

*Edmund.*

Certificate No. 1439213

The Companies Acts 1948 to 1967

- and -

The Companies Act 1985

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A PUBLIC COMPANY LIMITED BY SHARES

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NEW

ARTICLES OF ASSOCIATION

of

HHT plc

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(Adopted by Special Resolution passed *25<sup>th</sup> March* 1997)

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Incorporated on 23rd July 1979

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Eversheds  
10 Newhall Street  
Birmingham B3 3LX  
Ref: MWEH  
BIRCORP.31190



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**PRELIMINARY**

1. The regulations contained in Table A to any Companies Act or Companies (Consolidation) Act prior to the Companies Act 1985 shall not apply to the Company. The regulations contained in Table A in the Schedule to the Companies (Table A to F) Regulations 1985 in force at the time of adoption of these Articles (such table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied by these Articles and such regulations (save as so excluded or varied) and these Articles shall be the regulations of the Company.

Regulations 3, 24, 40, 54, 64, 73 to 80 (inclusive), 87, 93, 112 and 118 in Part I of Table A shall not apply to the Company.

**INTERPRETATION**

2. In these Articles and in Table A the following expressions have the following meanings unless inconsistent with the context:-

"the Act"

the Companies Act 1985 including any

	statutory modification or re-enactment thereof for the time being in force.
"these Articles"	these Articles of Association whether as originally adopted or as from time to time altered by special resolution.
"clear days"	in relation to the period of notice means that period excluding the day when notice is given or deemed to be given and the day for which it is given or on which it is to take effect.
"the directors"	the directors for the time being of the Company or (as the context shall require) any of them acting as the board of directors of the Company.
"the Employee Option Scheme"	any share option or other employee share scheme operated by the Company from time to time.
"executed"	includes any mode of execution.
"the holder"	in relation to shares means the member whose name is entered in the register of members as the holder of the shares.
"Mr. Houseman"	Mr. John Howard Houseman.
"Mr. Houseman's Option"	the Option Agreement entered into between Mr. Houseman and the Company under which he is conditionally entitled to subscribe for 16,666 ordinary shares of £1.00 each in the capital of the Company.
"3i"	3i plc.
"the Majority Shareholder"	the person for the time being who holds or controls, including any voting rights held or controlled under the terms of an agreement or a power of attorney, a majority of the voting rights in the Company.
"office"	the registered office of the Company.
"seal"	the common seal of the Company if any.

"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"	includes any interest in a share.
"the United Kingdom"	Great Britain and Northern Ireland.

3. Unless the context otherwise requires, words or expressions contained in these Articles and in Table A shall bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these Articles become binding on the Company. Regulation 1 of Table A shall not apply to the Company.

### **SHARES**

4. Subject to Article 8 the shares shall be at the disposal of the directors, who may allot grant options over or otherwise dispose of them, to such persons at such times and generally on such terms and conditions as they think proper, provided that no shares shall be issued at a discount except as provided by the Act.
5. Subject to the provisions of the Act, any preference shares, may, with the sanction of a special resolution be issued upon the terms that they are, or at the option of the Company are liable to be, redeemed.

### **SHARE CAPITAL**

6. The share capital of the Company at the date of the adoption of these Articles is £274,999 divided into 100,000 Unclassified shares of £1 each, 50,000 Cumulative Convertible Participating Preferred Ordinary Shares ("the Preferred Ordinary Shares") of £1 each and 124,999 Ordinary Shares ("the Ordinary Shares") of £1 each.

The rights attaching to the respective classes of shares shall be as follows:-

#### **6.1. As Regards Income**

The profits which the Company determines to distribute in respect of any financial year shall be applied:-

- 6.1.1. first, in paying to the holders of the Preferred Ordinary Shares as a class in respect of each financial year of the Company a fixed cumulative net cash preferential dividend of a sum equal to 11% of the total subscription price paid therefor ("the Fixed Dividend") which shall accrue on a daily basis and which shall be payable half yearly on the 31st March and 30th September in every year; and

6.1.2. second, in paying to the holders of the Preferred Ordinary Shares as a class in respect of each financial year of the Company a cumulative net cash preferential dividend ("the Participating Dividend") of a sum equal to 8% of the net profit (calculated as hereinafter provided) of the Company and its subsidiaries for the relative financial year; provided also that there shall be deducted from the Participating Dividend a sum equal to the total of any Fixed Dividend paid; the Participating Dividend (if any) shall accrue on a daily basis and shall be payable not more than 14 days after the annual general meeting at which the audited accounts of the Company for the relative financial year are adopted.

