shares to be allotted and apply it in paying up in full the appropriate number of new shares for allotment and distribution to the holders of the elected shares. A resolution of the Board capitalising part of the Company's Surplus has the same effect as if the capitalisation had been declared pursuant to **Article** 148. In relation to the capitalisation the Board may exercise all the powers conferred on it by **Article** 148 without a Resolution of Members.

146.6 The new shares will rank equally with each other and with every other paid ordinary share in issue on the record date for the dividend in respect of which the right of election has been offered, but they will not rank for a dividend or other distribution or entitlement which has been declared or paid by reference to that record date.

146.7 The entitlement of each holder of ordinary shares to new ordinary shares shall be such that the relevant value of such new ordinary shares shall in aggregate be as nearly as possible equal to (but not greater than) the cash amount (disregarding any tax credit) that such holder would have received by way of dividend. For this purpose "**relevant value**" shall be calculated by reference to the average of the middle market quotations for the Company's ordinary shares on the London Stock Exchange as derived from the AIM Appendix to the Daily Official List on the day on which the ordinary shares are first quoted "ex" the relevant dividend and the four subsequent dealing days, or in such other manner as may be determined by or in accordance with the Resolution of Members, but shall never be less than the par value of the new ordinary share. A certificate or report by the Auditors as to the amount of the relevant value in respect of any dividend shall be conclusive evidence of that amount.

RESERVES

147. PROVISION OF RESERVES

The Board may, before recommending any dividend, set aside out of the profits of the Company (including any premiums received upon the issue of debentures or other securities or rights of the Company) such amounts as it thinks proper as a reserve fund or funds which shall at the discretion of the Board be applicable for any purpose for which the profits of the Company may lawfully be applied. The Board may employ the amounts in the business of the Company or invest the same in such securities (other than the shares of the Company or its holding company) as it may select. The Board may also from time to time carry forward such amounts as it may deem expedient not to distribute.

148. CAPITALISATION

148.1 Subject to the Companies Acts, the Board may, with the authority of a Resolution of Members:

- 148.1.1** resolve to capitalise a portion of the Company's Surplus and appropriate the sum resolved to be capitalised to the Members in proportion to the number of ordinary shares held by them respectively and to apply that sum on their behalf either in or towards paying up the amounts (if any) for the time being to be paid in satisfaction of the amount due under any promissory note or other written obligation for payment of a debt, as consideration for the shares held by such Members respectively or in paying up in full unissued shares, debentures of the Company of a nominal amount equal to such sum and allot such shares or debentures, paid up, to and amongst such Members in those proportions or partly in one way and partly in the other;
- 148.1.2** make any arrangements it thinks fit to resolve a difficulty arising in the distribution of a capitalised "reserve" and, in particular, where shares or debentures become distributable in fractions, the Board may deal with the fractions as it thinks fit, including by the issue of certificates in respect of fractional entitlements, disregarding fractions or selling shares or debentures representing the fractions to a person for the best price reasonably obtainable and distributing the net proceeds of the sale in due proportion amongst the Members (except that if the amount due to a Member is less than three pounds (£3), or such other amount as the Board may decide, the amount may be retained for the benefit of the Company);
- 148.1.3** authorise a person to enter into, on behalf of all the Members concerned, an agreement with the Company providing for either the allotment to the Members, paid up, of shares or debentures to which they may be entitled on the capitalisation or the payment by the Company on behalf of the Members, by applying their respective proportions of the reserves resolved to be capitalised, of the amounts remaining unpaid on their existing shares. An agreement entered into under this Article is effective and binding on all affected Members; and
- 148.1.4** generally do all acts and things required to give effect to the resolution.

ACCOUNTS

149. INSPECTION OF ACCOUNTS

- 149.1** The Board shall ensure that proper accounts and accounting records are kept in accordance with the Companies Acts. The books of account and accounting records shall be kept at the Office or, subject to the Companies Acts, at such other place or places as the Board thinks fit and shall be open to the inspection of any Director or other officer during business hours.
- 149.2** No Member (not being a Director or other officer) has any right of inspecting any account or book or document of the Company, except as conferred by the law or authorised by the

Board or by a Resolution of Members.

150. PREPARATION OF ACCOUNTS

The Board shall, in accordance with the Companies Acts, cause to be prepared and to be laid before the Company in General Meeting such profit and loss accounts, balance sheets, Group accounts (if any) and reports as are referred to in the Companies Acts. The Board shall in its report state the amount which it recommends to be paid by way of dividend.

151. SENDING ACCOUNTS

151.1 Subject to the Companies Acts, either:

151.1.1 a copy of every Directors' report and Auditors' report accompanied by the Company's annual accounts and every other document required by law to be attached to them; or

151.1.2 a summary financial statement derived from the Company's annual accounts and Directors' report, prepared in accordance with the Companies Acts,

shall, not less than 21 clear days before the date of the meeting at which copies of the documents listed in **Article** 151.1.1 are to be laid, be sent to every Member (whether or not entitled to receive notices of General Meetings) and to every holder of debentures of the Company (whether or not entitled to receive notices of General Meetings) and to the Auditors and to every other person who is entitled to receive notices of General Meetings from the Company. This Article does not require such documents to be sent to any Member or holder of debentures of whose address the Company is not aware nor to more than one of the joint holders of any shares or debentures.

151.2 References in this **Article** 151 to sending to any person copies of the Company's annual accounts, of the Directors' report and of the Auditors' report or a summary financial statement include references to using electronic communications for sending such documents to such electronic address as may for the time being be notified to the Company by that person for that purpose.

151.3 For these purposes, such documents are also to be treated as sent to a person using electronic communications where:

151.3.1 the Company and that person have agreed to his having access to the documents on a website (instead of their being sent to him);

151.3.2 the documents are documents to which that agreement applies; and

151.3.3 that person is notified, in a manner for the time being agreed for the purpose

between him and the Company, of:

- (a) the publication of the documents on a website;
- (b) the electronic address of that website; and
- (c) the place on that website where the documents may be accessed, and how they may be accessed.

151.4 Documents treated in accordance with **Article** 151.3 as sent to any person are to be treated as sent to him not less than 21 clear days before the date of a meeting if, and only if:

151.4.1 the documents are published on the website throughout a period beginning at least 21 clear days before the date of the meeting and ending with the conclusion of the meeting; and

151.5 the notification sent for the purposes of **Article** 151.3.3 is sent not less than 21 clear days before the date of the meeting.

151.5.1 Nothing in **Article** 152.4 shall invalidate the proceedings of a meeting where:

151.5.2 any documents that are required to be published as mentioned in **Article** 151.4.1 are published for a part, but not all, of the period mentioned in that Article; and

151.6 the failure to publish those documents throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the Company to prevent or avoid.

151.7 Any Member or debenture holder shall be entitled to receive free of charge on application at the Office a copy of the documents listed in **Article** 151.1.1, in addition to any document to which he is entitled under **Article** 116.1 and the Company may send such copy documents by electronic communications to such electronic address as may for the time being be notified to the Company by that person for that purpose.

151.8 The accidental omission to send any document required to be sent to any person under this **Article** 151 or the non-receipt of any document by any person entitled to receive it does not invalidate any such document or the proceedings at any General Meeting or Annual General Meeting.

UNTRACED MEMBERS

152. POWER OF SALE

152.1 The Company is entitled to sell at the best price reasonably obtainable any share of a Member or any share to which a person is entitled by transmission if:

152.1.1 during a period of 12 years prior to the date of the publication of the advertisements referred to in **Article 152.1.2** (or, if published on different dates, the earlier date) at least three dividends (whether interim or final) in respect of the share in question have been paid and all warrants, orders and cheques in respect of the share sent in the manner authorised by the Articles have been returned undelivered or remained uncashed and no communication has been received by the Company from the Member or person entitled by transmission;

152.1.2 the Company, on expiry of the period of 12 years, has inserted advertisements in a British Virgin Islands and in a United Kingdom national daily newspaper and in a newspaper circulating in the area which includes the address held by the Company for sending notices relating to the share in question or the last known address of the Member or other person entitled by transmission, giving notice of its intention to sell the share; and

152.1.3 during the period of three months following the publication of the advertisements (or, if published on different dates, the later of the two advertisements) and prior to the date of sale the Company has not received any communication from the Member or person entitled by transmission.

152.2 If, during the period of 12 years or a further period ending on the date when all the requirements of **Article 152.1** have been satisfied, an additional share has been issued in right of that held at the beginning of, or previously so issued during, those periods and all the requirements of **Article 152.1** are satisfied in respect of the additional share, the Company is entitled to sell the additional share.

