

EEH (BIDCO) LIMITED

AND

EXCELSOFT TECHNOLOGIES PRIVATE LIMITED

**SUBSCRIPTION AND SHAREHOLDERS
AGREEMENT RELATING TO
CYCLONEHAVEN LIMITED**

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PROJECT SOCRATES

TRANSACTION BIBLE:

19 APRIL 2010

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TRANSACTION BIBLE

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Principal Documents

1. Subscription and Shareholders Agreement dated 19 April 2010 made between EEH (Bidco) Limited and Excelsoft Technologies Private Limited.
2. Master Services Agreement dated 19 April 2010 made between Excelsoft Technologies Private Limited and Cyclonehaven Limited.
3. Services Agreement dated 19 April 2010 made between Cyclonehaven Limited and Nelson Thornes Limited.
4. IP Licence Agreement dated 19 April 2010 made between Cyclonehaven Limited and Excelsoft Technologies Private Limited.
5. IP Assignment Agreement dated 19 April 2010 made between Cyclonehaven Limited and Excelsoft Technologies Private Limited.

Ancillary Documents / Completion Deliverables

6. Consent Letter from Bridgepoint Capital Limited dated 16 April 2010.
7. Commitment Letter from Nelson Thornes Limited dated 19 April 2010.
8. Certified Copy Board Resolutions of Excelsoft Technologies Private Limited.
9. Minutes of a meeting of the Directors of Nelson Thornes Limited dated 19 April 2010.
10. Minutes of a meeting of the Directors of EEH (Bidco) Limited dated 19 April 2010.
11. Minutes of a meeting of the Directors of Cyclonehaven Limited dated 19 April 2010.
12. Written Resolution of Cyclonehaven Limited dated 19 April 2010.
13. Form AP01 relating to the appointment of Sudhanva Dhananjaya as a director of Cyclonehaven Limited on 19 April 2010.
14. New Articles of Association of Cyclonehaven Limited adopted on 19 April 2010.
15. Form SH01 relating to the allotment of A Ordinary Shares and B Ordinary Shares in Cyclonehaven Limited on 19 April 2010.

THIS AGREEMENT is made on 19 April 2010

BETWEEN:

- (1) **EEH (BIDCO) LIMITED**, a company incorporated in England and Wales with registered number 6198281 whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH ("**IL**"); and
- (2) **EXCELSOFT TECHNOLOGIES PRIVATE LIMITED**, a company incorporated under the provisions of the Indian Companies Act, 1956 and having its registered office at 1-B, Hootagalli Industrial Area, Mysore 570 018, India ("**ES**"),

(each a "**Shareholder**" and together, the "**Shareholders**" (and each person to whom Shares are transferred pursuant to this Agreement shall also be a Shareholder for the purposes of this Agreement)).

WHEREAS

- (A) IL and ES have determined to establish the Company (as defined below) for the purposes of the development, enhancement, exploitation and distribution of the Software (as defined below) and related software, tools and services (including online learning and educational facilities and tools) in the Restricted Sector (as defined below).
- (B) IL and ES are to provide funding to the Company and wish to regulate their respective responsibilities towards the management of the proposed business and the affairs of the Company on the terms and conditions set out in this Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 In this Agreement:

"**Affiliate**" means, in relation to any person, any other person which directly or indirectly Controls, is Controlled by, or is under common Control with such person;

"**A Ordinary Shares**" means 'A' ordinary shares of £1.00 each in the capital of the Company having the rights set out in the Articles;

"**Ancillary Agreements**" means the IP Assignment Agreement, the Master Services Agreement, the Services Agreement and the IP Licence Agreement;

"**Articles**" means the articles of association of the Company in substantially the form set out in Schedule 3 and to be adopted pursuant to clause 2.1.2 and as amended from time to time;

"**Asset Sale**" means the disposal (whether through a single transaction or a series of transactions) by the Company or any of its subsidiary undertakings from time to time of all, or substantially all, of the Company's business, assets and undertaking;

"**Board**" means the board of directors of the Company for the time being and from time to time;

"**B Ordinary Shares**" means 'B' ordinary shares of £1.00 each in the capital of the Company having the rights set out in the Articles;

"**Budget**" means the budget of the Company accepted by the Board from time to time, the first Budget being contained within the Business Plan at Schedule 2;

"**Business**" means the business of the Company as set out in clause 3;

"**Business Day**" means a day other than a Saturday or Sunday or a public holiday in England and Wales, the Republic of India or the State of Karnataka;

"**Business Plan**" means the business plan for the Company adopted by the Board from time to time, the initial business plan being set out at Schedule 2;

"**Call Option**" shall have the meaning set out in clause 10.5.1;

"**Call Option Exercise Notice**" shall have the meaning set out in clause 10.5.2;

"**Call Option Price**" shall have the meaning set out in clause 10.5.1;

"**Call Option Shares**" shall have the meaning set out in clause 10.5.1;

"**Cessation Date**" shall have the meaning set out in clause 13.2;

"**Chairman**" means the chairman of the Board appointed pursuant to clause 4.5 and any other person appointed in his place in accordance with clause 4.5;

"**Clear Day**" means, in relation to a period of notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

"**Commitment Letter**" means the letter in the agreed form, to be issued by Nelson Thornes Limited in favour of ES, in terms of which Nelson Thornes Limited undertakes to ES to ensure IL will have sufficient cash to enable IL to pay the Put Option Price at the time that the Put Option Price becomes payable;

"**Company**" means Cyclonehaven Limited, a company incorporated in England and Wales with registered number 7093115 whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH;

"**Completion**" means completion of this Agreement in accordance with clause 2;

"**Confidential Information**" has the meaning set out in clause 17;

"**Control**" means, when used with respect to any person, the power to direct the management and policies of such person, directly or indirectly, through the ownership of voting securities, by contract or otherwise (and "**Controls**" and "**Controlled**" shall be construed accordingly);

"**Deed of Adherence**" has the meaning set out in clause 12.1.1;

"**Director**" means any director of the Company from time to time appointed in accordance with this Agreement and the Articles;

"**Disclosing Party**" shall have the meaning set out in clause 17;

"**Disposal**" means in relation to any Share:

- (a) the sale, assignment, transfer or other disposal of the Share (or any interest therein);
- (b) creating or permitting to subsist any pledge, charge (whether fixed or floating), mortgage, lien or other security interest or otherwise encumbering its legal or beneficial interest in the Share;
- (c) creating any trust or conferring any interest in the Share;
- (d) any agreement, arrangement or understanding in respect of votes or the right to receive dividends in respect of the Share;
- (e) the renunciation or assignment of any right to receive a Share or any legal or beneficial interest in a Share; or
- (f) the entering into of any agreement to do any of the above,

and references to "**Dispose**" shall be construed accordingly;

"**Drag-Along Notice**" shall have the meaning set out in clause 10.3.1;

"**Drag-Along Sale**" shall have the meaning set out in clause 10.3.1;

"**Drag-Along Shareholder(s)**" shall have the meaning set out in clause 10.3.1;

"**Education Sector**" means individuals, persons, organisations, bodies or collectives of whatever nature, in the private and/or public sector, that have as one of their main objectives the provision or furtherance of education (including, without limitation, nursery, pre-primary, preparatory, primary, secondary, tertiary and similar education institutions, institutions of higher education, universities, distance learning providers and home learning);

"**Equity Funding Notice**" shall have the meaning set out in clause 6.3;

"**ES Change of Control**" means that (a) the ES Promoters together cease to hold in aggregate twenty-five per cent or more of the entire issued share capital of ES and/or (b) the attendance of the ES Promoters at meetings of the board of directors of ES ceases to be a requirement for such board meetings to be quorate;

"**ES Director**" means the person referred to as such in clause 4.3 and any other Director appointed by ES in their place from time to time;

"**ES Promoters** means D Sudhanva and MH Dhananjaya;

"ES Shareholder Funding Period" has the meaning set out in clause 6.3.1;

"Exceptional Call Option" shall have the meaning set out in clause 6.5;

"Exceptional Call Option Price" shall have the meaning set out in clause 6.5;

"Exceptional Call Option Exercise Notice" shall have the meaning set out in clause 6.5;

"Excess Expenditure" shall have the meaning set out in clause 5.3;

"Funding Longstop Date" shall have the meaning set out in clause 13.4.5;

"Funding Share Price" shall have the meaning set out in clause 6.3.2;

"Funding Shareholder" shall have the meaning set out in clause 6.4;

"Funding Shares" shall have the meaning set out in clause 6.3.2;

"Generic Software Components" means test and assessment tools, learning communities, course management and independent generic technology components as per recognised e-learning industry standards from time to time;

"IL Directors" means the persons referred to as such in clause 4.3 and any other Director(s) appointed by IL in their place from time to time;

"IP Assignment Agreement" means the agreement between ES and the Company in the agreed form, for the assignment by ES of all intellectual property rights in certain software and related materials to the Company;

"IP Licence Agreement" means the agreement between the Company and ES in the agreed form, in terms of which ES is licensed to use the Software for certain limited purposes;

"Listing" means the admission of any shares in the capital of the Company (or any new holding company of it formed for such purposes) to the Official List of the Financial Services Authority, and to trading on the London Stock Exchange's market for listed securities, or to trading on the Alternative Investment Market of the London Stock Exchange, or on any other recognised investment exchange;

"Master Services Agreement" means the master services agreement between the Company and ES in the agreed form, in terms of which ES shall provide application maintenance, development and other services to the Company from time to time;

"Maximum Expenditure" means, in any Budget year, a sum equal to 120% of the total amount of expenditure allowed for in the Budget for that Budget year;

"Non-Funding Shareholder" shall have the meaning set out in clause 6.4;

"Put Option" shall have the meaning set out in clause 10.6.1;

"Put Option Exercise Notice" shall have the meaning set out in clause 10.6.2;

"Put Option Price" shall have the meaning set out in clause 10.6.1;

"Put Option Shares" shall have the meaning set out in clause 10.6.1;

"Receiving Party" shall have the meaning set out in clause 17;

"Restricted Business" means the business of development, enhancement, exploitation and/or distribution of the Software along with an electronic or digital replica of books or publications in a non-electronic or digital form with an ability to interface or integrate technologically with other Generic Software Components (but excluding the business of:

- (a) development or enhancement of the Generic Software Components on a standalone basis; or
- (b) development of any software or provision of services based on the SARAS Software in a manner consistent with the past practice of ES in the ordinary course of business prior to Completion).

"Restricted Parties" means Pearson Education Limited and its Affiliates from time to time;

"Restricted Sector" means:

- (a) in respect of the United Kingdom, The Netherlands, Belgium, Sweden, Germany, Austria and Hungary, the Education Sector; and
- (b) in respect of any country other than a country identified in paragraph (a) above, in the K-12, vocational and home-learning sub-segments only of the Education Sector;

"Sale Notice" shall have the meaning set out in clause 10.3.1;

"SARAS Software" means the software owned and used by ES as at the date hereof and commonly known as SARAS;

"Services Agreement" means the services agreement between the Company and Nelson Thornes Limited in the agreed form, in terms of which the Company shall provide to Nelson Thornes Limited certain services using the Software to allow Nelson Thornes Limited to offer its customers a hosted interactive electronic books solution;

"Shareholder Debt Funding Notice" shall have the meaning set out in clause 6.3;

"Share Sale" means the sale (whether through a single transaction or series of transactions) of the entire issued share capital of the Company, except where the holders of the shares and the proportion of shares held by each of them following completion of the sale are the same as the holders and their shareholdings in the Company immediately prior to the sale;

"Shares" means the A Ordinary Shares and the B Ordinary Shares, and any shares issued in exchange for those shares or by way of conversion or reclassification, and

any shares representing or deriving from those shares as a result of any increase in or reorganisation or variation of the capital of the Company;

"**Shortfall**" shall have the meaning set out in clause 6.4;

"**Shortfall Shares**" shall have the meaning set out in clause 6.5;

"**Software**" means the software to be assigned to the Company under the IP Assignment Agreement, together with any and all modifications, enhancements, future components and derivative works thereof from time to time;

"**Standstill Period**" shall have the meaning set out in clause 5.4;

"**Tag-Along Sale**" shall have the meaning set out in clause 10.4.1;

"**Tag Offer**" shall have the meaning set out in clause 10.4.1;

"**Third Party Purchaser**" shall have the meaning set out in clause 10.3; and

"**Valuer**" shall have the meaning set out in clause 11.1 (and "**Valuers**" shall be construed accordingly).