For the purpose of calculating the Participating Dividend the expression "net profit" shall mean the net profit of the Company and its subsidiaries calculated on the historical cost accounting basis and shown in the audited consolidated profit and loss account of the Company and its subsidiaries for the relative financial year (to the nearest £1):-

- (i) before any provision is made for any dividend on any share in the capital of the Company or any of its subsidiaries or for any other distribution or for the transfer of any sum to reserves;
- (ii) before deducting any corporation tax (or any other tax levied upon or measured by profits or gains) on the profits earned and gains realised by the Company and its subsidiaries;
- (iii) before deducting any sum in respect of emoluments and pensions payable to the directors or former directors of the Company or of any subsidiary any of whom had during the whole or any part of the relative financial year an interest (within the meaning of Schedule 13 Part I and Section 328 of the Act) in the shares of the Company or of any subsidiary (excluding Mr. Houseman and any person whose interest in shares derives exclusively from the Employee Option Scheme); and
- (iv) before any provision is made for amortisation of goodwill.

6.1.3. third, in paying to the holders of the Ordinary Shares a cumulative dividend for each financial year on each share of an amount equal to the amount of dividend paid on each Preferred Ordinary Share ("the Ordinary Shareholders' Dividend");

6.1.4. fourth, in distributing an amount (if any) equal to one third of the distributable profits of the Company (as defined in Section 263 of the Act) earned in that year (less a sum equal to the total of any Fixed Dividend, Participating Dividend and Ordinary Shareholders' Dividend paid or declared in respect of that year) amongst the holders of the Preferred Ordinary Shares and the holders of the Ordinary Shares (pari passu as if the same constituted one class of share); and

6.1.5. fifth, in distributing the balance of the profits resolved to be distributed (if any) amongst the holders of the Preferred Ordinary Shares and the holders of the Ordinary Shares (pari passu as if the same constituted one class of share).

Every dividend shall be distributed to the appropriate shareholders pro-rata according to the amounts paid up or credited as paid up (excluding for the avoidance of doubt any premium paid thereon) on the shares held by them respectively.

## 6.2. **As Regards Capital**

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

- (i) first, in paying to the Preferred Ordinary Shareholders the subscription price per share together with a sum equal to any arrears deficiency or accruals of the dividends on the Preferred Ordinary Shares calculated down to the date of the return of capital and payable irrespective of whether such dividend has been declared or earned or not; and
- (ii) second, in paying to the Ordinary Shareholders per share a sum equal to the amount of capital paid on each Preferred Ordinary Share;

and the balance of such assets shall be distributed amongst the holders of the Preferred Ordinary Shares and the holders of the Ordinary Shares (pari passu as if the same constituted one class of share) in proportion to the amounts paid up or credited as paid up (excluding for the avoidance of doubt any premium paid thereon) on the Preferred Ordinary Shares and Ordinary Shares held by them respectively.

## 6.3. **As Regards Conversion**

The holders of the Preferred Ordinary Shares shall be entitled at any time to convert the whole (but not a part only) of the Preferred Ordinary Shares into Ordinary Shares on a one for one basis and the following provisions shall have effect:-

- (i) such conversion shall be effected either by notice in writing signed by the holder or holders of the majority of the Preferred Ordinary Shares given to the Company or by an ordinary resolution passed at a separate meeting of the holders of the Preferred Ordinary Shares which meeting shall be convened by the directors forthwith upon the request in writing of any holder of such shares;
- (ii) conversion of the Preferred Ordinary Shares into Ordinary Shares shall take effect immediately upon the date of delivery of such notice to the Company or (as the case may be) upon the date on which such resolution is passed (“the Date of Conversion”);
- (iii) on the date of conversion the Company shall pay a dividend to the holders of the Preferred Ordinary Shares of a sum equal to any arrears or accruals of the Fixed Dividend and the Participating Dividend and to the holders of the Ordinary Shares a dividend on each share of an amount equal to the amount of dividend paid on each Preferred Ordinary Share. The Fixed Dividend will be calculated on a daily basis to the date of conversion. The Participating Dividend shall be calculated pro-rata according to the net profits of the Company and its subsidiaries for the relevant financial year down to the date of conversion;
- (iv) forthwith after the Date of Conversion the holders of the Ordinary Shares resulting from the conversion shall send to the Company share certificates in respect of their respective holdings of Preferred Ordinary Shares and the Company shall issue to such holders respectively shares certificates for the Ordinary Shares resulting from the conversion; and
- (v) the Ordinary Shares resulting from the conversion shall for purposes of dividend and voting rank as from the date of conversion pari passu in all respects with all other Ordinary Shares in the capital of the Company.