152.3 To give effect to any such sale, the Board may:

152.3.1 in relation to certificated shares, appoint any person to execute as transferor an instrument of transfer of the shares to, or in accordance with the directions of, the purchaser and such instrument of transfer shall be as effective as if it had been executed by the holder of, or person entitled by transmission to, such shares; and

152.3.2 in relation to uncertificated shares, in accordance with the Companies Acts, issue a written notification to the operator of the Relevant System requiring

conversion of the shares into certificated form and exercise any of the Company's powers under **Article 13.3** to effect the transfer of the shares to, or in accordance with the directions of, the purchaser and the exercise of such powers shall be as effective as if exercised by the registered holder of, or person entitled by transmission to, such shares,

and the transferee is not bound to see to the application of the purchase money and the title of the transferee is not affected by any irregularity or invalidity in the proceedings relating to the sale.

153. APPLICATION OF PROCEEDS OF SALE

The net proceeds of sale shall belong to the Company which shall be obliged to account to the Member or other person entitled by transmission for an amount equal to such proceeds and shall enter the name of such Member or other person in the books of the Company as a creditor for such amount. No trust is created and no interest is payable in respect of the debt and the Company is not required to account for any money earned on the net proceeds, which may be employed in the business of the Company or invested as the Board decides.

NOTICES

154. FORM OF NOTICES

A notice to be sent or given to or by any person under the Articles (other than a notice calling a meeting of the Board or of a committee of the Board) shall be in writing or, subject to the Articles, shall be sent using electronic communication to an electronic address for the time being notified for that purpose to the person sending the notice.

155. SENDING NOTICES OR OTHER DOCUMENTS TO MEMBERS

155.1 A notice or other document may be sent to a Member by the Company personally or by letter. Any letter shall be sent by post stamped first class or second class (or by airmail if posted to a Member located overseas) and addressed to such Member at the postal address in the Share Register or shall be left at that address in an envelope addressed to that Member. Electronic communications may be used (if appropriate) for sending copies of notices or other documents to a Member⁶. Copies of a notice or other document sent using electronic communication shall, subject to the Articles, be sent to an electronic address for the time being notified to the Company by the Member for this purpose.

155.2 Any notice or document to be sent to a Member may be sent by reference to the Share Register as it stands at any time within the period of 15 days before the notice or document is sent and no change in the Share Register after that time shall invalidate the sending of the

⁶ Amended by resolution passed on 25 June 2008.

notice or document.

156. NOTICE OR DOCUMENT TO JOINT HOLDERS

In the case of joint holders of a share, a notice or other document shall be sent to whichever of them is named first in the Share Register and notice or other document sent in this way is sufficiently sent to all the joint holders.

157. RETURNED NOTICES

If, on three consecutive occasions, a notice to a Member has been returned undelivered, such Member shall not thereafter be entitled to receive notices from the Company until he shall have communicated with the Company and supplied in writing to the office a new postal address for the service of notices or shall have informed the Company, in such manner as may be specified by the Company, of an address for the service of notices by electronic communication. For these purposes, a notice sent by post shall be treated as returned undelivered if the notice is sent back to the Company (or its agents) and a notice sent by electronic communication shall be treated as returned undelivered if the Company (or its agents) receive(s) notification that the notice was not delivered to the address to which it was sent.

158. DEEMED NOTICE

A Member present in person or by proxy at a General Meeting or a meeting of the holders of a class of shares is deemed to have received due notice of the meeting and, where required, of the purposes for which it was called.

159. WHEN NOTICE DEEMED RECEIVED

Any notice or other document sent addressed to a Member at his registered address is deemed to be received, if personally delivered, at the time of delivery or, if sent by first class post, on the Business Day after the letter is posted or, if sent by second class post, on the second Business Day after the letter is posted or, in the case of a notice or other document contained in an electronic communication, at the expiration of 48 hours after the time it is sent. A notice or other document left at such an address within the United Kingdom is deemed to be received on the day it is left. In proving service it is sufficient to prove that the letter was properly addressed and, if sent by post, stamped and posted. Proof that a notice or other document contained in an electronic communication was sent shall be conclusive evidence that the notice or other document was received.

160. NOTICE BINDING ON TRANSFEREES ETC.

A person who becomes entitled by transmission, transfer or otherwise to a share is bound by a notice in respect of that share (other than a notice served by the Company under section

212 of the UK Act) which, before his name is entered in the Share Register, has been properly sent to a person from whom he derives his title.

161. NOTICE IN CASE OF ENTITLEMENT BY TRANSMISSION

Where a person is entitled by transmission to a share, the Company may send a notice or other document to that person as if he were the holder of a share by addressing it to him by name or by the title of representative of the deceased or trustee of the bankrupt Member (or by similar designation) at an address in the United Kingdom or electronic address supplied for that purpose by the person claiming to be entitled by transmission. Until an address has been supplied, a notice or other document may be given in any manner in which it might have been given if the death or bankruptcy or other event had not occurred. The giving of notice in accordance with this Article is sufficient notice to all other persons interested in the share.

162. NOTICE BY ADVERTISEMENT

If by reason of the suspension or curtailment of postal or electronic communication services the Company is unable effectively to convene a General Meeting or Annual General Meeting by notices sent through the post or by electronic communication, the Board may, if it thinks fit and as an alternative to any other method of service permitted by the Articles, send notice of the meeting to Members affected by the suspension or curtailment by a notice advertised in at least one British Virgin Islands newspaper and one United Kingdom national newspaper and such notice shall be deemed to have been duly received by affected Members who are entitled to receive it at noon on the day when the advertisement appears. In any such case the Company shall send confirmatory copies of the notice by post or by electronic communications, as appropriate, to such affected Members if at least five days prior to the meeting the posting of notices or the sending of them by electronic communications again becomes practicable.

WINDING UP AND INDEMNITY

163. WINDING UP

163.1 The power of sale of a liquidator shall include a power to sell wholly or partially for shares or debentures, or other obligations of another company, either then already constituted or about to be constituted, for the purposes of carrying out the sale.

163.2 If the Company shall be wound up voluntarily, the liquidator may, with the authority of a Special Resolution and any sanction required by law, divide among the Members (excluding any Members holding shares as treasury shares) in land the whole or any part of the assets of the Company and whether or not the assets consist of property of one kind or of different kinds and may for this purpose set such value as he deems fair on any class or classes of property and may determine on the basis of that valuation and in accordance with the then

existing rights of Members how such division shall be carried out as between the Members or different classes of Members. The liquidator may, with the same authority, vest any part of the assets in trustees upon such trusts for the benefit of Members as the liquidator shall think fit but so that no Member shall be compelled to accept any asset in respect of which there is a liability or potential liability.

164. INDEMNITY

164.1 Subject to the Companies Acts and without prejudice to any indemnity to which he may otherwise be entitled, every Director, Secretary, manager or other officer of the Company or Auditor shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or the exercise of his powers, authorities and discretions, including any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability in respect of negligence, default, breach of duty or breach of trust, in relation to the affairs of the Company.

164.2 No Director or other officer of the Company or the Auditors shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of their office in relation thereto, provided that this Article shall only have effect insofar as its provisions are not avoided by the Companies Acts.

164.3 Subject to the Companies Acts, the Board may exercise all the powers of the Company to purchase and maintain insurance for the benefit of a person who is an officer or employee, or former officer or former employee, of the Company or a Subsidiary Undertaking or in which the Company has an interest, direct or indirect, or a company or body which is in any way allied to or associated with the Company or a person who is or was a trustee of a retirement benefits scheme or another trust in which an officer or employee or former officer or former employee is or has been interested indemnifying him against any liability for negligence, default, breach of duty or breach of trust or any other liability which may lawfully be insured against by the Company.

165. TAKE-OVER OFFERS FOR THE COMPANY

165.1

(a) Where any person is or becomes interested, whether as a result of transactions over a period of time or not, in shares in the Capital of the Company in circumstances in which he would be obliged to make or extend an offer or offers to Members or holders of other securities or rights referred to in **Article 165.4** below of the Company under the Rules for the time being of the City

Code on Take-overs and Mergers of the United Kingdom (the "**City Code**", which expression shall include any revision or modification thereof) issued by the Panel on Take-overs and Mergers ("**the Panel**", which expression shall include any body which succeeds to the functions of the said Panel) if the Company was a company incorporated in the United Kingdom to which the City Code applied, the Directors may serve upon that person a notice requiring him to make or extend an offer or offers in writing in accordance with the requirements of the City Code in all respects as if the City Code did apply to the Company but so that references in the City Code to the Panel shall be construed, for the purposes of **Article 165** as if they were references to the Board.