1.2 In this Agreement, a reference to:

- 1.2.1 a "**subsidiary undertaking**" or "**parent undertaking**" is to be construed in accordance with section 1162 (and Schedule 7) of the Companies Act 2006 and to a "**subsidiary**" or "**holding company**" is to be construed in accordance with section 1159 (and Schedule 6) of the Companies Act 2006, and a reference to a person's "**group**" shall be construed as a reference to the subsidiary undertakings and subsidiaries of that person, the parent undertaking of that person, and all the subsidiary undertakings and subsidiaries of that person's parent undertaking;
- 1.2.2 liability under, pursuant to or arising out of (or any analogous expression) any agreement, contract, deed or other instrument includes a reference to contingent liability under, pursuant to or arising out of (or any analogous expression) that agreement, contract, deed or other instrument;
- 1.2.3 a party being liable to another party, or to liability, includes, but is not limited to, any liability in equity, contract or tort (including negligence) or under the Misrepresentation Act 1967;
- 1.2.4 a document in the "**agreed form**" is a reference to a document in a form approved by IL and ES;
- 1.2.5 a statutory provision includes a reference to the statutory provision as modified or re-enacted or both from time to time before the date of this Agreement and any subordinate legislation made under the statutory provision (as so modified or re-enacted) before the date of this Agreement;
- 1.2.6 "**connected person**" has the meaning given to that expression in section 1122 of the Corporation Tax Act 2010 and "**person connected**" shall be construed

- accordingly (except that a party to this Agreement shall not be deemed to be connected with another party to this Agreement only by virtue of the fact that they are both parties to this Agreement);
- 1.2.7 an "**interest**" in Shares shall be interpreted in accordance with section 820 of the Companies Act 2006;
- 1.2.8 a "**person**" includes a reference to any individual, firm, company, corporation or other body corporate, government, state or agency of a state or any joint venture, association or partnership, works council or employee representative body (whether or not having separate legal personality);
- 1.2.9 a "**party**" includes a reference to that party's successors and permitted assigns;
- 1.2.10 a "**recognised investment exchange**" shall be construed in accordance with section 285 of the Financial Services and Markets Act 2000;
- 1.2.11 a clause, paragraph or schedule, unless the context otherwise requires, is a reference to a clause or paragraph of, or schedule to, this Agreement;
- 1.2.12 any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include what most nearly approximates in that jurisdiction to the English legal term and to any English statute shall be construed so as to include equivalent or analogous laws of any other jurisdiction;
- 1.2.13 times of the day is to London time; and
- 1.2.14 an obligation to indemnify any person:
- (a) is to be construed as including an obligation to hold that person harmless and to keep that person indemnified; and
 - (b) against a liability is to be construed as including an obligation to indemnify that person against each loss, liability, and cost (including legal expenses) arising as a result of defending or settling the claim which gave rise to the claim under the indemnity; and
 - (c) shall be construed as including an obligation to indemnify, to the extent relevant, each director, officer, employee or contractor of that person.
- 1.3 The *ejusdem generis* principle of construction shall not apply to this Agreement. Accordingly, general words shall not be given a restrictive meaning by reason of their being preceded or followed by words indicating a particular class of acts, matters or things or by examples falling within the general words. Any phrase introduced by the terms "other", "including", "include" and "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.4 The headings in this Agreement do not affect its interpretation.

2. COMPLETION

- 2.1 Completion shall take place at the offices of Clifford Chance LLP at 10 Upper Bank Street, London E14 5JJ immediately following the execution of this Agreement. At Completion:
- 2.1.1 ES shall enter into the IP Assignment Agreement, the Master Services Agreement and the IP Licence Agreement and IL shall procure that Nelson Thomes Limited shall enter into the Services Agreement;
 - 2.1.2 IL shall procure that a written resolution of the Company is passed to replace the Company's articles of association with the Articles;
 - 2.1.3 IL and ES shall procure that a meeting of the Board is held at which:
 - (a) Fred Grainger and Ian Andow shall be designated as initial IL Directors;
 - (b) D Sudhanva shall be appointed as the initial ES Director;
 - (c) Fred Grainger shall be appointed as the initial Chairman;
 - (d) the Business Plan shall be adopted; and
 - (e) the IP Assignment Agreement, the Master Services Agreement, the Services Agreement and the IP Licence Agreement shall be approved and entered into by the Company;
 - 2.1.4 IL shall subscribe £892,857 for 892,857 B Ordinary Shares and IL and ES shall procure that the Company shall (i) allot and issue credited as fully paid 892,857 B Ordinary Shares to IL, (ii) enter the name of IL in the register of members of the Company as the holder of such B Ordinary Shares, and (iii) issue a share certificate to IL in respect of such B Ordinary Shares;
 - 2.1.5 immediately upon receipt by the Company of the £892,857 referred to in clause 2.1.4 above in cleared funds from IL, IL and ES shall procure that the Company then immediately pays such amount to ES in satisfaction of its obligations under clause 3 of the IP Assignment Agreement;
 - 2.1.6 ES shall subscribe unconditionally for, and against payment in full of £892,857 in cash, which shall be made in cleared funds for the account of the Company, IL and ES shall procure that the Company shall (i) allot and issue credited as fully paid 250 A Ordinary Shares to ES, (ii) enter the name of ES in the register of members of the Company as the holder of such A Ordinary Shares, and (iii) issue a share certificate to ES in respect of such A Ordinary Shares;
 - 2.1.7 the Company shall pay to IL a sum of £258,050 in consideration for certain costs and expenditure incurred by IL for the benefit of the Company prior to the date hereof;

- 2.1.8 IL shall subscribe for 258,050 B Ordinary Shares against payment of £258,050 in cash and IL and ES shall procure that the Company shall (i) allot and issue credited as fully paid 258,050 B Ordinary Shares to IL, (ii) enter the name of IL in the register of members of the Company as the holder of such B Ordinary Shares, and (iii) issue a share certificate to IL in respect of such B Ordinary Shares; and
- 2.1.9 IL shall procure that Nelson Thornes Limited shall deliver a signed copy of the Commitment Letter to ES.
- 2.2 Subject to clause 2.3, no party shall be obliged to complete this Agreement unless (a) each party complies with all of its obligations under this clause 2 and (b) the obligations and matters to be carried out under this clause 2 are completed and fulfilled by the parties on the date of this Agreement.
- 2.3 If Completion does not take place on the date of this Agreement only because either (a) the amount paid by the Company to ES under clause 2.1.5 does not arrive in ES's nominated bank account during business hours for banking in India on the date of this Agreement or (b) the amount paid by ES to the Company under clause 2.1.6 does not arrive in the Company's nominated bank account during business hours for banking in England on the date of this Agreement, then Completion shall be deemed to occur on the next following Business Day on which the last of such amounts has arrived in ES's nominated bank account or the Company's nominated bank account (as the case may be).
3. **BUSINESS OF THE COMPANY**
- 3.1 The business of the Company (the "**Business**") shall be:
- 3.1.1 the use, development, enhancement, exploitation and distribution of the Software and related software, tools and services (including online learning and educational facilities and tools) in the Restricted Sector;
- 3.1.2 such other businesses or activities as may from time to time be unanimously agreed in writing by the Shareholders during the period of this Agreement.
- 3.2 The Company shall from time to time, if and when requested by any IL Affiliate enter into a services agreement with any such entity on materially the same terms as the Services Agreement and provide the requested services to such entity under that service agreement.
- 3.3 The Shareholders acknowledge and agree that Nelson Thornes Limited is to provide certain financial and other administrative services to the Company on terms to be agreed by the Shareholders.
- 3.4 ES agrees to procure that D Sudhanva shall dedicate his time, as required, to the following responsibilities (with assistance and support from Fred Grainger):
- 3.4.1 leading the development team to be established under the Master Services Agreement in delivering the features and functionality of the Software in accordance with the Software Roadmap (as defined in the Master Services Agreement);

- 3.4.2 securing new business for the Company throughout the world;
 - 3.4.3 developing an online community and e-school in connection with the Software; and
 - 3.4.4 any other strategy in connection with developing the Business.
- 3.5 The Shareholders acknowledge and agree that the Company may after Completion establish a share option and/or share incentive scheme for the benefit of any director, officer, worker or employee of the Company, on such terms as may be determined by the Board (provided that, unless otherwise agreed by the Shareholders, the class and number of shares in the capital of the Company to be issued under any such scheme shall be or shall be convertible into A Ordinary Shares and shall not on issue or conversion in aggregate exceed 7.5 per cent of issued A Ordinary Shares from time to time).

4. DIRECTORS AND MANAGEMENT

- 4.1 The Board shall have exclusive responsibility for the supervision and management of the Company, save in respect of those matters set out in clause 5. The Board shall be entitled to delegate (on such terms as it may determine) the day-to-day management of the Company and its staffing to an executive management committee (some of whom may be Directors), whose members shall run the Business in accordance with the Business Plan. If the members of the executive management committee are unable to reach agreement in respect of any matter delegated to it, such matter shall be referred to the Board as soon as reasonably practicable for resolution.
- 4.2 There shall be no maximum number of Directors. Subject to the remainder of this clause, unless the Shareholders agree otherwise, there shall be at least three IL Directors and no more than one ES Director. Until such time as a third IL Director is appointed by IL pursuant to clause 4.3 (it being acknowledged that at Completion there shall be only two IL Directors and one ES Director), there shall be only two IL Directors and one ES Director.
- 4.3 The initial IL Directors and ES Director shall be those persons named in clauses 2.1.3(a) and 2.1.3(b) respectively. IL shall, at any time after Completion, be entitled to appoint one more person to be a third IL Director.
- 4.4 Each of IL and ES may from time to time remove a Director appointed by it and appoint a new Director in his or her place by notice in writing to the Company and the other Shareholders.
- 4.5 The Chairman shall be appointed by IL and will be one of the IL Directors. The initial Chairman shall be the person named in clause 2.1.3(c).
- 4.6 Each Director may from time to time appoint an alternate. An alternate appointed pursuant to this clause 4.6 shall be entitled to receive notice of all meetings of the Board and attend and vote at any meeting at which the Director appointing him or her is not personally present, and generally in the absence of his or her appointer to do all the things which his or her appointer is authorised or empowered to do. A Director who is also an alternate shall be entitled, in the absence of his or her appointer:

- 4.6.1 to a separate vote on behalf of his or her appointer in addition to his or her own vote; and
- 4.6.2 to be counted as part of the quorum of the Board on his own account and in respect of the Director for whom he or she is the alternate.
- 4.7 Unless otherwise determined by the Shareholders in writing, the Directors shall not be entitled to any remuneration in their capacity as Directors of the Company.
- 4.8 At the time of the completion of a Disposal of all of the Shares held by a Shareholder, that Shareholder shall procure the resignation (without any liability of the Company) of each Director appointed by it (and the provisions of clause 4.11 relating to the requirement for any Director appointed by such Shareholder to be present for the purposes of forming a quorum at Board meetings shall immediately thereafter cease to have effect).
- 4.9 Any Shareholder removing a Director shall be responsible for and agrees with the other Shareholder(s) (contracting for itself and as trustee for the Company) to indemnify and keep indemnified the other Shareholder(s) and the Company on demand against all losses, liabilities and costs which the other Shareholder(s) or the Company may incur arising out of, or in connection with, any claim by the Director for wrongful or unfair dismissal or redundancy or other compensation arising out of the Director's removal or loss of office.
- 4.10 The Chairman will convene at least one meeting of the Board per calendar quarter (but with intervals of no more than fifteen weeks between each Board meeting). Any other Director may also convene a meeting of the Board if either: (a) the Chairman consents thereto; or (b) the interests of the Company would in the opinion of the Director convening the meeting be likely to be adversely affected to a material extent if the business to be transacted at such Board meeting were not dealt with as a matter of urgency. Subject to the remainder of this clause, no Board meeting may be convened on less than seven Clear Days' notice, but Board meetings may be convened by giving not less than 72 hours' notice if: (i) the interests of the Company would in the opinion of the Director convening the meeting be likely to be adversely affected to a material extent if the business to be transacted at such Board meeting were not dealt with as a matter of urgency; or (ii) the circumstances in clause 4.11.1 arise; or (iii) the circumstances in clause 5.2 arise; or (iv) all of the Directors otherwise agree in writing. Board meetings may be convened at the Company's principal place of business or such other place in the United Kingdom as the Board may from time to time determine and held at such times (being business hours in the UK and India) as proposed by the relevant Director calling the meeting.
- 4.11 Subject to clause 4.8 and the following provisions of this clause 4.11, no Board meeting will be quorate unless at least one IL Director and one ES Director is present or represented by an alternate and no resolution may be passed at a Board meeting unless at least one IL Director and one ES Director is present or represented by an alternate. IL and ES shall procure that the Company makes conference call facilities available so that there is always an option for Board meetings to be held by telephone and each of IL and ES will use its reasonable endeavours to procure that a quorum is present. If a quorum is not present at the time when any business is to be considered then:

- 4.11.1 the Chairman shall reconvene the meeting by giving not less than 72 hours' notice; and
- 4.11.2 if a quorum is not present at the time the reconvened meeting is held, the meeting will be deemed quorate with those participants that are present.
- 4.12 Subject to clause 4.13, resolutions of the Board shall be decided by a majority of the votes cast and each Director shall be entitled to one vote. Any Director present and voting shall be entitled to exercise the vote of the other Directors appointed by the same Shareholder (or their duly appointed alternate(s)) not present and voting at any such meeting, provided that any such votes shall be voted in the same way as the votes already exercised or to be exercised by such Director exercising a vote on behalf of an absent Director or alternate.
- 4.13 Those Directors appointed by the Shareholder which is, or whose Affiliate is, responsible for any breach of any of the Ancillary Agreements shall not be entitled to vote at any Board meeting where a decision is to be taken as to whether the Directors, on behalf of the Company, should take any action in respect of any such breach. The Shareholder who appointed such Directors shall take all steps within their power to ensure that such Directors do not vote at any such meeting.
- 4.14 The Board may, subject to the consent of at least one IL Director and one ES Director, appoint a reasonable number of observer representatives to be present at Board meetings. These observer representatives shall be entitled to receive notice of and attend Board meetings but shall not be entitled to vote at Board meetings.

5. SHAREHOLDER CONSENT - RESERVED MATTERS

- 5.1 Any decision relating to any of the following matters following Completion shall require the prior written approval of IL and ES:
- 5.1.1 save as set out in clause 4, the appointment or removal of any Director (and each Shareholder agrees not to withhold or delay unreasonably the giving of its consent to the appointment of a Director);
- 5.1.2 any arrangement for any joint venture or partnership involving the Company or for the sale of the whole or a material part of the assets and undertakings of the Company;
- 5.1.3 any matter which, under the Companies Act 2006, would require a special resolution of the Company to be passed (other than as may be required to give effect to any of the matters contemplated in clause 10.9);
- 5.1.4 any material change in the nature of the Business;
- 5.1.5 any change to the Company's accounting reference date (other than a change to the Company's accounting reference date to coincide with the IL group's accounting reference date);
- 5.1.6 the issue of any Shares, other than as provided for in clause 2, pursuant to clause 3.5 or clause 6 or in connection with a Listing;

- 5.1.7 the creation of any new class of share in the capital of the Company, other than pursuant to clause 3.5 or in connection with a Listing, or any increase, reduction, sub-division, consolidation, re-classification or other change in any of the rights attached to a Share (other than as may be required to give effect to any of the matters contemplated in clause 10.9);
 - 5.1.8 the grant of any option, warrant or other right to acquire or subscribe for shares in or other securities of the Company, other than pursuant to clause 3.5 or clause 6 or in connection with a Listing;
 - 5.1.9 the winding up of the Company;
 - 5.1.10 the making of any loan by the Company other than in the ordinary course of business;
 - 5.1.11 the provision by the Company of any indemnity or guarantee or the grant of any pledge, charge or other security interest, save in the ordinary course of business or in support of borrowings made pursuant to clause 6;
 - 5.1.12 any change in the Company's accounting policies or the Company's auditors and other professional advisers;
 - 5.1.13 any transaction by the Company with any Shareholder or any Affiliate of such Shareholder, other than: (i) future service agreements entered into between the Company and IL Affiliates or other related entities pursuant to clause 3.2; or (ii) surrenders of group relief pursuant to clause 24; or (iii) as otherwise permitted under clause 6; or (iv) as may be required to give effect to any of the matters contemplated in clause 10.9;
 - 5.1.14 any material change in the Company's insurance arrangements;
 - 5.1.15 the commencement or settlement by the Company of any litigation with a value in excess of £1 million (one million pounds sterling);
 - 5.1.16 the raising by the Company of any funding, whether by way or share subscription, borrowings or otherwise, save for the subscription of Shares or provision of funding in accordance with clause 6; or
 - 5.1.17 any subsidiary of the Company incurring any obligation (whether or not conditional) to do any of the foregoing.
- 5.2 Following Completion, if the Board should approve an annual Budget for an amount that is in total more than 120% of the envisaged requirements of the Company (as set out in the version of the Business Plan attached at Schedule 2), ES will be entitled (provided it gives written notice to IL within 5 Business Days after the Board meeting at which that Budget has been approved) to reject that Budget. If ES so rejects any Budget, the Shareholders shall procure that another meeting of the Board is convened at the earliest practicable opportunity, at which the Board shall revise the rejected annual Budget to be for an amount that is in total no more than 120% of the envisaged requirements of the Company (as set out in the version of the Business Plan attached at Schedule 2), and at which the Directors shall approve the revised Budget. ES's right to reject a Budget under this clause shall terminate automatically on the earlier of: (i)

the third anniversary of the date of signature of this Agreement; or (ii) the date on which it has so exercised its right to reject a Budget (in other words, ES shall have only a single opportunity to reject any Budget, and its ability to reject any Budget shall cease immediately after the third anniversary of the date of signature of this Agreement).

5.3 Subject to the remainder of this clause, if in any Budget year the Company proposes to incur expenditure in excess of the Maximum Expenditure (any such excess amount being the "**Excess Expenditure**"), ES will be entitled (provided it gives written notice to IL prior to the Excess Expenditure being incurred) to veto the Excess Expenditure from being incurred. If ES exercises its veto right, the Shareholders shall procure that the Company does not incur the Excess Expenditure. ES's right to veto any Excess Expenditure from being incurred under this clause shall terminate automatically on the third anniversary of the date of signature of this Agreement (in other words, ES shall no longer have a veto right over Excess Expenditure being incurred after the third anniversary of the date of signature of this Agreement). Nothing in this clause shall allow ES to veto any expenditure (including Excess Expenditure) from being incurred where the Board reasonably determines that the same is urgently required to allow the Company to continue to operate. Any expenditure to be incurred in connection with the acquisition of any part of the issued share capital or of the assets and undertakings of another company shall not, for the purposes calculating whether the Company's actual or proposed expenditure exceeds the Maximum Expenditure under this clause 5.3, be considered expenditure of the Company and shall be disregarded for the purposes of calculating the Excess Expenditure.

5.4 If, at any time on or prior to the third anniversary of the date of signature of this Agreement, the Company proposes to make an acquisition of any part of the issued share capital or of the assets and undertakings of another company (on such terms as may be determined by the Board) which would, when taken together with all other such acquisitions made by the Company after the date of signature of this Agreement, result in the Company (upon completion of such acquisition) having made acquisitions of an aggregate value in excess of £5,000,000 (five million pounds), ES shall have a single opportunity to require the Board to delay the approval of such acquisition by a period of up to 60 days (the "**Standstill Period**") so as to permit further discussion and consideration by the Board and/or the Shareholders of the terms of such acquisition. Unless the Shareholders agree otherwise, the Company may at any time after the expiry of the Standstill Period proceed with such acquisition on such terms as may be determined by the Board.

If ES wishes to exercise its rights under this clause, ES (through the ES Director) must do so at the same Board meeting at which the Board seeks formal approval for such acquisition. ES's right to require a Standstill Period under this clause shall terminate automatically on the earlier of: (i) the third anniversary of the date of signature of this Agreement; or (ii) the date on which it has so exercised its right to require a Standstill Period (in other words, ES shall have only a single opportunity to require a Standstill Period, and its ability to require a Standstill Period shall cease immediately after the third anniversary of the date of signature of this Agreement).

5.5 Regarding the Budget of the Company, the Board shall only approve one annual Budget in respect of each financial year of the Company, and shall not without the consent of all of the Shareholders approve any other types of Budgets (including, by

way of example only, any interim Budgets). For the avoidance of doubt, the Budget for the first financial year of the Company is that set out in Schedule 2.

- 5.6 For clarity, the Shareholders agree that the Budget is intended to provide for the normal working capital requirements of the Company and the Business, and that the Budget is not intended to provide for acquisitions of any part of the issued share capital or of the assets and undertakings of another company. Instead, the Shareholders envisage that any further funding that may be required by the Company to finance acquisitions of any part of the issued share capital or of the assets and undertakings of another company shall be obtained through the application of the process in clause 6.

6. FINANCING

- 6.1 IL irrevocably undertakes to subscribe, in accordance with clause 6.2, up to £3,571,428 (three million five hundred and seventy one thousand four hundred and twenty eight pounds) ("**Subscription Limit**") by way of subscription for B Ordinary Shares at a subscription price of £1.00 per share, in order to fund the working capital requirements of the Company as contemplated by the Business Plan ("**IL Funding Commitment**"). The Subscription Limit is inclusive of the amounts to be subscribed by IL at Completion pursuant to clause 2 (in other words, immediately after Completion, the remaining IL Funding Commitment will be £2,420,521 (two million four hundred and twenty thousand five hundred and twenty one pounds)).
- 6.2 Whenever the Board (acting reasonably and in the best interests of the Company) determines that the Company requires further funding, the Board shall serve notice on IL setting out the amount that IL is required to subscribe for additional B Ordinary Shares ("**Drawdown Notice**"), provided that the cumulative funding sought from IL under a Drawdown Notice, when taken together with the amounts to be subscribed by IL at Completion pursuant to clause 2 and all other subscriptions by IL for B Ordinary Shares prior to the Drawdown Notice, may not exceed the Subscription Limit. IL shall subscribe the amounts provided for in the Drawdown Notice within 10 Business Days after issue of the Drawdown Notice.
- 6.3 If the Board determines that the Company requires further funding after the IL Funding Commitment has been fully drawn (and for clarity, the further funding in this clause 6.3 may only be arranged by the Board once the IL Funding Commitment has been fully drawn), the Board may arrange such funding by way of (a) facilities from a third party lender (other than any Affiliate of a Shareholder) and/or (b) the issue of debt securities by the Company to a third party (other than any Affiliate of a Shareholder) and/or (c) loans from the Shareholders by notice in writing to the Shareholders (a "**Shareholder Debt Funding Notice**") and/or (d) an equity funding round by way of an issue of A Ordinary Shares by notice in writing to the Shareholders (an "**Equity Funding Notice**"), provided that:
- 6.3.1 in the case of a Shareholder Debt Funding Notice, the Shareholders shall procure that the Company shall offer the Shareholders to advance such loans to the Company pro rata to their holdings of A Ordinary Shares as at the date of the Shareholder Debt Funding Notice, and on the same terms and conditions (save that ES shall always have a period not exceeding 15 Business Days (the "**ES Shareholder Funding Period**") to provide the full amount of

the funding requested of it under any Shareholder Debt Funding Notice (notwithstanding that the Shareholder Debt Funding Notice may require funding to be provided by the Shareholders within a shorter time period)); and

6.3.2 in the case of an Equity Funding Notice, the Shareholders shall procure that the Company shall offer A Ordinary Shares (the "**Funding Shares**") to the Shareholders pro rata to their holdings of A Ordinary Shares as at the date of the Equity Funding Notice. The subscription price for the Funding Shares ("**Funding Share Price**") shall be a price per Funding Share equal to the higher of: (i) if requested by either Shareholder, the fair value of an A Ordinary Share determined under clause 11; and (ii) if the Shareholders so agree or if neither Shareholder shall have requested a valuation of the Funding Shares under clause 11 within 5 Business Days after the date of issue of the Equity Funding Notice, the subscription price per A Ordinary Share of the immediately preceding issue of A Ordinary Shares.