### **CLASS RIGHTS**

7. Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, with the consent in writing of the holders of three fourths of the issued shares of that class or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of such shares, but not otherwise. To every such separate meeting all the provisions of these Articles relating to general meetings of the Company shall, mutatis mutandis, apply, except that the necessary quorum shall be two persons at least holding or representing by proxy one third in nominal amount of the issued shares of the class (but so that

if at any adjourned meeting of such holders a quorum as above defined is not present those members who are present shall be a quorum) and that the holders of shares of the class shall, on a poll, have one vote in respect of every share of the class held by them respectively provided that, without prejudice to the generality of this Article, the special rights attached to the Preferred Ordinary Shares shall be deemed to be varied:-

- (i) except in respect of the implementation or operation of Mr. Houseman's Option or of the Employee Option Scheme, by any alteration or increase or reduction of the authorised or issued capital of the Company or of any of its subsidiaries, or by any variation of the rights attached to any of the shares for the time being in the capital of the Company or of any of its subsidiaries; or
- (ii) by the sale of the undertaking of the Company or of any of its subsidiaries or any substantial part thereof; or
- (iii) by the disposal of any share in the capital of any subsidiary of the Company;
- (iv) by any alteration of the restrictions on the powers of the directors of the Company and its subsidiaries to borrow give guarantees or create charges; or
- (v) by the application by way of capitalisation of any sum in or towards paying up any share, debenture or debenture stock of the Company; or
- (vi) by the calling of a meeting of the Company for the purpose of considering a resolution for the winding up of the Company; or
- (vii) by the calling of a meeting of the Company for the purpose of considering a resolution to approve a contract by the Company to purchase any of its shares; or
- (viii) by the calling of a meeting of the Company for the purpose of considering a resolution for amending the Memorandum or Articles of Association of the Company.

#### **FURTHER ISSUE OF SHARES**

8. Notwithstanding any other provisions of these Articles, except in relation to any shares subject to Mr. Houseman's Option or the Employee Option Scheme, special resolutions pursuant to section 95(1) and (2) of the Act shall not operate to relieve the directors from the obligation to offer to any member of the 3i Group for the time being holding shares in the capital of the Company such a proportion of any shares forming part of the equity share capital of the Company which the directors determine to issue as the aggregate nominal value of shares in the equity share capital of the Company for the time being



held by such member of the 3i Group bears to the total issued equity share capital of the Company immediately prior to the issue of the shares. Any shares issued to such member of the 3i Group pursuant to such offer shall be issued upon such terms and conditions as to payment and otherwise as 3i shall agree provided that 3i shall not be entitled to require such shares to be offered to such member of the 3i Group on terms more favourable than those upon which the remaining shares are offered to the other members of the Company and so that such shares shall at the request of 3i be registered in the name or names of any one or more members of the 3i Group. All such resolutions shall expressly provide that any power given to the directors is modified to that extent.

### **LIEN**

9. The Company shall have a first and paramount lien on all shares whether fully paid or not, standing registered in the name of any person indebted or under liability to the Company, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company. Regulation 8 of Table A shall be modified accordingly.

### **TRANSFER OF SHARES**

10. The instrument of transfer of a fully paid share shall not be executed by or on behalf of the transferee and regulation 23 of Table A, shall be modified accordingly.
11. Any direction (by way of renunciation nomination or otherwise) by a member entitled to an allotment or transfer of shares to the effect that such shares or any of them be allotted or issued or transferred to some person other than that member or any sale or other disposition for consideration or otherwise by whomsoever made and whether effected by an instrument in writing or not of a beneficial interest in a share shall for the purposes of Articles 12 to 26 (inclusive) below be deemed to be a transfer whereupon, if and when required by notice in writing by the holder or holders of (in aggregate) a majority in nominal value of the other shares in the Company so to do ("the Call Notice") the member in question shall, except where the disposition is in favour of a person to whom a transfer of shares may be made by a member pursuant to these Articles of Association, be bound to give a Sale Notice in respect of all the shares registered in the name of such member and the provisions of Article 20 shall then apply thereto subject to the following provisions namely:-
  - 11.1. in the event of a Sale Notice being given or deemed to be given under this Article other than by or in respect of the Majority Shareholder or any person whose interest in shares derives from him the aggregate consideration requested or receivable in respect of the total number of shares in question shall not in any event exceed the lesser of their market value calculated in accordance with Article 20(iv) and the price

at which they were originally subscribed for together with any premium thereon; and