- (b) Where any person has acquired, is in the process of acquiring, or appears to the Directors likely to acquire an interest in shares in the Capital of the Company in circumstances in which he would be subject to the Rules Governing Substantial Acquisitions of Shares (the "**SARs**", which expression shall include any revision or modification thereof) issued by the Panel, if the Company was a company incorporated in the United Kingdom to which the SARs applied, the Directors may serve upon that person a notice requiring him to comply with the provisions of the SARs in relation to any acquisition made (after the date of adoption of this **sub-Article 165.1(b)**) or proposed to be made by him and if that person has made (after the date of adoption of this **sub-Article 165.1(b)**) or subsequently makes any acquisition in contravention of the provisions of the SARs such a notice or a further notice issued by the Directors may require that person to dispose or to procure the disposal by any person with whom he has acted in concert of any interest in shares so acquired within twenty-eight days of the date of such notice.
- (c) If a notice served under **sub-Article 165.1(b)** requiring a disposal of shares is not complied with in accordance with its terms and has not been withdrawn, the Directors may, so far as they are able, dispose of the shares to which such notice relates at the best price reasonably obtainable in all the circumstances in which case they shall give written notice of such disposal to the person or persons on whom such notice was served. Except as hereinafter provided such disposal shall be completed as soon as reasonably practicable after the giving of a notice under this **sub-Article 165.1(c)** as may in the opinion of the Directors be consistent with obtaining the best price reasonably obtainable and in any event within thirty days of expiry of such notice provided that a disposal under this **sub-Article 165.1(c)** shall be suspended during the period when dealings by the Directors in the Company's shares are not permitted either by law or by the regulations of any stock exchange upon which those shares of the Company which are to be disposed of are listed, but any disposal under this **sub-Article 165.1(c)** which is suspended as aforesaid shall be completed within thirty days after expiry of the period of such suspension and provided further that neither

the Company nor the Directors shall be liable to any holder or any person having an interest in any share or other person for failing to obtain the best price so long as the Directors act in good faith within the period specified above.

- (d) For the purpose of affecting any disposal under **sub-Article** 165.1(c), the Directors may authorise in writing any officer or employee of the Company to execute any necessary transfer on behalf of any holder and may issue a new certificate to the purchaser. The net proceeds of such disposal shall be received by the Company, whose receipt shall be a good discharge for the purchase money, and shall be paid (without any interest being payable thereon) to the former holder upon surrender by him of the certificate in respect of the shares sold and formerly held by him.
- (e) The provisions of the Articles relating to the protection of purchasers of shares sold under a lien or upon forfeiture shall apply *mutatis mutandis* to disposals under **Article** 165.

165.2 Any notice served under **Article** 165 may also require the person on whom it is served to execute an undertaking under seal in favour of the Directors (as trustees for all the holders of shares in the capital of the Company) and in a form satisfactory to the Directors to observe and perform the rules and requirements of the City Code or the SARs as the case may be as if the same were applicable to the Company and in the manner prescribed in **Article** 165.1.

165.3 Where any person is interested, whether as a result of series of transactions over a period of time or not, in shares which (taken together with shares held or acquired by persons acting in concert with him) represent 30 per cent or more of all the shares for the time being in issue and the Directors determine that it is not expedient to serve a notice under **sub-Article** 165.1(a) or if any person upon whom such a notice is served fails within thirty days to comply with the same, the Directors may serve upon that person a notice requiring him to make an offer in writing (the "**Offer**"), within 30 days of the date of such notice on the basis set out in the following paragraphs, to the holders of every class of share capital of the Company (whether voting or non-voting) to purchase all such shares for cash on terms that payment in full therefor will be made within 21 days of the Offer becoming or being declared unconditional in all respects.

165.4 Where the Directors serve a notice upon any person in accordance with **sub-Article** 165.3, they may also include in that notice a requirement that such person shall make an appropriate offer or proposal in writing to the holders of every class of securities convertible into, or of rights to subscribe for, share capital of the Company (whether such share capital is voting or non-voting). Such appropriate offer or proposal is referred to in **Article** 165 as a "**Convertible Offer**". The Convertible Offer shall be made at the same time as the Offer. The terms of the Convertible Offer shall be such terms as the Directors, in their absolute discretion, consider to be fair and reasonable having regard to the terms of the Offer and the

Directors shall notify such terms to the person specified in **sub-Article** 165.3 (the "**Offeror**"). The Convertible Offer shall be conditional only upon the Offer becoming or being declared unconditional in all respects.

- 165.5** In addition to the Offeror, the Directors may require, in their absolute discretion, each of the principal members of a group of persons acting in concert with him and who appear to be interested in any shares in, or convertible securities of, the Company to make the Offer and/or the Convertible Offer. For the purposes of this Article, persons shall be deemed to be acting in concert if, pursuant to an agreement or understanding (whether formal or informal) they actively co-operate in acquiring or seeking to acquire shares in, or convertible securities of, the Company.
- 165.6** Unless the Directors otherwise agree, an offer made under **sub-Articles** 165.3, 165.4 or 165.5 must, in respect of each class of share capital or convertible securities involved, be in cash or be accompanied by a cash alternative offer at not less than the highest price paid by the Offeror or any person acting in concert with it for shares or convertible securities of that class within the preceding 12 months. If such price cannot be ascertained by the Directors or if such shares or convertible securities have been acquired other than for cash pursuant to a bargain made on any recognised stock exchange or if the Directors consider that such highest price is, for any reason, inappropriate, unfair or unreasonable having regard to the size and timing of the relevant purchases, the relationship (if any) between the seller and purchaser of such shares or convertible securities or the number of shares or convertible securities purchased in the preceding 12 months, the Directors may, in any such case, fix the price at which the Offer, the Convertible Offer or the cash alternative offer is to be made. The cash Offer, the cash Convertible Offer or the cash alternative offer must, in each case, remain open for not less than 14 days after the date on which the Offer or the Convertible Offer, as the case may be, has become or is declared to be unconditional as to acceptances.
- 165.7** Any person who makes or is about to make or who is or can be required to make an Offer (and, if relevant, a Convertible Offer) under **Article** 165.3, 165.4 or 165.5 or who has made such an offer which has lapsed, shall observe and shall procure that any persons acting in concert with him shall observe the rules and requirements of the City Code both in letter and in spirit prior to, during the pursuit of and, if applicable, after the failure of such an offer.
- 165.8** For the purposes of **Article** 165, subject to **sub-Articles** 165.9 to 165.12 any questions or disputes arising out of the grant of consent by the Directors, to comparability of offers, the terms of offers, any question as to whether any person shall be regarded as acting in concert with another, any question regarding the interpretation or application of the City Code and the meaning of any terms or phrases used in **Article** 165 or the City Code shall be determined by the Directors in their absolute discretion.
- 165.9** For the purposes of **Article** 165, a person is taken to be interested in any shares in which his spouse or any infant child or stepchild of his is interested;

165.10 For those purposes, a person is taken to be interested in shares if a body corporate is interested in them and:

- (a) that body or its directors are accustomed to act in accordance with his directions or instructions, or
- (b) he is entitled to exercise or control the exercise of one-third or more of the voting power at General Meetings of that body corporate.

165.11 Where a person is entitled to exercise or control the exercise of one-third or more of the voting power at General Meetings of a body corporate and that body corporate is entitled to exercise or control the exercise of any of the voting power at General Meetings of another body corporate ("**the effective voting power**") then, for purposes of **sub-Article 165.10(b)**, the effective voting power is taken as exercisable by that person.

165.12 For purposes of **sub-Articles 165.10 and 165.11**, a person is entitled to exercise or control the exercise of voting power if:

- (a) he has a right (whether subject to conditions or not) the exercise of which would make him so entitled, or
- (b) he is under an obligation (whether or not so subject) the fulfilment of which would make him so entitled.

INTERTRUST (BVI) LIMITED hereby subscribes to these Articles of Association this 2nd day of January, 2002.