6.4 If a Shareholder (a "**Non-Funding Shareholder**") fails to:

6.4.1 advance a loan to the Company in respect of the full amount required from it in accordance with the terms of a Shareholder Debt Funding Notice (in the case of a Shareholder Debt Funding Notice); or

6.4.2 subscribe for the full amount of A Ordinary Shares required to be subscribed for by it in accordance with the terms of an Equity Funding Notice (in the case of an Equity Funding Notice)

(in each case a "**Shortfall**"), then the other Shareholder (the "**Funding Shareholder**") may elect by notice in writing to the Company (copied to the Non-Funding Shareholder) to:

6.4.3 (subject to clause 6.8) advance a loan to the Company in respect of an amount equal to the Shortfall (in the case of a Shareholder Debt Funding Notice); or

6.4.4 subscribe for up to such number of A Ordinary Shares as is equal to the Shortfall (in the case of an Equity Funding Notice) and the Shareholders shall procure that the Company shall allot and issue to the Funding Shareholder(s) such number of A Ordinary Shares in accordance with their election as soon as reasonably practicable thereafter (and the Non-Funding Shareholder's holding of A Ordinary Shares in the Company shall be diluted accordingly).

6.5 If ES is a Non-Funding Shareholder pursuant to an Equity Funding Notice and IL has elected to subscribe for further A Ordinary Shares pursuant to clause 6.4.4 (the "**Shortfall Shares**"), then ES shall (subject to clause 6.6) have the option (the "**Exceptional Call Option**") to purchase from IL the Shortfall Shares at the price paid by IL for the Shortfall Shares (the "**Exceptional Call Option Price**"). ES may exercise the Exceptional Call Option by a notice in writing (the "**Exceptional Call Option Exercise Notice**") to IL:

6.5.1 at any time within 90 calendar days after the date on which IL has subscribed for the Shortfall Shares; or

6.5.2 (only in the event that at the time of the Equity Funding Notice ES had been formally in the process of an initial listing of its shares or securities on a recognised investment exchange) at any time within 180 calendar days after the date on which IL has subscribed for the Shortfall Shares,

failing which ES's Exceptional Call Option shall automatically and irrevocably lapse in respect of those Shortfall Shares.

- 6.6 The Exceptional Call Option may only be exercised in respect of all (and not some only) of the Shortfall Shares held by IL.
- 6.7 Completion of the sale and purchase of the Exceptional Call Option Shares held by IL shall take place by no later than the fifth Business Day after the Exceptional Call Option Exercise Notice has been received by IL and shall otherwise be effected in accordance with clause 12.
- 6.8 If IL exercises its rights under clause 6.4.3 as a result of a failure by ES to provide the full amount of the funding requested from it in accordance with the time period specified in any Shareholder Debt Funding Notice (if shorter than the ES Shareholder Funding Period) and ES subsequently elects to provide (within the ES Shareholder Funding Period) the full amount of the funding requested from it pursuant to such Shareholder Debt Funding Notice, IL and ES shall (and shall procure that the Company shall) take all such steps as may be required to ensure that IL and ES hold the loans made to the Company pursuant to the Shareholder Debt Funding Notice pro rata to their holdings of A Ordinary Shares as at the date of the Shareholder Debt Funding Notice (and, for clarity, ES shall reimburse IL in full in respect of any loan transferred by IL to ES in order to give effect to this clause).
- 6.9 Where ES is entitled to subscribe for or acquire A Ordinary Shares pursuant to clauses 6.3 or 6.4, IL shall in good faith consider any reasonable request of ES to subscribe or acquire such A Ordinary Shares through a nominee or an Affiliate.

7. DISTRIBUTIONS

The Board shall determine the Company's dividend policy from time to time. The Shareholders shall procure that all dividends declared by the Board shall be distributed by the Company to the Shareholders by way of dividends on the A Ordinary Shares (pro rata to their existing holdings of A Ordinary Shares at the time such dividends are declared).

8. REPRESENTATIONS AND WARRANTIES

- 8.1 The execution of this Agreement by or on behalf of each party will constitute a separate representation and warranty by it to the other party that:
- 8.1.1 it has the capacity, power and authority to enter into this Agreement and comply with its respective obligations hereunder; and
- 8.1.2 so far as it is aware (having made due and careful enquiry), all authorisations, approvals, consents and licences required by it in order to enable it lawfully to enter into this Agreement and comply with its respective obligations hereunder have been unconditionally obtained and are in full force and effect.

- 8.2 IL represents and warrants to ES that as at the date of signature of this Agreement:
- 8.2.1 no Shares have been issued at the date of this Agreement save for 750 ordinary shares in the capital of the Company held by ES immediately prior to Completion which are fully paid up;
 - 8.2.2 no person has any option over any issued or unissued Shares or the right to call for the issue or transfer of Shares except as set out in this Agreement;
 - 8.2.3 save for the entry into this Agreement and the Ancillary Agreements, the Company has never traded and will have incurred no liabilities prior to Completion (other than those referred to in clause 2.1.7); and
 - 8.2.4 the Company's accounting reference date is 31 December.
- 8.3 Each party acknowledges that the other party is entering into this Agreement in reliance on the representation and warranty set out in clause 8.1 and with the intention of inducing the other party to enter into this Agreement.

9. PROVISION OF INFORMATION

- 9.1 The Shareholders shall procure that the Board will prepare and deliver to IL (and its nominated Affiliate(s)) and ES:
- 9.1.1 within 10 Business Days of the end of each calendar quarter, a financial statement and unaudited management accounts for the Company (and any subsidiary undertaking of it from time to time) made up to and as at the end of such calendar quarter;
 - 9.1.2 draft annual accounts of the Company (and any subsidiary undertaking of it from time to time) prepared in accordance with IFRS and in a form substantially approved by the Company's auditors, within 12 weeks from the end of the financial year to which they relate;
 - 9.1.3 annual audited accounts of the Company (and any subsidiary undertaking of it from time to time) prepared in accordance with IFRS (together with a reconciliation against the quarterly management accounts of the Company (and any subsidiary undertaking of it from time to time) relating to such financial year prepared and delivered pursuant to clause 9.1.1) within six months of the end of the financial year to which they relate; and
 - 9.1.4 no later than 30 days before the beginning of each financial year, a draft Budget for the following financial year for review by the Shareholders.
- 9.2 In addition to the information in clause 9.1, the Board will prepare and deliver to IL (and its nominated Affiliate(s)) and ES:
- 9.2.1 all such information and documents as may be necessary to enable IL (and its nominated Affiliate(s)) to evaluate any proposed transaction or matter in relation to which the consent or approval of IL and/or ES is required; and

9.2.2 such other information relating to the financial position and affairs of the Company (and any subsidiary undertaking of it from time to time) as may be reasonably requested by either IL (or its nominated Affiliate(s)) or ES from time to time.

10. DEALING IN SHARES

10.1 Restrictions on Disposal by ES

Save as otherwise required or permitted under this Agreement, ES shall not effect a Disposal of any Share without the prior written consent of IL.

10.2 Restrictions on Disposal by IL

10.2.1 IL shall not effect a Disposal of any Share to any of the Restricted Parties without the prior written consent of ES.

10.2.2 Save as provided in clause 10.2.1 or as otherwise provided in this Agreement, IL may Dispose of all but not some only of its Shares to any person without restriction provided that any sale of B Ordinary Shares by IL must be for a price not exceeding the amount paid up on such B Ordinary Shares.

10.3 Drag-Along Rights

10.3.1 If, at any time after the third anniversary of Completion, IL wishes to sell all but not some only of its Shares to a third party purchaser who is unassociated with IL in an arms length sale (the "**Third Party Purchaser**"), IL shall give a notice in writing (the "**Sale Notice**") to the other Shareholder(s) prior to such sale setting out reasonable details of the proposed terms of such sale including the price offered for each class of its Shares, and IL shall have the right, but not the obligation, to require that the other Shareholder(s) (the "**Drag-Along Shareholder(s)**") tender all of their Shares for sale to the Third Party Purchaser on all the same terms (including, without limitation, the price) offered by such Third Party Purchaser to IL by giving notice in writing (the "**Drag-Along Notice**") to the Drag-Along Shareholder(s) (the "**Drag-Along Sale**").

10.3.2 If the Drag-Along Shareholder(s) shall be required to participate in the Drag-Along Sale in accordance with clause 10.3.1, the Drag-Along Shareholder(s) shall (i) give such undertakings, warranties and indemnities including any restrictive covenants to the Third Party Purchaser (provided that any such restrictive covenants cannot be more onerous on ES than those set out in this Agreement) as are agreed by IL (provided that the related liability is apportioned between IL and the Drag-Along Shareholder(s) pro rata to their respective holdings of Shares) and (ii) take all actions necessary or appropriate to facilitate the prompt completion of the Drag-Along Sale.

10.4 Tag-Along Rights

10.4.1 If, at any time after the third anniversary of Completion, IL wishes to sell all (but not less than all) of its Shares and does not exercise its drag rights pursuant to clause 10.3, the other Shareholder(s) shall have the right,

exercisable by written notice to IL within fourteen days of the date of the Sale Notice, to require the Third Party Purchaser to make an offer (the "**Tag Offer**") to the other Shareholder(s) so as to allow them to participate with IL in such sale to the Third Party Purchaser on the same terms (the price being the same price per Share as has been offered for IL's A Ordinary Shares) as set out in the Sale Notice (the "**Tag-Along Sale**").

- 10.4.2 The Tag Offer shall be in respect of all of the other Shareholder(s)' Shares and no Shares may be sold by IL to the Third Party Purchaser in the Tag-Along Sale unless the Third Party Purchaser has made a Tag Offer to purchase all of the other Shareholder(s)' Shares.
- 10.4.3 The Tag Offer shall be irrevocable and unconditional, shall contain all the terms that apply to the Tag Along Sale and shall be open for acceptance for no less than thirty days following the date of the Tag Offer.
- 10.4.4 The Tag Offer may only be accepted in whole by all other Shareholder(s) and not in part and any purported partial acceptance will render the Tag Offer and the Tag Along Sale ineffective and IL may proceed to sell its Shares without any obligation in respect of the Tag Along Sale in such circumstances.

10.5 Call Option

- 10.5.1 IL shall have the option (the "**Call Option**") to purchase from ES all of the Shares (the "**Call Option Shares**") held by ES at the price determined in accordance with clause 11 (the "**Call Option Price**").
- 10.5.2 IL may exercise the Call Option by a notice in writing (the "**Call Option Exercise Notice**") to ES:
 - (a) within fifteen days of the date on which the next set of audited annual accounts of the Company are due to be delivered to IL pursuant to clause 9.1.3 following the third anniversary of Completion; or
 - (b) within fifteen days of the date on which the next set of audited annual accounts of the Company are due to be delivered to IL pursuant to clause 9.1.3 following the fourth anniversary of Completion; or
 - (c) within ninety days of the date on which IL becomes aware that ES has suffered an ES Change of Control (and ES shall give IL advance notice in writing of any potential ES Change of Control and shall in any event immediately give notice in writing to IL of any ES Change of Control which occurs during the term of this Agreement).
- 10.5.3 The Call Option may only be exercised in respect of all (and not some only) of the Call Option Shares held by ES.
- 10.5.4 Completion of the sale and purchase of the Call Option Shares held by ES shall take place by no later than the fifth Business Day after the Call Option Price has been determined in accordance with clause 11 and shall otherwise be effected in accordance with clause 12.

10.6 Put Option

- 10.6.1 ES shall have the option (the "**Put Option**") to require IL to purchase from ES all of the Shares (the "**Put Option Shares**") held by ES at the price determined in accordance with clause 11 (the "**Put Option Price**").
- 10.6.2 ES may exercise the Put Option by a notice in writing (the "**Put Option Exercise Notice**") to IL within fifteen days of the date on which the next set of audited annual accounts of the Company are due to be delivered to ES pursuant to clause 9.1.3 following the fifth anniversary of Completion.
- 10.6.3 The Put Option may only be exercised in respect of all (and not some only) of the Put Option Shares held by ES.
- 10.6.4 Completion of the sale and purchase of the Put Option Shares held by ES shall take place by no later than the fifth Business Day after the Put Option Price has been determined in accordance with clause 11 and shall otherwise be effected in accordance with clause 12.