- 11.2. in the event of a member or members failing to serve a Sale Notice pursuant to Article 11 within seven days of being requested to do so he or they shall upon the expiration of such period be deemed to have given a Sale Notice in respect of all shares then registered in his or their respective names. The directors may in such circumstances authorise some person to execute a transfer of the shares to the purchasing member or members and the Company may give a good receipt for the purchase price of such shares, and may register the purchasing member or members as the holders thereof and issue to them certificates for the same and thereupon the purchasing member or members shall become indefeasibly entitled thereto. The retiring member or members shall in such case be bound to deliver up his or their share certificate or certificates and on such delivery shall be entitled to receive the purchase price which shall in the meantime be held by the Company on trust for them without interest.
12. The directors shall register any transfer of shares in the Company in the circumstances prescribed in Articles 13 to 26 (inclusive) but in all other circumstances the directors may, in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any shares whether or not it is fully paid.
13. Any share may be transferred at any time by a member to any other member holding shares of the same class, or by a member to his spouse or to any issue of the transferring member.
14. Subject and without prejudice to the provisions of regulation 30 of Table A, any share standing in the name of the Majority Shareholder or any person whose interest in shares derives from him may at any time be transferred by his or their personal representatives to the widow or widower or any issue of such deceased member or to any other member holding shares of the same class, or be transferred to or placed in the names of his personal representatives or of the trustees for the time being of his will.
15. Without prejudice to regulation 5 of Table A, any share may be transferred at any time by a member to any persons who are shown to the satisfaction of the directors to be the trustees of an Approved Settlement (as defined below) and receiving such share in that capacity. For the purposes of these Articles the expression "Approved Settlement" shall mean a settlement made by a member in favour of himself, his spouse or any of his issue or any one or more of them and the expression "member" shall not include any such personal representatives or trustees as are referred to in the foregoing provisions of these Articles.
16. Without prejudice to regulation 5 of Table A, and subject to Articles 21 and 22, any share which pursuant to the provisions of Articles 14 and 15 (inclusive)

is standing in the name of the personal representatives or trustees for the time being of the will of a deceased ex-member or standing in the names of the trustees for the time being of an approved settlement may be transferred at any time:-

- (i) to any persons who are shown to the satisfaction of the directors to be new trustees of that will or of that settlement; or
  - (ii) to any widow, widower, spouse or issue of that deceased ex-member or of the person who made that settlement; or
  - (iii) to that person; or
  - (iv) to any other member holding shares of the same class.
17. Without prejudice to regulation 5 of Table A, any shares held by a member as nominee or trustee may be transferred to any other person or persons provided that the transferor certifies to the Company and the Company is satisfied that no beneficial interest in the shares passes by reason of the transfer.
18. Any share may be transferred at any time by a member to a company which is the holding company or a subsidiary of the member making such transfer or to another subsidiary of the holding company of that member. In particular and notwithstanding any other provisions of these Articles a transfer of any shares in the Company held by any member of the 3i Group may be made between the member in the 3i Group holding such shares and any other member in the 3i Group without restriction as to price or otherwise.
19. Any share may be transferred at any time by a member to any other person with the consent of all the other members for the time being of the Company.
20. Save as provided in Articles 13 to 26 (inclusive) no member (hereinafter called "the Retiring Member") shall be entitled to transfer any shares whether by way of sale or otherwise without first causing the same to be offered to the other members of the Company (excluding any member who is also a member of the 3i Group) at market value, as determined in accordance with the provisions of this Article 20:-
- (i) in order to ascertain whether any other members of the Company (subject to the exception mentioned above) are willing to purchase the shares at market value, the Retiring Member shall give a notice in writing (a "Sale Notice") to the Company that he desires to sell the same. Every Sale Notice shall specify the number and distinguishing numbers (if any) of the shares which the Retiring Member desires to sell, and shall constitute the Company the agent of the Retiring Member for the sale of such shares to the other members of the Company at market value. The Sale Notice shall become irrevocable after the price has been agreed or seven days

after the date of the Chartered Accountant's certificate hereinafter mentioned;

- (ii) the Company shall, with a view to finding members (the "Purchasing Members") willing to purchase the shares, offer the shares comprised in a Sale Notice to the members of the Company (other than the Retiring Member and any member or members of the 3i Group which is or are also then a member or members of the Company) in proportion as nearly as may be to the nominal amount of their holdings of shares in the Company. Such offer shall if not accepted within twenty eight days be deemed to be declined, and the directors shall forthwith make such arrangements as they shall think just and reasonable as regards the finding of Purchasing Members for any shares not accepted by members to whom they shall in the first instance have been so offered as aforesaid;
- (iii) if the Company shall within thirty days after service of a Sale Notice find Purchasing Members in respect of all or (except where the Sale Notice provides otherwise) any of the shares comprised therein it shall give notice thereof to the Retiring Member and the Retiring Member shall give notice to such Purchasing Members, who shall be bound to complete the purchase within fourteen days from the service of such last mentioned notice;
- (iv) the market value of shares in respect of which a Sale Notice is served upon the Company shall in default of agreement thereon between the Retiring Member and the Purchasing Members be calculated on the basis of a sale of those shares (as at the date of such notice) as between a willing vendor and a willing purchaser (ignoring any reduction in value which may be attributed to those shares by virtue of the fact that they represent a minority interest) and shall be certified by an independent chartered accountant of not less than 5 years standing to be agreed between the parties and in default of agreement to be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. In so certifying the said chartered accountant shall be considered to be acting as an expert and not as an arbitrator and his decision shall be final and binding on all parties. For the avoidance of any doubt the agreement of any member of the 3i Group which is for the time being a holder of shares in the Company to the market value of shares (agreed or determined as aforesaid) in respect of which the foregoing provisions apply shall not be required;
- (v) in the event of the Retiring Member failing to carry out the sale of any shares which he shall have become bound to transfer as aforesaid, the directors may authorise some person to execute a transfer of the shares to the Purchasing Members and the Company may give a good receipt for the purchase price of such shares, and