Signed on behalf of the subscriber Intertrust (BVI) Limited:

by **SGD: SIMON FILMER**

in the presence of:

SGD: NADINE HENDRICKSON

Tortola
British Virgin Islands

ANNEXURES
Sections of the UK Act incorporated into the Articles of Association of
LIVERMORE INVESTMENTS GROUP LIMITED⁷

Disclosure and Transparency Rules - DTR 5

5.1 Notification of the acquisition or disposal of major shareholdings

5.1.1 R In this chapter:

- (1) references to an "*issuer*", in relation to shares admitted to trading on a *regulated market*, are to an issuer whose *Home State* is the *United Kingdom*;
- (2) references to a "*non-UK issuer*" are to an issuer whose shares are admitted to trading on a *regulated market* and whose *Home State* is the *United Kingdom* other than:
 - (a) a public company within the meaning of section 4 of the Companies Act 2006 ; and
 - (b) a company which is otherwise incorporated in, and whose principal place of business is in, the UK;
- (3) references to "*shares*" are to *shares* which are:
 - (a) already issued and carry rights to vote which are exercisable in all circumstances at general meetings of the *issuer* including *shares* (such as preference *shares*) which, following the exercise of an option for their conversion, event of default or otherwise, have become fully enfranchised for voting purposes; and
 - (b) admitted to trading on a *regulated or prescribed market*;
- (4) an acquisition or disposal of *shares* is to be regarded as effective when the relevant transaction is executed unless the transaction provides for settlement to be subject to conditions which are beyond the control of the parties in which case the acquisition or disposal is to be regarded as effective on the settlement of the transaction;
- (5) a stock-lending agreement which provides for the outright transfer of securities and which provides the lender with a right to call for re-delivery of the lent stock (or its equivalent) is not (as respects the lender) to be taken as involving a disposal of any

⁷ Amended by resolution passed on 15 May 2007.

shares which may be the subject of the stock loan; and

- (6) for the purposes of calculating whether any percentage threshold is reached, exceeded or fallen below and in any resulting notification, the proportion of voting rights held shall if necessary be rounded down to the next whole number.

5.1.2 R Subject to the exemption for certain third country *issuers* (DTR 5.11.6 R), a *person* must notify the issuer of the percentage of its voting rights he holds as *shareholder* or through his direct or indirect holding of *financial instruments* falling within DTR 5.3.1 R (or a combination of such holdings) if the percentage of those voting rights:

- (1) reaches, exceeds or falls below 3%, 4%, 5%, 6%, 7%, 8%, 9%, 10% and each 1% threshold thereafter up to 100% (or in the case of a non-UK issuer on the basis of thresholds at 5%, 10%, 15%, 20%, 25%, 30%, 50% and 75%) as a result of an acquisition or disposal of *shares* or *financial instruments* falling within DTR 5.3.1 R; or
- (2) reaches, exceeds or falls below an applicable threshold in (1) as a result of events changing the breakdown of voting rights and on the basis of information disclosed by the issuer in accordance with DTR 5.6.1 R;

and in the case of an issuer which is not incorporated in an EEA State a notification under (2) must be made on the basis of equivalent events and disclosed information.

[Note: articles 9(1) and 9(2) of the *TD*]

Certain voting rights to be disregarded

5.1.3 R Voting rights attaching to the following *shares* are to be disregarded for the purposes of determining whether a person has a notification obligation in accordance with the thresholds in DTR 5.1.2 R:

- (1) *shares* acquired for the sole purpose of clearing and settlement within a settlement cycle not exceeding the period beginning with the transaction and ending at the close of the third *trading day* following the day of the execution of the transaction (irrespective of whether the transaction is conducted on-exchange);
- (2) *shares* held by a custodian (or nominee) in its custodian (or nominee) capacity (whether operating from an establishment in the UK or elsewhere) provided such a *person* can only exercise the voting rights attached to such shares under instructions given in writing or by *electronic means*;
- (3) shares held by a *market maker* acting in that capacity subject to the percentage of

such *shares* not being equal to or in excess of 10% and subject to the *market maker* satisfying the criteria and complying with the conditions and operating requirements set out in DTR 5.1.4 R;

- (4) *shares* held by a *credit institution* or *investment firm* provided that:
 - (a) the *shares* are held within the *trading book* of the *credit institution* or *investment*;
 - (b) the voting rights attached to such *shares* do not exceed 5%; and
 - (c) the *credit institution*, or as the case may be *investment firm*, ensures that the voting rights attached to shares in the *trading book* are not exercised or otherwise used to intervene in the management of the *issuer*.
- (5) *shares* held by a collateral taker under a collateral transaction which involves the outright transfer of *securities* provided the collateral taker does not declare any intention of exercising (and does not exercise) the voting rights attaching to such *shares*.
- (6) *shares* acquired by a borrower under a stock lending agreement provided:
 - (a) such *shares* (or equivalent stock) are on-lent or otherwise disposed of by the borrower by not later than close of business on the next *trading day*; and
 - (b) the borrower does not declare any intention of exercising (and does not exercise) the voting rights attaching to the *shares*.

[Note: articles 9(4), 9(5), 9(6) and 10(c) of the *TD*]

- 5.1.4 **R** (1) References to a *market maker* are to a *market maker* which:
- (a) (subject to (3) below) is authorised by its *Home State* under *MiFID*;
 - (b) does not intervene in the management of the *issuer* concerned; and
 - (c) does not exert any influence on the *issuer* to buy such *shares* or back the *share price*.

[Note: articles 9(5) and 9(6) of the *TD*]

- (2) A *market maker* relying upon the exemption for shares held by it in that capacity must notify the *competent authority* of the *Home Member State* of the issuer, at the latest within the time limit provided for by DTR 5.8.3 R, that it conducts or

intends to conduct market making activities on a particular issuer (and shall equally make such a notification if it ceases such activity).

[Note: article 6(1) of the *TD implementing Directive*]

- (3) References to a market maker also include a *third country investment firm* and a *credit institution* when acting as a market maker and which, in relation to that activity, is subject to regulatory supervision under the laws of a *Member State*.

Certain voting rights to be disregarded (except at 5% 10% and higher thresholds)

5.1.5 **R** (1) The following are to be disregarded for the purposes of determining whether a *person* has a notification obligation in accordance with the thresholds in DTR 5.1.2 R except at the thresholds of 5% and 10% and above:

- (a) voting rights attaching to *shares* forming part of property belonging to another which that *person* lawfully manages under an agreement in, or evidenced in, writing;
- (b) voting rights attaching to *shares* which may be exercisable by a *person* in his capacity as the operator of:
 - (i) an *authorised unit trust scheme*;
 - (ii) a *recognised scheme*; or
 - (iii) a *UCITS scheme*;
- (c) voting rights attaching to *shares* which may be exercisable by an *ICVC*;
- (d) voting rights attaching to *shares* which may be exercised by a category of investment entity which for this purpose is prescribed by the *FSA*.

(2) For the purposes of DTR 5.1.5R (1)(a), a *person* ("A") may lawfully manage *investments* belonging to another if:

- (a) A can manage those investments in accordance with a *Part IV permission*;
- (b) A is an *EEA firm* other than one mentioned in sub-paragraphs (c) or (e) of paragraph 5 of Schedule 3 to the Act and can manage those *investments* in accordance with its EEA authorisation;
- (c) A can, in accordance with section 327 of the Act, manage those *investments* without contravening the prohibition contained in section 19 of the Act;

- (d) A can lawfully manage those *investments* in another *EEA State* and would, if he were to manage those *investments* in the UK, require a *Part IV permission*; or
- (e) A is a category of investment manager prescribed for this purpose by the *FSA*.

5.2 Acquisition or disposal of major proportions of voting rights

5.2.1 **R** A *person* is an indirect holder of *shares* for the purpose of the applicable definition of *shareholder* to the extent that he is entitled to acquire, to dispose of, or to exercise voting rights in any of the following cases or a combination of them:

Case

- (a) **voting rights held by a third party with whom that *person* has concluded an agreement, which obliges them to adopt, by concerted exercise of the voting rights they hold, a lasting common policy towards the management of the *issuer* in question;**
- (b) **voting rights held by a third party under an agreement concluded with that *person* providing for the temporary transfer for consideration of the voting rights in question;**
- (c) **voting rights attaching to *shares* which are lodged as collateral with that person provided that *person* controls the voting rights and declares its intention of exercising them;**
- (d) **voting rights attaching to *shares* in which that *person* has the life interest;**
- (e) **voting rights which are held, or may be exercised within the meaning of points (a) to (d) or, in cases (f) and (h) by a *person* undertaking investment management, or by a *management company*, by an undertaking controlled by that *person*;**

- (f) **voting rights attaching to *shares* deposited with that *person* which the *person* can exercise at its discretion in the absence of specific instructions from the *shareholders*;**
- (g) **voting rights held by a third party in his own name on behalf of that *person*;**
- (h) **voting rights which that *person* may exercise as a proxy where that *person* can exercise the voting rights at his discretion in the absence of specific instructions from the *shareholders*.**

[Note: article 10 of the *TD*]

5.2.2 **G** Cases (a) to (h) in DTR 5.2.1 R identify situations where a *person* may be able to control the manner in which voting rights are exercised and where, (taking account of any aggregation with other holdings) a notification to the *issuer* may need to be made. In the *FSA's* view:

- (1) Case (e) produces the result that it is always necessary for the *parent undertaking* of a *controlled undertaking* to aggregate its holding with any holding of the *controlled undertaking* (subject to the exemptions implicit in Case (e) and others in DTR 5.4);
- (2) Case (f) includes a *person* carrying on investment management and which is also the custodian of *shares* to which voting rights are attached;
- (3) Case (g) does not result in a unit holder in a *collective investment scheme* or other investment entity being treated as the holder of voting rights in the scheme property (provided always such persons do not have any entitlement to exercise, or control the exercise of, such voting rights); neither are such persons to be regarded as holding *shares* "indirectly";
- (4) Case (h), although referring to proxies, also describes and applies to a *person* undertaking investment management, and to a *management company*, and which is able effectively to determine the manner in which voting rights attached to *shares* under its control are exercised (for example through instructions given directly or indirectly to a nominee or independent custodian). Case (e) provides for the voting rights which are under the control of such a *person* to be aggregated with those of its *parent undertaking*.