10.7 Non-cash consideration

In the event that IL wishes to sell its Shares for consideration other than cash, and provided that IL has issued a Sale Notice under clause 10.3.1, then ES shall be entitled (by giving written notice to IL to this effect no later than 5 Business Days after IL has informed ES that the consideration for IL's Shares is not cash) to require that it receives cash consideration for its Shares pursuant to a Drag-Along Sale instead of the form of consideration to be received by IL for the sale of its Shares (unless such consideration to be received by IL for the sale of its Shares comprises securities which are tradable on a recognised investment exchange and there is no restriction on disposal attached to the securities to be issued to ES). If ES exercises its rights under this clause, the Shareholders shall take such steps as they may agree at the time to ensure that ES obtains cash consideration for its Shares (subject to the foregoing provisions of this clause). Such cash consideration does not have to be paid directly by the Third Party Purchaser against the sale by ES of its Shares to the Third Party Purchaser, but may, by way of example only, be paid by IL to ES against a subsequent sale by ES to IL of the non-cash consideration received by ES resulting from the Drag-Along Sale.

10.8 Listings

If this Agreement should cease to apply in the event of any Listing, the Shareholders shall use all reasonable endeavours to agree between them an enforceable replacement agreement that gives effect to the provisions of clauses 10.3 to 10.6 inclusive (subject to the provisions of applicable law).

10.9 Preference for holders of B Ordinary Shares

Each of the Shareholders shall take all such steps (and shall procure that the Company takes all such steps) as may be necessary to give effect to the following:

10.9.1 *Liquidation preference*

On a return of capital on a liquidation, dissolution or winding up of the Company, the surplus assets of the Company remaining after the satisfaction of its then outstanding liabilities shall (to the extent that the Company is lawfully able to do so) be applied in the following order of priority:

- (a) first, in paying on each B Ordinary Share an aggregate amount of £1.00 inclusive of any amounts previously paid on such share by operation of clauses 10.9.2 to 10.9.4 inclusive and clause 10.9.5(b) (and, if there is a shortfall of assets remaining to satisfy the entitlements on each B Ordinary Share in full, the surplus assets shall be applied pro rata on each B Ordinary Share); and
- (b) second, in paying the balance of any funds pro rata on each A Ordinary Share.

10.9.2 *Asset Sale*

On an Asset Sale, the surplus assets of the Company remaining after the satisfaction of its then outstanding liabilities shall be distributed by way of dividend, distribution, capital payment, share buyback, or other return of capital or by any other lawful means (to the extent that the Company is lawfully able to do so) in the following order of priority:

- (a) first, in paying on each B Ordinary Share an amount of £1.00 (and, if there is a shortfall of assets remaining to satisfy the entitlements on each B Ordinary Share in full, the surplus assets shall be applied pro rata on each B Ordinary Share);
- (b) second, in paying the balance of any funds pro rata on each A Ordinary Share,

and the Shareholders shall procure (and shall procure that the Company shall procure) (so far as reasonably practicable) that on an Asset Sale by any subsidiary undertaking of the Company, the surplus assets of such subsidiary undertaking shall (to the extent legally permissible) be distributed to the Company (whether directly or indirectly) so as to enable such assets to be distributed as set out in clauses 10.9.2(a) and (b).

10.9.3 *Share Sale*

Any proceeds arising as a result of or in connection with a Share Sale shall be applied in the following order of priority:

- (a) first, in paying on each B Ordinary Share an amount of £1.00 (and, if there are insufficient proceeds to satisfy the entitlements on each B Ordinary Share in full, such proceeds shall be applied pro rata on each B Ordinary Share); and
- (b) second, in paying the balance of any proceeds pro rata on each A Ordinary Share.

10.9.4 *Listing*

Any proceeds arising as a result of or in connection with a Listing shall be applied in the following order of priority:

- (a) first, in paying on each B Ordinary Share an amount of £1.00 (and, if there are insufficient proceeds to satisfy the entitlements on each B Ordinary Share in full, such proceeds shall be applied pro rata on each B Ordinary Share); and
- (b) second, (unless otherwise determined by the Board) in paying the balance of any proceeds pro rata on each A Ordinary Share.

10.9.5 *Obligations on the Shareholders and others*

- (a) The Shareholders shall take all steps and procure (and shall procure that the Company shall take all steps and procure) (to the extent it is able to) that the subsidiary undertakings of the Company take all steps reasonably required by the B Ordinary Shareholders (acting by a majority) in order to enable full payment on the B Ordinary Shares in accordance with clauses 10.9.1 to 10.9.4 (inclusive), including (but not limited to) any actions that may be necessary to create (where possible) any distributable reserves required for the purposes of any distribution or to put the Company and/or its subsidiary undertakings (as the case may be) into voluntary liquidation (where a distribution cannot be lawfully made under clause 10.9.1)).
- (b) Any person receiving an amount which should be applied on a B Ordinary Share in accordance with clauses 10.9.1 to 10.9.4 (inclusive) shall be deemed to have received such amount on trust for each B Ordinary Shareholder, and shall pay on such B Ordinary Shareholder's demand, the amount to which such B Ordinary Shareholder would be entitled in respect of its holding of B Ordinary Shares in accordance with clauses 10.9.1 to 10.9.4 (inclusive).

11. **DETERMINATION OF CALL OPTION PRICE, PUT OPTION PRICE AND FUNDING SHARE PRICE**

11.1 If IL serves a Call Option Notice, or ES serves a Put Option Notice, or a Shareholder requests the fair market value of the Funding Shares to be determined pursuant to clause 6.3.2, IL and ES shall jointly appoint a valuer (the "**Valuer**") (acting as an expert and not as an arbitrator) to determine the Call Option Price, Put Option Price or Funding Share Price (as the case may be).

11.2 The Valuer shall be either:

11.2.1 an internationally reputable investment bank; or

11.2.2 a reputable firm of chartered accountants in England and Wales (including, without limitation, any of PricewaterhouseCoopers, Ernst & Young, KPMG or Deloitte),

in each case as agreed upon by IL and ES.

- 11.3 The Valuer shall be instructed, within thirty days of its appointment, to determine the fair value of the Call Option Shares, Put Option Shares or Funding Shares (as the case may be) ("**Relevant Shares**") on the following bases:
- 11.3.1 the Valuer shall value all of the Shares on the basis that all the Shares are being sold to an arms length purchaser for cash and on the basis that the Company is operating as a going concern and the sale is between a willing seller and a willing buyer on the date that it was instructed to provide its valuation, taking into account (so far as reasonably practicable) the valuation of (and transactions relating to) similar companies and/or businesses within the preceding twenty-four month period;
- 11.3.2 the Services Agreement and the service fees payable under it will be deemed for the purposes of the valuation to continue for 12 months from the date of the Valuer's determination, notwithstanding that the Services Agreement is terminable on shorter notice;
- 11.3.3 if any amounts (other than amounts that are the subject of a bona fide dispute) are due but not yet paid by IL or any IL Affiliate under the Service Agreement or any future service agreement contemplated under clause 3.2, those amounts shall for valuation purposes be deemed to have been paid;
- 11.3.4 where the Relevant Shares are Call Option Shares or Put Option Shares, they shall be valued on the basis of the amount that their holder would be entitled to receive from a sale of all of the Shares then in issue at the price established by the Valuer, taking into account the rights attached to each class of Share, and no additional or reduced value is attached to any holding of Shares by virtue only of that holding comprising or after purchase conferring or giving rise to a majority or minority of the total issued share capital of the Company;
- 11.3.5 where the Relevant Shares are Funding Shares, the fair value (and subscription price) of each Funding Share shall be equal to the amount that the holder of a single A Ordinary Share would be entitled to receive from a sale of all of the Shares then in issue at the price established by the Valuer, taking into account the rights attached to each class of Share, and no additional or reduced value is attached to any holding of Shares by virtue only of that holding comprising or after purchase conferring or giving rise to a majority or minority of the total issued share capital of the Company.
- 11.4 If IL and ES are not able to agree on the identity of the Valuer within fifteen days of service of the Call Option Notice, the Put Option Notice or the Equity Funding Notice (as the case may be), IL and ES shall, within thirty days of service of the Call Option Notice, the Put Option Notice or the Equity Funding Notice (as the case may be), each appoint a Valuer from the category of advisers specified in clause 11.2.1 or 11.2.2 above (provided that if either IL or ES fails to appoint a Valuer within such period, such Valuer shall be appointed on the relevant Shareholder's behalf as soon as practicable by the President of the Institute of Chartered Accountants in England and Wales on the application of the other party). The Valuers shall be instructed each to carry out their respective valuations in accordance with the principles and timeframe

set out in clause 11.3, and the Call Option Price, the Put Option Price or the Funding Share Price (as the case may be) shall be determined by the Company's auditors by calculating the mean average of the prices established by such Valuers.

11.5 Any costs of the Valuer(s) shall be borne by the Company.

12. COMPLETION OF TRANSFERS OF SHARES

12.1 No Disposal of any Share in accordance with this Agreement shall be effected unless:

12.1.1 the transferee (unless already a party to this Agreement) has executed a deed of adherence in substantially the form set out in Schedule 1 (a "**Deed of Adherence**") confirming to the other Shareholder(s) that it shall be bound by this Agreement as a Shareholder in respect of each Share transferred;

12.1.2 the Shares are transferred free of encumbrances and with all rights attaching thereto but otherwise without warranty except as to title save as stated to the contrary elsewhere in this Agreement; and

12.1.3 all consents and approvals required by applicable law from any governmental or other regulatory authority have been obtained or are obtained within such times as provided by applicable law.

12.2 Upon completion of any Disposal of Shares under this Agreement:

12.2.1 the transferor shall deliver to the transferee a share certificate and form/instrument of transfer duly endorsed by an authorised representative of the transferor in favour of the transferee;

12.2.2 the transferee shall pay the aggregate transfer price (if any) in respect of the relevant Shares to the transferor by bankers draft for value on the date of completion or in such other manner as may be agreed by the transferor and the transferee before completion; and

12.2.3 the transferor shall do all such other acts and/or execute all such other documents in a form satisfactory to the transferee as the transferee may reasonably require to give effect to the transfer of Shares to it.

12.3 If a transfer of Shares is executed on behalf of a Shareholder under this clause:

12.3.1 the Company may receive the purchase money on trust for that Shareholder and the receipt of the Company for the purchase money shall be a good discharge for the purchaser, who shall not be bound to see to the application of the purchase money;

12.3.2 the Shareholders shall procure that the Company shall cause the purchaser to be registered as holder of the relevant Shares; and

12.3.3 once registration has taken place in purported exercise of the power contained in this clause 12.3, the validity of the proceedings shall not be questioned by any person.

12.4 This Agreement constitutes the irrevocable written consent of each Shareholder for the purposes of the Articles to any transfer of Shares which is permitted or required by this Agreement.

12.5 The parties agree to extend the benefit of this Agreement to any person who acquires Shares in accordance with this Agreement and enters into a Deed of Adherence confirming to the other Shareholders that it shall be bound by this Agreement as a Shareholder (but without prejudice to the continuation of the rights and obligations of the original parties to this Agreement as between themselves and any other persons who have entered into such a Deed of Adherence).

13. COVENANTS NOT TO COMPETE OR SOLICIT

13.1 Subject to clause 13.3, whilst ES is the legal and/or beneficial owner of any Share, ES shall not (and shall procure that its Affiliates and its Affiliates' shareholders and/or members, shall not) without the prior written consent of IL either alone or jointly with, through (which includes by ownership of any securities) or on behalf of (whether as director, partner, consultant, manager, employee, agent or otherwise) any person, directly or indirectly, in the Restricted Sector:

13.1.1 carry on or be engaged or interested in any Restricted Business by way of any enterprise or undertaking of whatever nature;

13.1.2 seek to undertake any Restricted Business with, or procure directly or indirectly any other person to undertake any Restricted Business with, any person who ES knows, or should reasonably have known, is or has been a contracting party of the Company (or any of its subsidiary undertakings from time to time) at any time during the term of this Agreement;

13.1.3 in connection with any business, engage or employ, or solicit or contact with a view to the engagement or employment by any person, any employee, officer or manager of or any person who has been an employee, officer or manager of the Company (or any of its subsidiary undertakings from time to time) at any time during the term of this Agreement; or

13.1.4 develop, assist in the development of, use, sell, license or otherwise make available any technologies (including software) which may result in any Restricted Business or be an activity that contributes to or results in Restricted Business.