may register the Purchasing Members as holders thereof and issue to them certificates for the same, and thereupon the Purchasing Members shall become indefeasibly entitled thereto. The Retiring Member shall in such case be bound to deliver up his certificate for the said shares, and on such delivery shall be entitled to receive the said purchase price which shall in the meantime be held by the Company on trust for the Retiring Member, without interest, and if such certificate shall comprise any shares which he has not become bound to transfer as aforesaid the Company shall issue to him a balance certificate for such shares;

- (vi) if the Company shall not, within the space of thirty days after service of a Sale Notice, find Purchasing Members for all of the shares comprised therein, or if, through no default of the Retiring Member, the purchase of any shares shall not be completed within fourteen days after the service on the Retiring Member of the notice provided for above, the Retiring Member shall at any time within six months after the expiry date of the said thirty days or the service on him of the said notice as the case may be, be at liberty to transfer to any person as he may wish (and at market value or any higher or lower price) the shares comprised in the Sale Notice which were not accepted by Purchasing Members or in respect of which the sale was not completed as aforesaid. No share shall be sold at a lower price than such market value without first serving a further sale notice upon the Company specifying that lower price as the price at which such shares are offered. The provisions of this Article 20 shall apply to such sale notice save that the period for acceptance shall be seven days instead of twenty eight days and that the market value shall be such lower price;
- (vii) in this Article 20 the expression "Purchasing Members" shall where the context admits include a single purchasing member;
- (viii) the cost of obtaining any certificate by an independent chartered accountant above shall be borne by the members of the Company excluding any member of the 3i Group which is for the time being a holder of shares in the Company at the date of the Sale Notice in proportion to their respective shareholdings provided that if any member shall within 12 months of revoking a sale notice serve a further Sale Notice comprising any of the shares comprised in such earlier notice, the cost of obtaining a certificate relating to such further Sale Notice shall be borne wholly by such member.

21. Save in the case of the Majority Shareholder or any person whose interest in shares derives from him any member who is a director or employee (or both) of the Company or any subsidiary of the Company and any member whose interest in any shares derives from such a director or employee shall, upon their or such director or employee's death or bankruptcy or upon their or such

director or employee ceasing to hold office as a director of or to be employed by the Company (or both) or any subsidiary of the Company, give a notice to the Company ("the Forced Sale Notice") in respect of all shares then registered in his name or their respective name or names to which the following provisions will apply, namely:-

- 21.1. in the event of a Forced Sale Notice relating to shares issued to Mr. Houseman or any person holding shares through him the Company shall be bound within 42 days of receiving or being deemed to receive the same to purchase and Mr. Houseman or such other member shall then be bound to sell the total number of shares in question for the Purchase Price provided it has sufficient distributable reserves and may otherwise lawfully do so. If the Company shall not purchase these shares within such period the Majority Shareholder shall be bound to do so at the Purchase Price within 21 days after the expiry of the 42 day period and Mr. Houseman or such other member shall be bound to sell to him on such terms;
- 21.2. in the event of a Forced Sale Notice relating to shares issued under the Employee Option Scheme the provisions of Article 20 shall apply;
- 21.3. in the event of a Forced Sale Notice being given or deemed to be given pursuant to this Article 21 the aggregate consideration requested or receivable in respect of the total number of shares in question shall not in any event exceed the lesser of their market value calculated in accordance with Article 20(iv) and the price (including premium) at which they were subscribed for ("the Purchase Price");
- 21.4. in the event of such member failing to give a Forced Sale Notice within seven days of being requested to do so he or they shall upon the expiration of such period be deemed to have given a Forced Sale Notice in respect of all shares then registered in his or their respective names; and
- 21.5. in the event of any person failing to carry out the sale of any such shares which they shall have become bound to transfer as aforesaid the directors may authorise some person to either carry out their sale to the Company or to execute a transfer or transfers to the purchasing member or members (as the case may be) and the Company may hold the purchase price or give a good receipt for the purchase of such shares, and may treat the shares purchased as cancelled and reduce the issued share capital of the Company by their nominal amount or register the purchaser or purchasers as the holders thereof ( as the case may be). The retiring members shall in such case be bound to deliver up their certificates for the said shares and on such delivery shall be entitled to receive the said Purchase Price which shall in the meantime be held on trust for the retiring members without interest.