5.2.3 **G** A *person* falling within Cases (a) to (h) is an indirect holder of *shares* for the purpose of the definition of *shareholder*. These indirect holdings have to be aggregated, but also separately identified in a notification to the *issuer*. Apart from those identified in the Cases (a) to (h), the FSA does not expect any other significant category "indirect shareholder" to be identified. Cases (a) to (h) are also relevant in determining whether a *person* is an indirect holder of qualifying *financial instruments* which result in an entitlement to acquire *shares*.

5.2.4 **R** DTR 5.1.2 R and case (c) of DTR 5.2.1 R do not apply in respect of voting rights attaching to *shares* provided to or by a member of the European System of Central Banks in carrying out their functions as monetary authorities, including *shares* provided to or by any such member under a pledge or repurchase of similar agreement for liquidity granted for monetary policy purposes or within a payments system provided:

- (1) this shall apply only for a short period following the provision of the *shares*; and
- (2) the voting rights attached to the *shares* during this period are not exercised.

[Note: article 11 of the *TD*.]

5.2.5 **R** (1) A *person* who is required to make a notification may, without affecting their responsibility, appoint another *person* to make the notification on his behalf.

(2) Where two or more *persons* are required to make a notification such *persons* may, without affecting their responsibility, arrange for a single notification to be made.

[Note: article 8(3) of the *TD implementing Directive*.]

5.3 Notification of voting rights arising from the holding of certain financial instruments

5.3.1 **R** A *person* must make a notification in accordance with the applicable thresholds in DTR 5.1.2 R in respect of any qualifying *financial instruments* which they hold, directly or indirectly, which result in an entitlement to acquire, on such holder's own initiative alone, under a formal agreement, *shares* to which voting rights are attached, already issued, of an *issuer*.

[Note: article 13 (1) of the *TD*.]

5.3.1 **R** (1) *Transferable securities and options, futures, swaps, forward rate agreements* and any other *derivative* contracts, as referred to in Section C of Annex 1 of *MiFID*, shall be considered to be qualifying *financial instruments* provided that they result in an entitlement to acquire, on the holder's own initiative alone, under a formal agreement, *shares* to which voting rights are attached, already issued of an *issuer*

whose *shares* are admitted to trading on a *regulated market* or a *UK prescribed market*.

- (2) The *instrument holder* must enjoy, on maturity, either the unconditional right to acquire the underlying *shares* or the discretion as to his right to acquire such *shares* or not.
- (3) A "formal agreement" means an agreement which is binding under applicable law.

[Note: Article 11(1) of the *TD implementing Directive*]

5.3.3 **G** For the purposes of Directive 2004/109/EC (TD), financial instruments should be taken into account in the context of notifying major holdings, to the extent that such instruments give the holder an unconditional right to acquire the underlying shares or cash on maturity. Consequently, financial instruments should not be considered to include instruments entitling the holder to receive shares depending on the price of the underlying share reaching a certain level at a certain moment in time. Nor should they be considered to cover those instruments that allow the instrument issuer or a third party to give shares or cash to the instrument holder on maturity.

[Note: Recital 13 of the *TD implementing Directive*]

5.3.4 **R** The holder of qualifying *financial instruments* is required to aggregate and, if necessary, notify all such instruments as relate to the same underlying *issuer*.

[Note: article 11(2) of the *TD implementing Directive*]

5.4 **Aggregation of managed holdings**

5.4.1 **R** (1) The *parent undertaking* of a *management company* shall not be required to aggregate its holdings with the holdings managed by the *management company* under the conditions laid down in the *UCITS Directive*, provided such *management company* exercises its voting rights independently from the *parent undertaking*.

- (2) But the requirements for the aggregation of holdings applies if the *parent undertaking*, or another *controlled undertaking* of the *parent undertaking*, has invested in holdings managed by such *management company* and the *management company* has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the *parent* or another *controlled undertaking* of the *parent undertaking*.

[Note: articles 12(4) of the *TD*]

- 5.4.2 **R** (1) The *parent undertaking* of an *investment firm* authorised under *MiFID* shall not be required to aggregate its holdings with the holdings which such *investment firm* manages on a client-by-client basis within the meaning of Article 4(1), point 9, of *MiFID*, provided that:
- (a) the investment firm is authorised to provide such portfolio management;
 - (b) it may only exercise the voting rights attached to such shares under instructions given in writing or by *electronic means* or it ensures that individual portfolio management services are conducted independently of any other services under conditions equivalent to those provided for under the *UCITS Directive* by putting into place appropriate mechanisms; and
 - (c) the *investment firm* exercises its voting rights independently from the *parent undertaking*.
- (2) But the requirements for the aggregation of holdings applies if the *parent undertaking*, or another *controlled undertaking* of the *parent undertaking*, has invested in holdings managed by such *investment firm* and the *investment firm* has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the parent or another *controlled undertaking* of the *parent undertaking*.

[Note: article 12(5) of the *TD*]

5.4.3 **R** For the purposes of the exemption to the aggregation of holdings provided in DTR 5.4.1 R or DTR 5.4.2 R, a *parent undertaking* of a *management company* or of an *investment firm* shall comply with the following conditions:

- (1) it must not interfere by giving direct or indirect instructions or in any other way in the exercise of the voting rights held by the *management company* or *investment firm*; and
- (2) that *management company* or *investment firm* must be free to exercise, independently of the *parent undertaking*, the voting rights attached to the assets it manages.

[Note: article 10(1) of the *TD implementing Directive*]

5.4.4 **R** A *parent undertaking* which wishes to make use of the exemption in relation to *issuers*

subject to this chapter whose shares are admitted to trading on a *regulated market* must without delay, notify the following to the *FSA*:

- (1) a list of the names of those *management companies*, *investment firms* or other entities, indicating the *competent authorities* that supervise them, but with no reference to the issuers concerned; and
- (2) a statement that, in the case of each such *management company* or *investment firm*, the *parent undertaking* complies with the conditions laid down in DTR 5.4.3 R.

The *parent undertaking* shall update the list referred to in paragraph (1) on an ongoing basis.

[Note: article 10(2) of the *TD implementing Directive*]

5.4.5 R Where the *parent undertaking* intends to benefit from the exemptions only in relation to the *financial instruments* referred to in Article 13 of the TD, it shall (in relation to *financial instruments* giving an entitlement to acquire shares which are admitted to trading on a *regulated market*) notify to the *FSA* only the list referred to in paragraph (1) of DTR 5.4.4 R.

[Note: article 10(3) of the *TD implementing Directive*]

5.4.6 R A *parent undertaking* of a *management company* or of an *investment firm* must in relation to *issuers* subject to this chapter whose shares are admitted to trading on a *regulated market* be able to demonstrate to the *FSA* on request that:

- (1) the organisational structures of the *parent undertaking* and the *management company* or *investment firm* are such that the voting rights are exercised independently of the *parent undertaking*;
- (2) the persons who decide how the voting rights are exercised act independently;
- (3) if the *parent undertaking* is a client of its *management company* or *investment firm* or has a holding in the assets managed by the *management company* or *investment firm*, there is a clear written mandate for an arms-length customer relationship between the *parent undertaking* and the *management company* or *investment firm*.

The requirement in (1) shall imply as a minimum that the *parent undertaking* and the *management company* or *investment firm* must have established written policies and procedures reasonably designed to prevent the distribution of information between the *parent undertaking* and the *management company* or *investment firm* in relation to the exercise of voting rights.

[Note: article 10(4) of the *TD implementing Directive*]

5.4.7 **R** For the purposes of paragraph (1) of DTR 5.4.3 R direct instruction means any instruction given by the *parent undertaking*, or another *controlled undertaking* of the *parent undertaking*, specifying how the voting rights are to be exercised by the *management company* or *investment firm* in particular cases.