13.2 The restrictions in clause 13.1 shall apply also for a period of three years from the date on which ES ceases to be beneficially interested in any Share (the "**Cessation Date**") in all cases by references to the Restricted Business at the Cessation Date, or to employees, officers, managers or contracting parties of the Company (or any of its subsidiary undertakings from time to time) during the period of 12 months prior to the Cessation Date, as the context may require.

13.3 Except as stated otherwise below, nothing contained in clause 13.1 or 13.2 shall preclude or restrict ES or its Affiliates from exercising the rights granted to ES under the IP Licence Agreement.

- 13.4 ES and its Affiliates shall be released from the covenant in clause 13.1 (other than clause 13.1.3) in the following circumstances:
- 13.4.1 if, on or prior to 31 March 2015, IL has exercised its drag rights pursuant to clause 10.3 and the price realised by ES from the Drag-Along Sale is less than £892,857; or
 - 13.4.2 if, on or prior to 31 March 2015, IL has exercised its call option pursuant to clause 10.5 and the Call Option Price is less than £892,857;
 - 13.4.3 if, on or prior to 31 March 2015, ES has exercised its put option pursuant to clause 10.6 and the Put Option Price is less than £892,857; or
 - 13.4.4 if IL or the Company decides not to continue with the Business and such decision is formally declared by the Board; or
 - 13.4.5 if IL has not subscribed to the entire £3,571,428 (three million five hundred and seventy one thousand four hundred and twenty eight pounds) in aggregate for B Ordinary Shares by the third anniversary of this Agreement and, by the date falling six months after the third anniversary of this Agreement (the "**Funding Longstop Date**"), no nominee of IL as agreed to between the parties (including Bridgepoint Capital Limited through any of the funds administered by it) has subscribed for the balance of the £3,571,428 (three million five hundred and seventy one thousand four hundred and twenty eight pounds) in aggregate for B Ordinary Shares due to be subscribed by IL,

and then only:

- (a) in the case of clauses 13.4.1, 13.4.2 and 13.4.3, after the expiry of a period of 12 months from the date of completion of the sale of ES's Shares pursuant to the Drag-Along Sale, Call Option or Put Option (as the case may be);
 - (b) in the case of clause 13.4.4, immediately following the formal declaration of the Board; and
 - (c) in the case of clause 13.4.5, after the expiry of a period of 12 months from the Funding Longstop Date.
- 13.5 Each undertaking in clause 13.1 and 13.2 constitutes an entirely independent undertaking and if one or more of the undertakings is held to be against the public interest or unlawful or in any way an unreasonable restraint of trade the remaining undertakings shall continue to bind the parties.

14. **TERM AND TERMINATION**

This Agreement shall terminate automatically without notice:

- 14.1.1 on the date that all of the Shares are owned legally or beneficially by either IL or ES;
- 14.1.2 in relation to any Shareholder, when it ceases to hold any Shares by any Shareholder.

15. **ANNOUNCEMENTS**

15.1 Subject to clause 15.2, neither party may, before or after Completion, make or issue a public announcement, communication or circular concerning the transactions referred to in this Agreement.

15.2 Nothing in clause 15.1 shall prevent:

15.2.1 the issue of a public announcement, communication or circular required by law, by a rule of a listing authority or stock exchange to which any party is subject or submits or by a governmental authority or other authority with relevant powers to which any party is subject or submits, whether or not the requirement has the force of law provided that the public announcement, communication or circular shall, so far as is practicable, be made after consultation with the other party and after taking into account the reasonable requirements of the other party as to its timing, content and manner of making or despatch; or

15.2.2 to which the other party has given its prior written approval, such approval not to be unreasonably withheld or delayed.

16. **COSTS**

Except where this Agreement provides otherwise, each party shall pay its own costs relating to the negotiation, preparation, execution and performance by it of this Agreement and of each document referred to in it.

17. **CONFIDENTIAL INFORMATION**

For the purposes of this clause 17, "**Confidential Information**" means all information of a confidential nature disclosed by whatever means by one party (the "**Disclosing Party**") to any other party (the "**Receiving Party**") and includes such information disclosed by or to the Company and includes the provisions and subject matter of this Agreement.

17.1 Each Shareholder undertakes to keep, and shall procure that each of its Affiliates and each Director appointed by it pursuant to this Agreement shall keep the Confidential Information confidential and not disclose it to any person, other than as permitted under this clause 17.

17.2 Clause 17.1 shall not apply to the disclosure of Confidential Information if and to the extent:

17.2.1 required by any law or by regulation of any country with jurisdiction over the affairs of the Receiving Party or Company; or

17.2.2 required by the rules of any securities exchange on which securities of the Receiving Party or any of its Affiliates are listed; or

17.2.3 required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body; or

- 17.2.4 that such information is in the public domain other than through breach of this clause; or
- 17.2.5 that the Receiving Party wishes to make such disclosure pursuant to the exercise of rights in this Agreement in connection with a Disposal of Shares under clause 10 (provided that the Receiving Party requires that any disclosee of Confidential Information enters into a confidentiality undertaking which would reasonably be considered to protect the Confidential Information against disclosure which would materially damage the Business),

provided that, in the case of clauses 17.2.1, 17.2.2 and 17.2.3, the Receiving Party will to the extent reasonably practicable and permitted by such law or body promptly notify the Disclosing Party or the Company (as appropriate) and co-operate with the Disclosing Party or the Company (as appropriate) regarding the timing and content of such disclosure and any action which the Disclosing Party or the Company (as appropriate) may reasonably wish to take to challenge the validity of such requirement.

- 17.3 The Receiving Party may disclose Confidential Information to its Affiliates and to the directors, officers, employees, advisers, lenders and direct and indirect shareholders of the Receiving Party and its Affiliates, provided that the Receiving Party makes each such recipient aware of the obligations of confidentiality assumed by it under this Agreement and provided that it uses reasonable endeavours to ensure that such recipient complies with those obligations as if it was a party to this Agreement.

This clause shall continue to bind the parties notwithstanding termination or expiry of this Agreement or Disposal of a party's Shares for a period of five years thereafter.

18. CONFLICT WITH ARTICLES

In the event of any conflict between the provisions of this Agreement and the Articles, the provisions of this Agreement shall prevail and the Shareholders shall exercise all powers and rights available to them to procure the amendment of the Articles to the extent necessary to permit the Company and its affairs to be regulated as provided in this Agreement.

19. GENERAL

- 19.1 A variation of this Agreement is only valid if it is in writing and signed by or on behalf of each of the parties.
- 19.2 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not impair or constitute a waiver of the right or remedy or an impairment of or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents further exercise of the right or remedy or the exercise of another right or remedy.
- 19.3 Save as provided otherwise in this Agreement, the rights and remedies contained in this Agreement are cumulative and not exclusive of rights or remedies provided by law.

- 19.4 If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable under the laws of any jurisdiction, that shall not affect:
- 19.4.1 the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
 - 19.4.2 the legality, validity or enforceability under the laws of any other jurisdiction of that or another provision of this Agreement.
- 19.5 No party may undertake any obligation or incur any liability (including a financial obligation or liability) on behalf of another party, or legally bind another party, without such other party's consent. Under no circumstances shall this Agreement create or imply a legal partnership, agency, joint venture or imply any trust between the parties. No party shall owe the other parties any duty of care or any fiduciary or equitable duties under this Agreement save as expressly set out in this Agreement or as may otherwise be agreed in writing
- 19.6 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from the Third Parties Act.

20. ASSIGNMENT

- 20.1 Except as otherwise provided in this Agreement, neither party shall be entitled to assign, transfer, declare a trust of the benefit of or in any other way alienate any of its rights under this Agreement whether in whole or in part without the prior written consent of the other party.
- 20.2 If a Shareholder wishes to grant security over, or assign by way of security to a third party debt financier its rights under this Agreement for the purposes of, or in connection with the debt financing of its working capital or other requirements, it shall first obtain the consent of the other Shareholder (such consent not to be withheld or delayed unreasonably).

21. NOTICES

- 21.1 Any notice or other communication under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered mail, courier or fax, to the party due to receive the notice at its address set out in this Agreement or such other address as any party may specify by notice in writing to the other. Any notice or other communication under or in connection with this Agreement may be sent by e-mail as long as it is followed up by written notice sent by registered mail, courier or fax.
- 21.2 All notices to IL must be sent to:

Address: Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53
7TH
Telephone: +44 1242 267100
Fax: +44 1242 253076
Attention: Fred Grainger

21.3 All notices to ES must be sent to:

Address: 1-B, Hootagalli Industrial Area, Mysore 570 018, India
Telephone: +91 821 428 2000
Fax: +91 821 428 2208
Attention: Sudhanva D

21.4 In the absence of evidence of earlier receipt, any notice or other communications shall be deemed to have been duly given:

- 21.4.1 if delivered personally, when left at the address referred to in clause 21.2 or 21.3, provided that if the date of delivery is not a Business Day, then delivery shall be deemed to occur on the next succeeding Business Day;
- 21.4.2 if sent by registered mail or courier service, 48 hours after guaranteed delivery time; and
- 21.4.3 if sent by fax, when confirmation of its transmission has been recorded on the sender's fax machine.

22. GOVERNING LAW AND JURISDICTION

- 22.1 This Agreement is governed by, and shall be construed in accordance with, English law.
- 22.2 The courts of England and Wales shall have exclusive jurisdiction over the interpretation of this Agreement.
- 22.3 ES hereby appoints EC3 Services Limited of 51 Eastcheap, London EC3M 1JP, United Kingdom (ref: 1003376/SVN), as its process agent to receive on its behalf service of process of any proceedings in the United Kingdom. Such service shall be deemed completed on delivery to such process agent, whether or not it is forwarded to ES. If for any reason such process agent ceases to be able to act as process agent, ES irrevocably agrees to appoint a substitute process agent and to deliver to IL a copy of the new process agent's acceptance of that appointment within 10 Business Days thereof.

23. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered is an original and all of which together evidence the same agreement.

24. SURRENDER OF TAX LOSSES

- 24.1 It is agreed that the Company may, if approved by the Board, surrender tax losses to IL and/or members of IL's corporation tax group ("**Tax Group**") or utilise tax losses surrendered to it by members of the Tax Group.
- 24.2 For the purposes of this clause 24, the company surrendering losses is the "**Surrendering Company**", the company utilising the losses is the "**Claimant Company**" and the losses that are to be surrendered are "**Available Losses**".

- 24.3 In consideration for the surrender by the Surrendering Company of the Available Losses as contemplated by clause 24.1, the Claimant Company shall pay to the Surrendering Company an amount equal to the total corporation tax saved (whether by reduced payment of corporation tax or by way of a repayment of corporation tax) by the Claimant Company that results from such surrender.
- 24.4 The amount referred to in clause 24.3 shall be paid to the Surrendering Company on the date on which the Claimant Company would have paid additional corporation tax but for the relevant surrender or, as applicable, the date on which the Claimant Company receives a repayment of corporation tax which it would have not received but for the relevant surrender
- 24.5 If and to the extent that a payment has been made for a surrender and HMRC formally determines that such surrender was invalid or was otherwise unavailable, then to the extent of such invalidity or unavailability the appropriate proportion of the payment made for such invalid or unavailable surrender shall be refunded by the Surrendering Company within 5 Business Days of such determination.
- 24.6 The parties shall, and shall procure that the Company will, use all reasonable endeavours to procure that full effect is given to the surrenders to be made under clause 24.1 and that such surrenders are allowed in full by HM Revenue & Customs and the parties shall, and shall procure that the Company will, sign and submit to HM Revenue & Customs all such notices of consent to surrender and all such other documents and returns as may be necessary to ensure that full effect is given to this clause 24.
- 24.7 If any sum due and payable under this clause 24 is not paid on the due date, the paying party shall in addition to that sum pay interest from the date for payment of the sum to and including the date of actual payment of the sum. The interest accrues from day to day (before and after judgment) at the rate applied by HMRC to calculate interest on late payment of tax, prevailing at that time.