22. The provisions of Articles 13 to 19 (inclusive) and 22 to 26 (inclusive) shall not apply in the event of the Company purchasing its own shares under this Article pursuant to the provisions of the Act.

### **LIMITATION ON TRANSFER OF CONTROL**

23. No sale or transfer (“a Relevant Disposal”) of any shares (“the Specified Shares”) conferring the right to vote at general meetings of the Company which would result if made and registered in a Controlling Interest in the Company being obtained by a company in the share capital of which some or all of the persons who are members of the Company on the date of adoption of these Articles (“the Adoption Date”) have or as a result of the Relevant Disposal or a series of transactions including the Relevant Disposal are able to acquire a controlling interest shall be made and registered without the previous written consent of 3i in any event nor shall a Relevant Disposal which would result if made and registered in a person or persons who was or were not a member or members of the Company on the Adoption Date obtaining a Controlling Interest in the Company be made or registered without the previous written consent of 3i unless in any such case, before the transfer is lodged for registration, the proposed transferee or transferees or his or their nominees has or have offered to purchase the whole of the shares registered in the name of any member of the 3i Group or their nominees at the Specified Price (as defined in Article 25).
24. For the purposes of Articles 23, 24, 25 and 26 the expression “a Controlling Interest” shall mean shares conferring in the aggregate 50% or more of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue and conferring the right to vote at all general meetings. All other regulations of the Company relating to the transfer of shares and the right to registration of transfers shall be read subject to the provisions of this Article. Notwithstanding anything in this Article no transfer of any share shall after registration of such transfer be deemed to be invalid by reason only that it was made in contravention of the foregoing provisions, if the directors shall prior to the registration thereof have obtained from the transferor and transferee a Statutory Declaration that so far as the transferor and the transferee are respectively aware the transfer is not being made directly or indirectly in pursuance of any arrangement for the sale or acquisition of a Controlling Interest in the Company and will not result in such a Controlling Interest being acquired by any person or persons who was or were not a member or members of the Company on the Investment Date or not a permitted transferee or transferees under Articles 13 to 26 (inclusive).
25. For the purpose of Articles 23 to 26 (and without prejudice to Articles 10 and 11):-
- 25.1. the expressions “transfer”, “transferor” and “transferee” shall include respectively the renunciation of a renounceable letter of allotment, the original allottee and the renounee under any such letter of allotment; and

- 25.2. "the Specified Price" shall mean a price per share at least equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees for the specified shares to the holders thereof plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified Shares which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable for the Specified Shares and in the event of disagreement the calculation of the Specified Price shall be referred to an umpire (acting as expert and not as arbitrator) nominated by and acting at the joint expense of the parties concerned (or, in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales) whose decision shall be final and binding.
26. In the event of an offer being made to acquire the entire issued share capital of the Company which the Majority Shareholder wishes to accept ("the Offer"):-
- 26.1. following the registration of Mr Houseman as a member of the Company, at the request of the directors, Mr. Houseman shall be bound to accept the Offer in respect of all shares held by him, and any member or members whose interest in shares derives from Mr Houseman whether directly or indirectly, at the request of the directors, shall be bound to accept the Offer in respect of all shares held by them if:-
- 26.1.1. the Offer is made at any time before 1st January 2000 and the price payable under the Offer for the total number of shares held by Mr Houseman and any persons deriving their interest in shares from him is in aggregate greater than £300,000 (for the avoidance of doubt if the price payable under the Offer is less than £300,000 then the other shareholders may make up any shortfall and Mr. Houseman will then be bound to accept the Offer); or
- 26.1.2. the Offer is made at any time on or after 1st January 2000 and the proposed transferee or transferees or his or their nominees has or have offered to purchase the whole of the shares registered in the name or names of Mr. Houseman and/or such members at the Specified Price as defined in Article 25;
- 26.2. at the request of the directors, any member who is a director or employee (or both) of the Company or any subsidiary of the Company and any member whose interest in shares derives from such a director or employee shall accept the Offer in respect of all the shares then registered in his or their respective names provided the proposed transferee or transferees or his or their nominees has or have offered to purchase the whole of the shares registered in the name or names of such members at the Specified Price as defined in Article 25.



In the event of any person or persons referred to above not accepting the Offer within 7 days of the date upon which it is made the directors may authorise some person to accept the Offer on their behalf in respect of their shares and execute a transfer of the shares to the purchaser and the Company may give a good receipt for the purchase price for such shares, and may register the purchaser as the holder thereof and issue a share certificate for the same, and thereupon the purchasing member or members shall become indefeasibly entitled thereto. Those members who have not accepted the Offer shall in such case be bound to deliver up their share certificates for the said shares, and on such delivery shall be entitled to receive the said purchase price which shall in the meantime be held by the Company on trust for them, without interest.