5.4.8 **R** Indirect instruction means any general or particular instruction, regardless of the form, given by the *parent undertaking*, or another *controlled undertaking* of the *parent undertaking*, that limits the discretion of the *management company* or *investment firm* in relation to the exercise of voting rights in order to serve specific business interests of the *parent undertaking* or another *controlled undertaking* of the *parent undertaking*.

[Note: article 10(5) of the *TD implementing Directive*]

5.4.9 **R** Undertakings whose registered office is in a third country which would have required authorisation in accordance with Article 5 (1) of the *UCITS directive* or with regard to portfolio management under point 4 of section A of Annex 1 to MiFID if it had its registered office or, only in the case of an *investment firm*, its head office within the Community, shall be exempted from aggregating holdings with the holdings of its *parent undertaking* under this *rule* provide that they comply with equivalent conditions of independence as *management companies* or *investment firms*.

[Article 23(6) *TD*]

5.4.10 **R** A third country shall be deemed to set conditions of independence equivalent to those set out in this *rule* where under the law of that country, a *management company* or *investment firm* is required to meet the following conditions:

- (1) the *management company* or *investment firm* must be free in all situations to exercise, independently of its *parent undertaking*, the voting rights attached to the assets it manages;
- (2) the *management company* or *investment firm* must disregard the interests of the *parent undertaking* or of any other *controlled undertaking* of the *parent undertaking* whenever conflicts of interest arise.

5.4.11 **R** A *parent undertaking* of a third country undertaking must comply with the notification requirements in DTR 5.4.4R (1) and DTR 5.4.5 R and in addition:

- (1) must make a statement that in respect of each *management company* or *investment firm* concerned, the *parent undertaking* complies with the conditions of

independence set down in DTR 5.4.10 R; and

- (2) must be able to demonstrate to the *FSA* on request that the requirements of DTR 5.4.6 R are respected.

[Note: article 23 of the *TD implementing Directive*]

5.5 Acquisition or disposal by issuer of shares

5.5.1 **R** An *issuer of shares* must, if it acquires or disposes of its own *shares*, either itself or through a *person* acting in his own name but on the *issuer's* behalf, make public the percentage of voting rights attributable to those *shares* it holds as a result of the transaction as a whole, as soon as possible, but not later than four *trading days* following such acquisition or disposal where that percentage reaches, exceeds or falls below the thresholds of 5% or 10% of the voting rights.

5.5.2 **R** The percentage shall be calculated on the basis of the total number of *shares* to which voting rights are attached.

[Note: article 14 of the *TD*].

5.5.3 **G** Additional requirements in relation to a *listed company* which purchases its own *equity shares* are contained in LR 12.4.6 R.

5.6 Disclosures by issuers

5.6.1 **R** An *issuer* must, at the end of each calendar month during which an increase or decrease has occurred, disclose to the public:

- (1) the total number of voting rights and capital in respect of each class of *share* which it issues.

[Note: article 15 of the *TD*]; and

- (2) the total number of voting rights attaching to *shares* of the *issuer* which are held by it in treasury.

5.6.2 **G** The disclosure of the total number of voting rights should be in respect of each class of *share* which is admitted to trading on a *regulated or prescribed market*.

5.6.3 **R** Responsibility for all information drawn up and made public in accordance with DTR 5.6.1 R lies with the *issuer*.

5.7 Notification of combined holdings

5.7.1 **R** A *person* making a notification in accordance with DTR 5.1.2 R must do so by reference to each of the following:

- (1) the aggregate of all voting rights which the *person* holds as *shareholder* and as the direct or indirect holder of *financial instruments*;
- (2) the aggregate of all voting rights held as direct or indirect *shareholder* (disregarding for this purpose holdings of *financial instruments*); and
- (3) the aggregate of all direct and indirect holdings of *financial instruments*.

5.7.2 **G** The effect of DTR 5.7.1 R is that a *person* may have to make a notification if the overall percentage level of his voting rights remains same but there is notifiable change in the percentage level of one or more of the categories of voting rights held.

5.8 Procedures for the notification and disclosure of major holdings

5.8.1 **R** A notification given in accordance with DTR 5.1.2 R shall include the following information:

- (1) the resulting situation in terms of voting rights;
- (2) the chain of *controlled undertakings* through which voting rights are effectively held, if applicable;
- (3) the date on which the threshold was reached or crossed; and
- (4) the identity of the *shareholder*, even if that *shareholder* is not entitled to exercise voting rights under the conditions laid down in DTR 5.2.1 R and of the *person* entitled to exercise voting rights on behalf of that *shareholder*.

5.8.2 **R** (1) A notification required of voting rights arising from the holding of *financial instruments* must include the following information:

- (a) the resulting situation in terms of voting rights;
 - (b) if applicable, the chain of *controlled undertakings* through which *financial instruments* are effectively held;
 - (c) the date on which the threshold was reached or crossed;
 - (d) for instruments with an exercise period, an indication of the date or time period where *shares* will or can be acquired, if applicable
 - (e) date of maturity or expiration of the instrument;
 - (f) identity of the holder; and
 - (g) name of the underlying *issuer*.
- (2) The notification must be made to the *issuer* of each of the underlying *shares* to which the *financial instrument* relates and, in the case of *shares* admitted to trading on a *regulated market*, to each *competent authority* of the *Home States* of such *issuers*.
- (3) If a *financial instrument* relates to more than one underlying *share*, a separate notification shall be made to each *issuer* of the underlying *shares*.

[Note: articles 11(3), (4) and (5) of the TD implementing Directive]

5.8.3 R The notification to the *issuer* shall be effected as soon as possible, but not later than four *trading days* in the case of a *non-UK issuer* and two *trading days* in all other cases, the first of which shall be the day after the date on which the relevant *person*:

- (1) learns of the acquisition or disposal or of the possibility of exercising voting rights, or on which, having regard to the circumstances, should have learned of it, regardless of the date on which the acquisition, disposal or possibility of exercising voting rights takes effect; or
- (2) is informed about the event mentioned in DTR 5.1.2R (2).

And for the purposes of (1) above a *person* shall, in relation to a transaction to which he is a party or which he has instructed, be deemed to have knowledge of the acquisition, disposal or possibility to exercise voting rights no later than two trading days following the transaction in question and where a transaction is conditional upon the approval by public authorities of the transaction or on a future uncertain event the occurrence of which is outside the control of the parties to the agreement, the parties are deemed to have knowledge

of the acquisition, disposal or possibility of exercising voting rights only when the relevant approvals are obtained or when the event happens.

[Note: articles 12(1), and 12(2) of the TD and article 9 of the *TD implementing Directive*]

- 5.8.4 **R** (1) The notification obligation following transactions of a kind mentioned in DTR 5.2.1 R are individual obligations incumbent upon each direct *shareholder* or indirect *shareholder* mentioned in DTR 5.2.1 R or both if the proportion of voting rights held by each party reaches, exceeds or falls below an applicable threshold.
- (2) In the circumstances in DTR 5.2.1 R Case (h) if a *shareholder* gives the proxy in relation to one shareholder meeting, notification may be made by means of a single notification when the proxy is given provided it is made clear in the notification what the resulting situation in terms of voting rights will be when the proxy may no longer exercise the voting rights discretion.
- (3) If in the circumstances in DTR 5.2.1 R Case (h) the proxy holder receives one or several proxies in relation to one *shareholder* meeting, notification may be made by means of a single notification on or after the deadline for receiving proxies provided that it is made clear in the notification what the resulting situation in terms of voting rights will be when the proxy may no longer exercise the voting rights at its discretion.
- (4) When the duty to make notification lies with more than one *person*, notification may be made by means of a single common notification but this does not release any of those persons from their responsibilities in relation to the notification.

[Note: article 8 of the TD implementing Directive]

5.8.5 **G** It may be necessary for both the relevant *shareholder* and proxy holder to make a notification. For example, if a direct holder of *shares* has a notifiable holding of voting rights and gives a proxy in respect of those rights (such that the recipient has discretion as to how the votes are cast) then for the purposes of DTR 5.1.2 R this is a disposal of such rights giving rise to a notification obligation. The proxy holder may also have such an obligation by virtue of his holding under DTR 5.2.1 R. Separate notifications will not however be necessary provided a single notification (whether made by the direct holder of the *shares* or by the proxy holder) makes clear what the situation will be when the proxy has expired. Where a proxy holder receives several proxies then one notification may be made in respect of the aggregated voting rights held by the proxy holder on or as soon as is reasonably practicable following the proxy deadline. Unless it discloses what the position will be in respect of each proxy after the proxies have expired, such a notification will not relieve any direct holder of the *shares* of its notification obligation (if there is a notifiable

disposal). A proxy which confers only minor and residual discretions (such as to vote on an adjournment) will not result in the proxy holder (or *shareholder*) having a notification obligation.