**SCHEDULE 1
DEED OF ADHERENCE**

THIS DEED OF ADHERENCE is made on [•]

BY [•], a registered company whose principal place of business is at [•] (the "**Covenantor**") in favour of the persons whose names are set out in the schedule to this Deed and is supplemental to the shareholders agreement dated [•] between EEH (BIDCO) LIMITED and EXCELSOFT TECHNOLOGIES PRIVATE LIMITED (the "**Shareholders Agreement**").

THIS DEED WITNESSES as follows:

1. **INTERPRETATION**

Unless the context requires otherwise, terms defined in the Shareholders Agreement have the same meaning when used in this Deed.

2. **ACCESSION**

2.1 The Covenantor has acquired [•] [A Ordinary Shares/B Ordinary Shares] (the "**Designated Shares**").

2.2 The Covenantor confirms that it has been given and read a copy of the Shareholders Agreement and covenants with each person named in the schedule to this Deed to perform the obligations and be bound by all the terms of the Shareholders Agreement as if the Covenantor were a party to the Shareholders Agreement standing in the place of the person having made a Disposal of the Designated Shares as respects them and having the rights and obligations set out in the Agreement deriving from the holding of the Designated Shares.

3. **GOVERNING LAW AND ARBITRATION**

The provisions of clause 22 (*Governing Law and Jurisdiction*) of the Shareholders Agreement shall apply to this Deed as though they were set out, *mutatis mutandis*, in full in this Deed.

4. **COUNTERPARTS**

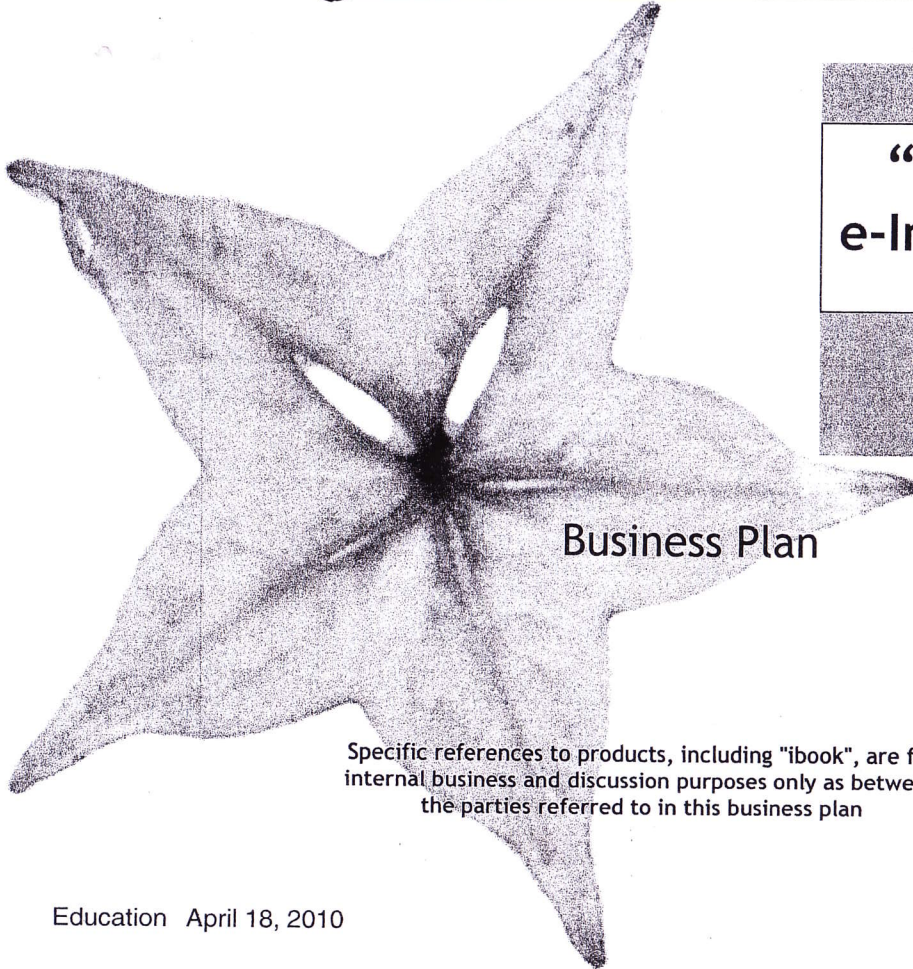
This Deed may be executed in any number of counterparts each of which when executed and delivered is an original, but all the counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF this Deed has been executed by the Covenantor and is intended to be and is hereby delivered on the date first above written.

SCHEDULE

[List parties to Shareholders Agreement including those who have executed earlier deeds of adherence].

**SCHEDULE 2
BUSINESS PLAN**



**“NEWCO”
e-International**

Business Plan

Specific references to products, including "ibook", are for internal business and discussion purposes only as between the parties referred to in this business plan

Education April 18, 2010

infinitas
learning



CONTENTS

- Milestones
- Organisation
- Financials
- Governance

Milestones

MILESTONES (headlines)

1. Technical & product

- The developments of i-book
- Reverse engineering of Generic elearning components similar to some components in Saras
- Provide i-book within Kerboodle
- Establish a community platform
- Creation of i-lessons
- Provide platform for online tutoring
- Establish gateway to the e-school

2. Proof of concept

- Launch 2 NT backlist i-books and 1 NT backlist i-book plus
- Secure NT “pilot centres”
- Exhibit at BETT
- NT established customer base of 80 schools per each i-book

3. Structural & Financial

- Establish NEWCO with Excelsoft
- Agree structure of NEWCO within IL
- Establish NEWCO Board
- Secure staffing
- Allocate funding
- Agree reporting mechanisms

4. Business Development

- Identify source of remaining 27 i-books targeted for 2010 (including other companies besides NT)
- Explore “Publishing Partner” model
- Develop communities, i-lesson & i-tutor models

MILESTONES - Technical & Product

	2009	Q1 '10	Q2 '10	Q3 '10	Q4 '10
i-book development	Finalise completed i-book concept	Reaction to feedback from NT launch			
Reverse engineer Generic elearning components similar to some components in Saras			Plans designed	Commence & continue modular reverse engineering	
Provide i-book with Kerboodle	Integration plan created	Integration within Kerboodle	Acceptance from NT		
Establish community platform		Community integration work	Community live	Ongoing development	
Create i-lessons	French & Science i-lessons being developed		Launch of French	Launch of Science	Feedback amendments + next stage plans developed
Provide platform for online tutoring			Online tutoring Beta	Online tutoring trials	
e-school					Start design & development post market

MILESTONES - Proof of Concept

	2009	Q1 '10	Q2 '10	Q3 '10	Q4 '10
Launch 2 NT i-books & 1 i-book plus	All 3 i-books completed & bug tested	Products established with pilot centres	Formal review of proof of concept		
Secure NT pilot centres	Identify pilot centres for soft-launch	Customer feedback on product			
Exhibit at BETT	Develop demo plan. Establish "brand name" for i-book	Demos at BETT & lead generation			
Establish NT customer base of 80 per i-book	Start to develop sales & marketing strategy	NT market i-book to broad customer base			
e-school				Market research e-school	Market research Formal Review

MILESTONES - Structural & Financial

	2009	Q1 '10	Q2 '10	Q3 '10	Q4 '10
Establish NEWCO with Excelsoft	Agreed structure & company formed				
Agree NEWCO structure within IL	IL Board November				
Establish NEWCO Board	Proposal made	Board inaugural meeting held	Quarterly meetings		
Secure staffing	NEWCO senior team secured	New team in place including ODC			
Allocate funding	IL Board November				
Agree reporting mechanisms	IL Board requirements agreed *	NEWCO key data & usage being developed, implemented & refined			

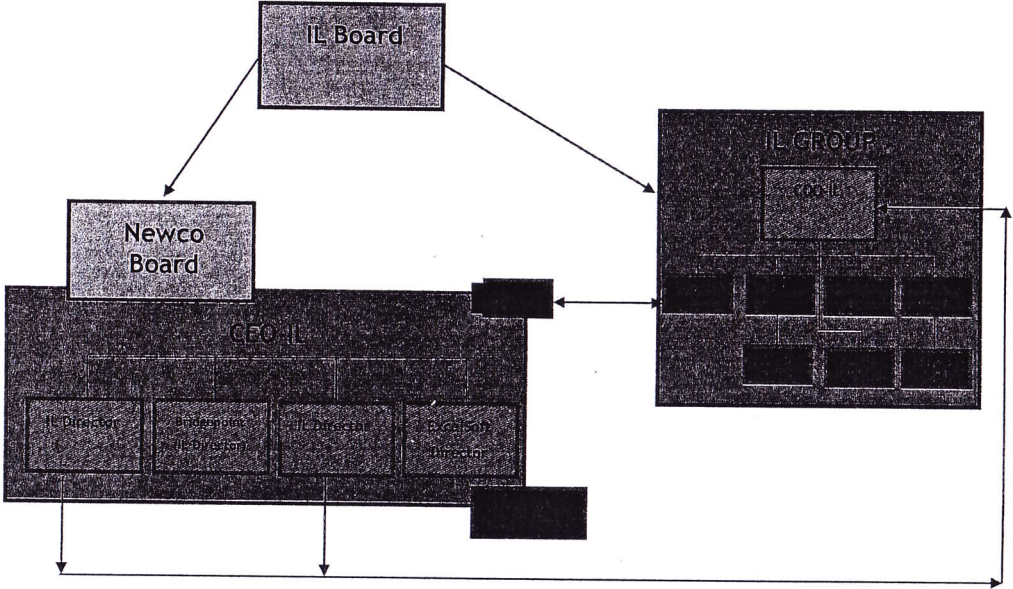
* Suggest reporting is based on update of all milestones plus cash burn compared to plan

MILESTONES - Business Development

	2009	Q1 '10	Q2 '10	Q3 '10	Q4 '10
Identify source of remaining 27 i-books		Identify options NT + other OpCo's	Roll-out plan in place	Roll Out	
Explore Publishing Partner model	Continue existing discussions. Develop new opportunities Refine business model			If model established then wider marketing activity	
Develop communities, i-lesson & i-tutor models	Investigate use of Global English communities	Develop i-lessons (French first) Plan launch community	Release & marketing of first i-lessons Community site integrated	Ongoing i-lesson & community development Start on i-tutor plans	