### **VOTING**

27. Subject to any special rights or restrictions as to voting attached to any shares by or in accordance with the Articles, on a show of hands every member who (being an individual) is present in person or (being a corporation) is present by a representative not being himself a member, shall have one vote, and on a poll every member who is present in person or by proxy or (being a corporation) is present by a representative or by proxy shall (except as hereinafter provided) have one vote for every £1 in nominal amount of shares in the capital of the Company of which he is the holder. Provided that the Preferred Ordinary Shareholders shall be entitled to receive notice of all general meetings but shall not be entitled to attend or vote at any general meetings unless at the date of the notice or requisition to convene the meeting the Fixed Dividend on the Preferred Ordinary Shares is six months in arrear and so that for this purpose the Fixed Dividend on the Preferred Ordinary Shares shall be deemed to be payable half yearly on the 31st March and 30th September in every year provided such a right shall cease once the Fixed Dividend is no longer in arrear.

### **DIRECTORS**

28. Unless and until otherwise determined by the Company in general meeting the number of the directors shall not be less than two.
29. A director shall not be liable to retirement by rotation and shall not be required to hold any share qualification but shall be entitled to receive notice of and to attend and speak at all general meetings of the Company or of any class of members.
30. In addition to and without prejudice to regulation 83 of Table A any director who serves on any committee or who devotes special attention to the business of the Company or who otherwise performs services which in the reasonable opinion of the directors are outside the scope of the ordinary duties of a director may be paid such extra remuneration by way of salary, percentage of profits or otherwise as the directors may determine.

31. Every director shall have the power to appoint either any other director or alternatively any person approved for that purpose by a resolution of the directors, to act as alternate director during his absence and at his discretion to remove such alternate director, and on such appointment being made the alternate director, except as regards remuneration and the power to appoint an alternate, shall be subject in all respects to the terms and conditions existing with reference to the other directors of the Company, and every alternate director, while so acting, shall exercise and discharge all the functions, powers and duties of the director whom he represents. Any director, acting as alternate, shall have an additional vote for every director for whom he acts as alternate.
32. All appointments and removals of an alternate director shall be effected by instrument in writing signed by the appointor and delivered at the registered office of the Company.

### **SPECIAL DIRECTORS**

33. Notwithstanding any limitation on the number of directors imposed by the Articles of Association of the Company 3i shall be entitled to appoint as a director of the Company any person (hereinafter referred to as "a Special Director") approved by the directors of the Company (whose approval shall not be unreasonably withheld or delayed) and to remove from office any person so appointed and (subject to such approval) to appoint another person in his place. A Special Director shall not be required to hold any share qualification nor shall he be subject to retirement by rotation. The remuneration to be paid to a Special Director shall be payable by the Company and shall be such sum as may be agreed between him and the Company or failing agreement such reasonable sum as shall be fixed by 3i.

### **DIRECTORS BORROWING POWERS**

34. Subject as hereinafter provided the directors may exercise all the powers of the Company (whether express or implied):-
  - 34.1. of borrowing or securing the payment of money;
  - 34.2. of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts; and
  - 34.3. of mortgaging or charging the property assets and uncalled capital of the Company and issuing debentures but so that:-
    - (i) the directors of the Company shall procure that the aggregate amounts for the time being remaining undischarged by virtue of any of the foregoing operations and by virtue of any like operations by any subsidiary of the Company (including any liability (whether ascertained or contingent) under any guarantee for the time being in force but excluding inter-

company loans, mortgages and charges) shall not without the previous sanction of the Preferred Ordinary Shareholders exceed a sum which is the greater of £800,000 or twice the aggregate of the nominal amount of the share capital of the Company for the time being issued and paid up or credited as paid up and the amounts for the time being standing to the credit of the capital and revenue reserves and the share premium account of the Company and all its subsidiaries (excluding any amounts arising from the writing up of the book values of any capital assets any amounts attributable to goodwill and minority interests and any amounts set aside for future taxation) all as shown by the then latest audited consolidated balance sheet of the Company;

- (ii) no such sanction shall be required to the borrowing of any sum of money intended to be applied in the repayment (with or without premium) of any moneys then already borrowed and outstanding, notwithstanding that the same may result in such limit being exceeded;
- (iii) no lender or other person dealing with the Company shall be concerned to see or enquire whether the limit imposed by this Article is observed and no debt or liability incurred in excess of such limit shall be invalid and no security given for the same shall be invalid or ineffectual except in the case of express notice to the lender or recipient of the security or person to whom the liability is incurred at the time when the debt or liability was incurred or the security given that the limit hereby imposed has been or was thereby exceeded;
- (iv) except with the previous sanction of the Preferred Ordinary Shareholders no mortgage or charge shall be created on any part of the undertaking property or assets of the Company or any subsidiary of the Company except for the purpose of securing moneys borrowed from any member of the 3i Group with interest thereon and from bankers with interest thereon and bank charges.