5.8.6 **R** An undertaking is not required to make a notification if instead it is made by its *parent undertaking* or, where the *parent undertaking* is itself a *controlled undertaking*, by its own *parent undertaking*.

[Note: article 12(3) of the *TD*]

5.8.7 **R** Voting rights must be calculated on the basis of all the *shares* to which voting rights are attached even if the exercise of such rights is suspended and shall be given in respect of all *shares* to which voting rights are attached.

[Note: article 9(1) of the *TD*]

5.8.8 **R** The number of voting rights to be considered when calculating whether a threshold is reached, exceeded or fallen below is the number of voting rights in existence according to the *issuer's* most recent disclosure made in accordance with DTR 5.6.1 R but disregarding voting rights attached to any treasury *shares* held by the *issuer* (in accordance with the *issuer's* most recent disclosure of such holdings).

[[Note: article 9(2) of the *TD* and article 11(3) of the *TD implementing Directive*]

5.8.9 **G** The *FSA* provides a link to a calendar of *trading days* through its website at www.fsa.gov.uk which applies in the *United Kingdom* for the purposes of this chapter.

[Note: article 7 of the *TD implementing Directive*]

5.8.10 **R** A notification in relation to *shares* admitted to trading on a *regulated market*, must be made using the form TR1 available in electronic format at the *FSA's* website at www.fsa.gov.uk.

5.8.11 **R** In determining whether a notification is required a *person's* net (direct or indirect) holding in a *share* (and of relevant *financial instruments*) may be assessed by reference to that *person's* holdings at a point in time up to midnight of the day for which the determination is made (taking account of acquisitions and disposals executed during that day).

5.8.12 **R** (1) An *issuer* not falling within (2) must, in relation to *shares* admitted to trading on a *regulated market*, on receipt of a notification as soon as possible and in any event by not later than the end of the *trading day* following receipt of the notification make public all of the information contained in the notification.

- (2) A *non-UK issuer* and any other *issuers* whose *shares* are admitted to trading on a *prescribed* (but not a *regulated*) market must, on receipt of a notification, as soon as possible and in any event by not later than the end of the third *trading day* following receipt of the notification, make public all of the information contained in the notification.

[Note: article 12(6) of the TD]

5.9 Filing of information with competent authority

- 5.9.1 **R** (1) A *person* making a notification to an *issuer* to which this chapter applies must, if the notification relates to *shares* admitted to trading on a *regulated market*, at the same time file a copy of such notification with the *FSA*.
- (2) The information to be filed with the *FSA* must include a contact address of the *person* making the notification (but such details must be in a separate annex and not included on the form which is sent to the *issuer*).

[Note: article 19(3) of the TD]

5.10 Use of electronic means for notifications and filing

- 5.10.1 **R** Information filed with the *FSA* for the purposes of the chapter must be filed using *electronic means*.

5.11 Non EEA State issuers

- 5.11.1 **R** An *issuer* whose registered office is in a *non-EEA State* will be treated as meeting equivalent requirements to those set out in DTR 5.8.12R (2) (*issuer* to make public notifications of major shareholdings by close of third day following receipt) provided that the period of time within which the notification of the major holdings is to be effected to the *issuer* and is to be made public by the *issuer* is in total equal to or shorter than seven *trading days*.

[Note: article 19 of the TD implementing Directive]

- 5.11.2 **R** An *issuer* whose registered office is in a *non-EEA State* will be treated as meeting equivalent requirements in respect of treasury *shares* to those set out in DTR 5.5.1 R provided that:

- (1) if the *issuer* is only allowed to hold up a maximum of 5% of its own *shares* to which voting rights are attached, a notification requirement is triggered under the law of the third country whenever this the maximum threshold of 5% of the voting rights is reached or crossed;
- (2) if the *issuer* is allowed to hold up to maximum of between 5% and 10% of its own *shares* to which voting rights are attached, a notification requirement is triggered under the law of the *non-EEA state* whenever this maximum threshold and or the 5% threshold of the voting rights are reached or crossed;
- (3) if the *issuer* is allowed to hold more than 10% of its own *shares* to which voting rights are attached, a notification requirement is triggered under the law of the *non-EEA state* whenever the 5% or 10% thresholds of the voting rights are reached or crossed. Notification above the 10% threshold is not required for this purpose.

[Note: article 20 of the *TD implementing Directive*]

5.11.3 **R** An *issuer* whose registered office is in a *non-EEA State* will be treated as meeting equivalent requirements to those set out in DTR 5.6.1 R (Disclosure by *issuers* of total voting rights) provided that the *issuer* is required under the law of the *non-EEA State* to disclose to the public the total number of voting rights and capital within 30 calendar days after an increase or decrease of such total number has occurred.

[Note: article 21 of the *TD implementing Directive*]

5.11.4 **R** An *issuer* whose registered office is in a *non-EEA State* whose relevant laws are considered equivalent by the *FSA* is exempted from the corresponding obligation in this chapter.

5.11.5 **G** The *FSA* maintains a published list of *non-EEA States* which, for the purpose of article 23.1 of the *TD*, are judged to have laws which lay down requirements equivalent to those imposed upon *issuers* by this chapter. Such *issuers* remain subject to the following requirements of DTR 6:

- (1) the filing of information with the *FSA*;
- (2) the language provisions; and
- (3) the dissemination of information provisions.

5.11.6 **R** The notification requirements in DTR 5.1.2 R do not apply to a person in respect of the *shares* of an *issuer* which has its registered office in a *non-EEA State* whose laws have been considered equivalent for the purposes of article 23 of the *TD*.

Section 317**Directors to disclose interest in contracts**

- (1) It is the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a meeting of the directors of the company.
- (2) In the case of a proposed contract, the declaration shall be made:
 - (a) at the meeting of the directors at which the question of entering into the contract first taken into consideration; or
 - (b) if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested,

and, in a case where the director becomes interested in a contract after it is made, the declaration shall be made at the first meeting of the directors held after he becomes so interested.
- (3) For purposes of this section, a general notice given to the directors of a company by a director to the effect that:
 - (a) he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm; or
 - (b) he is to be regarded as interested in any contract which may after the date of the notice be made with a specified person who is connected with him (within the meaning of section 346 below),

is deemed a sufficient declaration of interest in relation to any such contract.
- (4) However, no such notice is of effect unless either it is given at a meeting of the directors or the director takes reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.
- (5) This section applies to a shadow director as it applies to a director, except that a shadow director shall declare his interest, not at a meeting of the directors, but by a notice in writing to the directors which is either:
 - (a) a specific notice given before the date of the meeting at which, if he had been a director, the declaration would be required by subsection (2) to be made; or
 - (b) a notice which under subsection (3) falls to be treated as a sufficient declaration of that interest (or would fall to be so treated apart from subsection (4)).

- (6) Nothing in this section prejudices the operation of any rule of law restricting directors of a company from having an interest in contracts with the company.

Section 318 Directors' service contracts to be open to inspection

- (1) Subject to the following provisions, every company shall keep at an appropriate place:
 - (a) in the case of each director whose contract of service with the company is in writing, a copy of that contract;
 - (b) in the case of each director whose contract of service with the company is not in writing, a written memorandum setting out its terms; and
 - (c) in the case of each director who is employed under a contract of service with a subsidiary of the company, a copy of that contract or, if it is not in writing, a written memorandum setting out its terms.
- (2) All copies and memoranda kept by a company in pursuance of subsection (1) shall be kept at the same place.
- (3) The following are appropriate places for the purposes of subsection (1):
 - (a) the company's registered office;
 - (b) the place where its register of members is kept (if other than its registered office);
 - (c) its principal place of business, provided that is situated in that part of Great Britain in which the company is registered.
- (4) Every company shall send notice in the prescribed form to the registrar of companies of the place where copies and memoranda are kept in compliance with subsection (1), and of any change in that place, save in a case in which they have at all times been kept at the company's registered office.
- (5) Subsection (1) does not apply to a director's contract of service with the company or with a subsidiary of it if that contract required him to work wholly or mainly outside the United Kingdom; but the company shall keep a memorandum:
 - (a) in the case of a contract of service with the company, giving the director's name and setting out the provisions of the contract relating to its duration;
 - (b) in the case of a contract of service with a subsidiary, giving the director's name and the name and place of incorporation of the subsidiary, and setting out the provisions of the contract relating to its duration,at the same place as copies and memoranda are kept by the company in

pursuance of subsection (1).

- (6) A shadow director is treated for purposes of this section as a director.
- (7) Every copy and memorandum required by subsection (1) or (5) to be kept shall ... be open to inspection of any member of the company without charge.
- (8) Subsections (1) and (5) apply to a variation of a director's contract of service as they apply to the contract.
- (9) This section does not require that there be kept a copy of, or memorandum setting out the terms of, a contract (or its variation) at a time when the unexpired portion of the term for which the contract is to be in force is less than 12 months, or at a time at which the contract can, within the next ensuing 12 months, be terminated by the company without payment of compensation.

Section 319**Director's contract of employment for more than 5 years**

- (1) This section applies in respect of any term of an agreement whereby a director's employment with the company of which he is a director or, where he is the director of a holding company, his employment within the group is to continue, or may be continued, otherwise than at the instance of the company (whether under the original agreement or under a new agreement entered into in pursuance of it), for a period of more than 5 years during which the employment:
 - (a) cannot be terminated by the company by notice; or
 - (b) can be so terminated only in specified circumstances.

- (2) In any case where:
 - (a) a person is or is to be employed with a company under an agreement which cannot be terminated by the company by notice or can be so terminated only in specified circumstances; and
 - (b) more than 6 months before the expiration of the period for which he is or is to be so employed, the company enters into a further agreement (otherwise than in pursuance of a right conferred by or under the original agreement on the other party to it) under which he is to be employed with the company or, where he is a director of a holding company, within the group,

this section applies as if to the period for which he is to be employed under that further agreement there were added a further period equal to the unexpired period of the original agreement.

- (3) A company shall not incorporate in an agreement such a term as is mentioned in subsection (1), unless the term is first approved by a resolution of the company in general meeting and, in the case of a director of a holding company, by a resolution of that company in general meeting.

- (4) A resolution of a company approving such a term as is mentioned in subsection (1) shall not be passed at a general meeting of the company unless a written memorandum setting out the proposed agreement incorporating the term is available for inspection by members of the company both:
 - (a) at the company's registered office for not less than 15 days ending with the date of the meeting; and
 - (b) at the meeting itself.

(5) A term incorporated in an agreement in contravention of this section is, to the extent that it contravenes the section, void; and that agreement and, in a case where subsection (2) applies, the original agreement are deemed to contain a term entitling the company to terminate it at any time by the giving of reasonable notice.

(6) In this section:

(a) "employment" includes employment under a contract for services; and

(b) "group", in relation to a director of a holding company, means the group which consists of that company and its subsidiaries;

and for the purposes of this section a shadow director is treated as a director.

Section 320**Substantial property transactions involving directors etc**

(1) With the exceptions provided by the section next following, a company shall not enter into an arrangement:

(a) whereby a director of the company or its holding company, or a person connected with such a director, acquires or is to acquire one or more non-cash assets of the requisite value from the company; or

(b) whereby the company acquires or is to acquire one or more non-cash assets of the requisite value from such a director or a person so connected,

unless the arrangement is first approved by a resolution of the company in general meeting and, if the director or connected person is a director of its holding company or a person connected with such a director, by a resolution in general meeting of the holding company.

Section 324**Duty of director to disclose shareholdings in own company**

- (1) A person who becomes a director of a company and at the time when he does so is interested in shares in, or debentures of, the company or any other body corporate, being the company's subsidiary or holding company or a subsidiary of the company's holding company, is under obligation to notify the company in writing:
 - (a) of the subsistence of his interests at that time; and
 - (b) of the number of shares of each class in, and the amount of debentures of each class of, the company or other such body corporate in which each interest of his subsists at that time.

- (2) A director of a company is under obligation to notify the company in writing of the occurrence, while he is a director, of any of the following events:
 - (a) any event in consequence of whose occurrence he becomes, or ceases to be, interested in shares in, or debentures of, the company or any other body corporate, being the company's subsidiary or holding company or a subsidiary of the company's holding company;
 - (b) the entering into by him of a contract to sell any such shares or debentures;
 - (c) the assignment by him of a right granted to him by the company to subscribe for shares in, or debentures of, the company; and
 - (d) the grant to him by another body corporate, being the company's subsidiary or holding company or a subsidiary of the company's holding company, of a right to subscribe for shares in, or debentures of, that other body corporate, the exercise of such a right granted to him and the assignment by him of such a right so granted;

and notification to the company must state the number or amount, and class, of shares or debentures involved.

- (3) This section applies to shadow directors as to directors; but nothing in it operates so as to impose an obligation with respect to shares in a body corporate which is the wholly-owned subsidiary of another body corporate.

Section 325**Register of directors' interests notified under s 324**

- (1) Every company shall keep a register for the purposes of section 324.
- (2) Whenever a company receives information from a director given in fulfilment of an obligation imposed on him by that section, it is under obligation to enter in the register, against the director's name, the information received and the date of the entry.
- (3) The company is also under obligation, whenever it grants to a director a right to subscribe for shares in, or debentures of, the company to enter in the register against his name:
 - (a) the date on which the right is granted,
 - (b) the period during which, or time at which, it is exercisable,
 - (c) the consideration for the grant (or, if there is no consideration, that fact), and
 - (d) the description of shares or debentures involved and the number or amount of them, and the price to be paid for them (or the consideration, if otherwise than in money).
- (4) Whenever such a right as is mentioned above is exercised by a director, the company is under obligation to enter in the register against his name that fact (identifying the right), the number or amount of shares or debentures in respect of which it is exercised and, if they were registered in his name, that fact and, if not, the name or names of the person or persons in whose name or names they were registered, together (if they were registered in the names of two persons or more) with the number or amount of the shares or debentures registered in the name of each of them.
- (5) Part IV of Schedule 13 has effect with respect to the register to be kept under this section, to the way in which entries in it are to be made, to the right of inspection, and generally.
- (6) For purposes of this section, a shadow director is deemed a director.

Section 346 **"Connected persons", etc**

- (1) This section has effect with respect to references in this Part to a person being "connected" with a director of a company, and to a director being "associated with" or "controlling" a body corporate.
- (2) A person is connected with a director of a company if, but only if, he (not being himself a director of it) is -
 - (a) that director's spouse, [civil partner,] child or step-child; or
 - (b) except where the context otherwise requires, a body corporate with which the director is associated; or
 - (c) a person acting in his capacity as trustee of any trust the beneficiaries of which include -
 - (i) the director, his spouse [or civil partner] or any children or step-children of his, or
 - (ii) a body corporate with which he is associated,

or of a trust whose terms confer a power on the trustees that may be exercised for the benefit of the director, his spouse [or civil partner], or any children or step-children of his, or any such body corporate; or
 - (d) a person acting in his capacity of that director or of any person who, by virtue of paragraph (a), (b) or (c) of his subsection, is connected with that director; or
 - (e) a Scottish firm in which -
 - (i) that director is a partner;
 - (ii) a partner is a person who, by virtue of paragraph (a), (b) or (c) above, is connected with that director, or
 - (iii) a partner is a Scottish firm in which that director is a partner or in which there is a partner who, by virtue of paragraph (a), (b) or (c) above, is connected with that director.
- (3) In subsection (2) -
 - (a) a reference to the child or step-child of any person includes an illegitimate child of his, but does not include any person who has attained the age of 18; and

- (b) paragraph (c) does not apply to a person acting in his capacity as trustee under an employee share scheme or a pension scheme.
- (4) A director of a company is associated with a body corporate if, but only if, he and the persons connected with him, together -
 - (a) are interested in shares comprised in the equity share capital of that body corporate of a nominal value equal to at least one-fifth of that share capital [(excluding any shares in the company held as treasury shares)]; or
 - (b) are entitled to exercise or control the exercise of more than one-fifth of the voting power at any general meeting of that body [(excluding any voting rights attached to any shares in the company held as treasury shares)];
- (5) A director of a company is deemed to control a body corporate if, but only if -
 - (a) he or any person connected with him is interested in any part of the equity share capital of that body or is entitled to exercise or control the exercise of any part of the voting power at any general meeting of that body; and
 - (b) that director, the persons connected with him and the other directors of that company, together, are interested in more than one-half of that share capital [(excluding any shares in the company held as treasury shares)] or are entitled to exercise or control the exercise of more than one-half of that voting power [(excluding any voting rights attached to any shares in the company held as treasury shares)].
- (6) For purposes of subsections (4) and (5) -
 - (a) a body corporate with which a director is associated is not to be treated as connected with that director unless it is also connected with him by virtue of subsection (2)(c) or (d); and
 - (b) a trustee of a trust the beneficiaries of which include (or may include) a body corporate with which a director is associated is not to be treated as connected with a director by reason only of that fact.
- (7) The rules set out in Part 1 of Schedule 13 apply for the purposes of subsections (4) and (5).
- (8) References in those subsections to voting power the exercise of which is controlled by a director include voting power whose exercise is controlled by a body corporate controlled by him; but this is without prejudice to other provisions of subsections (4) and (5).