#### **POWERS AND DUTIES OF DIRECTORS**

- 35. A director may vote in respect of any contract or arrangement in which he is interested and be counted in the quorum present at any meeting at which any such contract or arrangement is proposed or considered and if he shall so vote his vote shall be counted. This Article shall have effect in substitution for regulation 94 and 97 of Table A which shall not apply to the Company.
- 36. The directors may exercise the powers of the Act to give or award pensions, annuities, gratuities and superannuation or other allowances or benefits to any persons who are or have at any time been employed by or in the service of the

Company or who are or have at any time been directors or officers of the Company and holding or who held any salaried employment or office in the Company, and to the wives, widows, children and other relatives and dependants of any such person, and may set up, establish, support and maintain pension, superannuation or other funds or schemes (whether contributory or non-contributory) for the benefit of such persons as are hereinbefore referred to or any of them or any class of them. Any director shall be entitled to receive and retain for his own benefit any such pension, annuity, gratuity, allowance or other benefit and may vote as a director in respect of the exercise of any of the powers by this Article conferred upon the directors notwithstanding that he is or may be or become interest therein.

37. A director present at any meeting of directors or committee of directors need not sign his name in a book kept for that purpose, and regulation 100 of Table A, shall be modified accordingly.
38. No person shall be disqualified from being appointed a director of the Company and no director of the Company shall be required to vacate that office by reason only of the fact that he has attained the age of 70 years or any other age, nor need the age of any such person or director nor the fact that any such person or director is over 70 or any other age be stated in any notice or resolution relating to his appointment or re-appointment, nor shall it be necessary to give special notice under the Act of any resolution appointing, re-appointing or approving the appointment of a director by reason of his age.

#### **PROCEEDINGS OF DIRECTORS**

39. A resolution in writing signed by all the directors or their respective alternates for the time being shall be as effective as a resolution passed at a meeting of the directors duly convened and held, and may consist of several documents in the like form each signed by one or more of the directors, and signature in the case of a body corporate which is a director shall be sufficient if made by a director thereof or its duly appointed attorney.

Any director including a Special Director and an Executive Director may participate in a meeting of the directors or a committee of the directors of which he is a member by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the Act, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or if there is no such group, where the chairman of the meeting then is.

## **EXECUTIVE DIRECTORS**

40. The directors may from time to time appoint to the office of Executive Director any employee of the Company. The Executive Directors shall not exceed ten in number and shall have such duties and powers as the directors may from time to time determine. An Executive Director shall not be required to hold any share qualification. The Executive Directors shall not be entitled to notice of nor to attend at meetings of the directors except in cases where the directors resolve that their presence is required and they shall not vote on any resolution submitted to a meeting of the directors other than a resolution on which the meeting decides that they shall be allowed to vote. The appointment of an Executive Director shall not constitute him as a director as defined in the Act or for the purposes of Table A and he shall remain at all times and in all respects subject to the control of the directors and he may at any time be removed or suspended from office by the directors.

An Executive Director may be paid out of the funds of the Company such remuneration (if any) for his services as an Executive Director as the directors shall from time to time determine in addition to his remuneration from his other employment with the Company.

For the avoidance of doubt Mr. Houseman shall under no circumstances be deemed to be an Executive Director as defined in this Article.

## **DISQUALIFICATION OF DIRECTORS**

41. The office of a director shall be vacated:-
- (i) if by notice in writing to the Company he resigns the office of director; or
  - (ii) if he becomes bankrupt or enters into any arrangement with his creditors; or
  - (iii) if he is prohibited from being a director by any order made under any of the provisions of the Act; or
  - (iv) if he becomes of unsound mind; or
  - (v) if he is removed from office by a resolution duly passed pursuant to the Act.

## **AUDIT**

42. Auditors shall be appointed and their duties regulated in accordance with the Act.

## **NOTICES**

43. Any notice or document (including a share certificate) may be served on or delivered by any member or by the Company either personally or by sending it by first-class letter post to the member at his her or its registered address or (if the member has no registered address within the United Kingdom) to the address, if any, within the United Kingdom supplied by the member to the Company as his her or its address for the service of notices. Where a notice or other document is served or sent by first-class post, service or delivery shall be deemed to be effected at the expiration of twenty four hours after the said notice or other document is posted, and in proving such service or delivery it shall be sufficient to prove that the cover containing the same was property addressed, stamped and posted.

## **WINDING UP**

44. In Regulation 117 of Table A, the words "with the like sanction" shall be inserted immediately before the words "determine how the division".

## **INDEMNITY**

45. Every director or other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities which the director may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 144 or 127 of the Act in which relief is granted to him by the Court, and no director or other office 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 his office or in relation thereto. But this Article shall only have effect insofar as its provisions are not avoided by Section 310 of the Act.