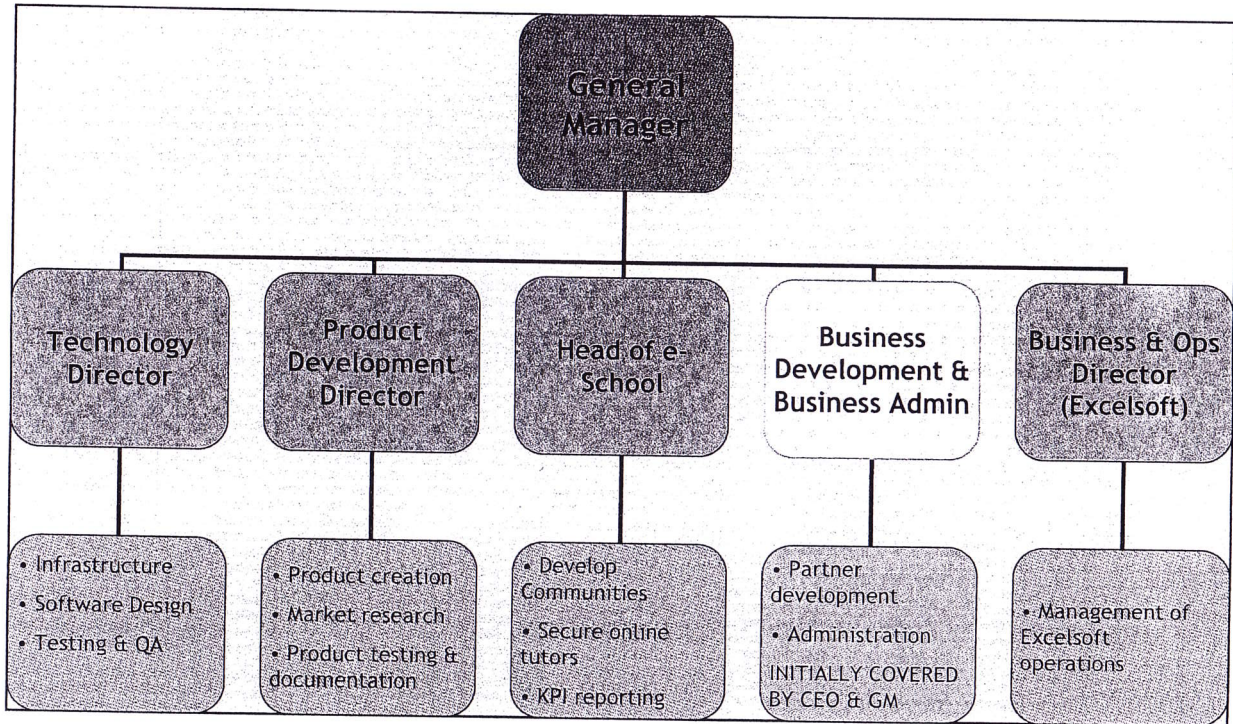
Organisation

Organisation of NEWCO within IL

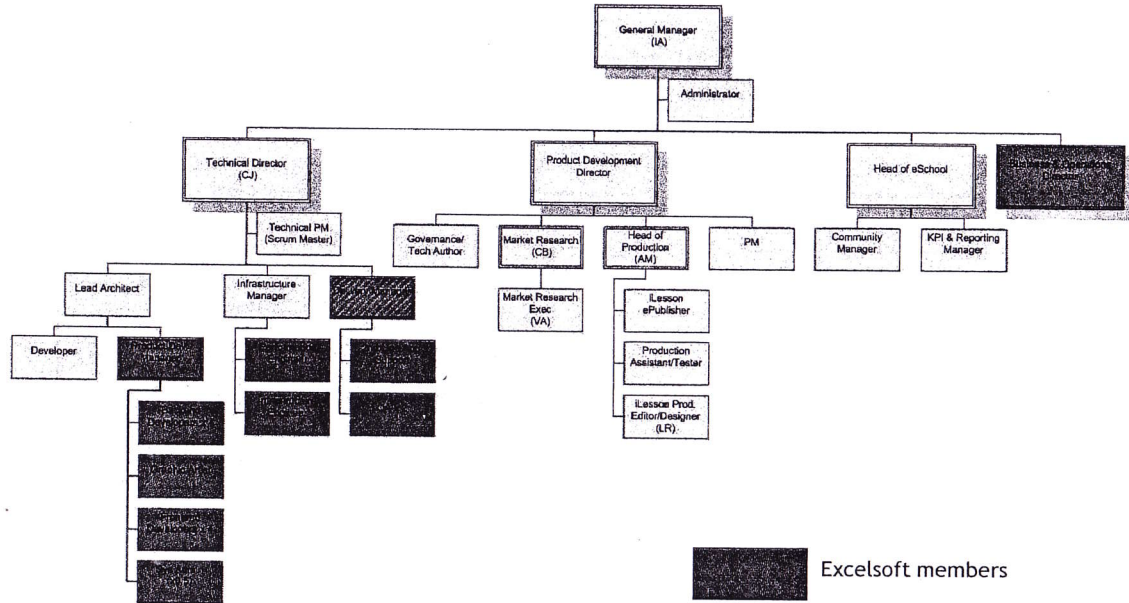


IL Group - Company Confidential

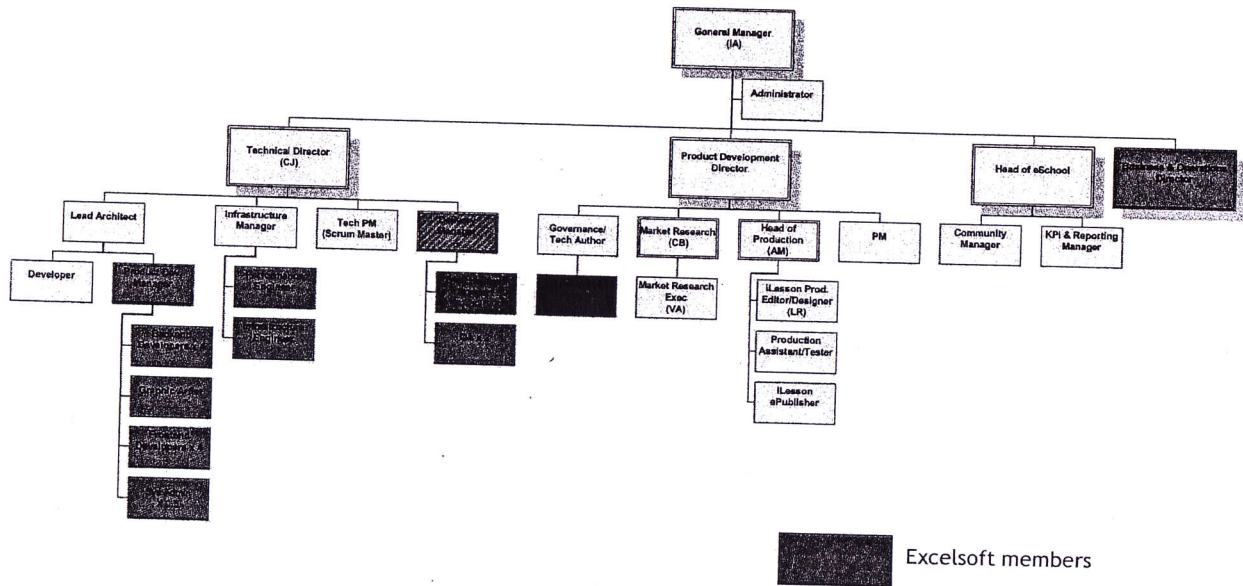
NEWCO Organisation (High-level)



NEWCO Organisation - Q1&Q2 2010



NEWCO Organisation - Q3 2010



Financials

Revenue

€'000's	2010	2011	2012
i-Book	323	4,015	7,100
WeTeach	0	14	76
i-Lesson	5	214	1,019
i-Tutor	6	857	6,850
Total revenues	334	5,100	15,045

i-Book Statistics:

Number of i-Books in play	30	80	100
Number of schools buying each i-book	80	272	320
Total number of customers	2,400	21,760	31,980
Number of licences bought per customer	54	74	89
Total i-book users	128,880	1,603,712	2,836,626
Average revenue per i-book	€ 10,760	€ 50,184	€ 70,996
Average revenue per customer	€ 135	€ 185	€ 222

The success of the i-book is both a key revenue driver in its own right and a gateway to further revenue streams



3-year forecast

	2010	2011	2012
Revenue	334	5,100	15,045
<i>Cost of Sales:</i>			
Hosting	64	321	425
Tutor Fees	6	300	2,398
Royalties	71	883	1,562
Total COS	141	1,504	4,385
Margin	192	3,596	10,660
<i>Overheads:</i>			
Personnel costs	1,396	1,870	2,017
ODC costs	663	663	663
Promotion costs	280	260	216
Publishing & Editorial	53	51	229
Community platform	50	100	150
Other costs	429	515	763
Total Overheads	2,870	3,459	4,038
Capex	196	57	49
Accelerate Saras reverse engineering	491	0	0
Overheads + Capex + Saras	3,557	3,516	4,087
Cash Inflow (Outflow)	(3,365)	80	6,573

Assumptions

- Cash rather than EBITDA is reflected as the only difference (other than Capex which is itemised separately) is the way in which IDC is treated.
- ODC spending: assumed constant level throughout the 3 year period but does not reflect future revenue streams which would begin in 2013
- Community platform to be provided. We have built in some costs for integration & contingency.
- No costs of either FG or Sudhanva are included.

Governance

Governance

- Ensure the products & services are maintained and keep their integrity whilst developing and integrating the strategic future product roadmap e.g.:
 - new functionalities & additional product development projects (driven by Product Development, taking external partners & other IL OpCos into account)
 - integration with Kerboodle or other IL platforms e.g. FLS 3 at Noordhoff
 - increase usability
 - develop additional KPI reporting requirements where required
- Link to e-academy – including collaboration with MD of e-learning and other Operating Companies to take their requirements on board in governing the application(s) & services
- Work with technology & product development teams to ensure the application(s) remain optimised to fulfil business needs
- Work with technology & infrastructure teams to ensure future scaling is planned and can be taken forward safeguarding the running of existing services
- To ensure Governance after proof of concept, a governance manager is hired from Q3-2010

**SCHEDULE 3
ARTICLES**

Company No. 7093115

INCORPORATED UNDER THE COMPANIES ACT 2006

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

CYCLONEHAVEN LIMITED

Incorporated on 2 December 2009

Adopted by special resolution passed on 19 April 2010

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INCORPORATED UNDER THE COMPANIES ACT 2006

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

CYCLONEHAVEN LIMITED

1. **INTERPRETATION**

1.1 In the articles, unless the context otherwise requires:

"**Act**" means the Companies Act 2006;

"**adoption date**" means 19 April 2010;

"**alternate director**" has the meaning given to it in article 29.1;

"**A Ordinary Shares**" means the A ordinary shares of £1.00 each in the capital of the Company, having the rights set out in the articles;

"**A Ordinary Shareholder**" means a holder for the time being of an A Ordinary Share;

"**appointor**" has the meaning given to it in article 29.1;

"**articles**" means the Company's articles of association;

"**Asset Sale**" the disposal (whether through a single transaction or a series of transactions) by the Company or any of its subsidiary undertakings from time to time of all, or substantially all, of the Company's business, assets and undertaking;

"**B Ordinary Shares**" means the B ordinary shares of £1.00 each in the capital of the Company, having the rights set out in the articles;

"**B Ordinary Shareholder**" means a holder for the time being of a B Ordinary Share;

"**bankruptcy**" includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

"**capitalised sum**" has the meaning given to it in article 45.1;

"**certificate**" means a paper certificate evidencing a person's title to specified shares or other securities;

"**chairman**" has the meaning given to it in article 16.2;

"**chairman of the meeting**" has the meaning given to it in article 53.3;

"**clear days**" means, in relation to a period of notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

"**Company**" means Cyclonehaven Limited, a company incorporated in England and Wales (registered number 7093115), whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH;

"**corporate representative**" has the meaning given to it in article 64;

"**distribution recipient**" has the meaning given to it in article 40.2;

"**document**" includes, unless otherwise specified, any document sent or supplied in electronic form;

"**fully paid**" means, in relation to a share, that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company;

"**group company**" means a subsidiary undertaking or parent undertaking of the Company, or a subsidiary undertaking of any parent undertaking of the Company;

"**holder**" means, in relation to a share, the person whose name is entered in the register of members of the Company as the holder of that share;

"**instrument**" means a document in hard copy form;

"**in writing**" means the representation of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise;

"Listing" the admission of any shares in the capital of the Company (or any new holding company of it formed for such purposes) to the Official List of the Financial Services Authority, and to trading on the London Stock Exchange's market for listed securities, or to trading on the Alternative Investment Market of the London Stock Exchange, or on any other recognised investment exchange;

"Member" means each of the A Ordinary Shareholders from time to time (and **"Members"** shall mean all of them collectively);

"Model Articles" means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2009/3229) as amended prior to the date on which the Company was incorporated;

"paid" means paid or credited as paid;

"participate", in relation to a directors' meeting, has the meaning given to it in article 14.1;

"persons entitled" has the meaning given to it in article 45.1;

"proxy notice" has the meaning given to it in article 62.1;

"proxy notification address" has the meaning given to it in article 63.1;

"qualifying person" means an individual who is a Member of the Company, a person authorised under section 323 of the Act to act as the corporate representative of a Member of the Company in relation to the relevant meeting or a person appointed as a proxy of a Member of the Company in relation to the relevant meeting;

"recognised investment exchange" shall be construed in accordance with section 285 of the Financial Services and Markets Act 2000;

"senior holder" has the meaning given to it in article 40.2.2;

"shares" means shares in the Company (including, without limitation, the A Ordinary Shares and the B Ordinary Shares);

"Share Sale" the sale (whether through a single transaction or series of transactions) of the entire issued share capital of the Company, except where the holders of the shares and the proportion of shares held by each of them following completion of the sale are the same as the holders and their shareholdings in the Company immediately prior to the sale;

"transmittee" means a person entitled to a share by reason of the death or bankruptcy of a member or otherwise by operation of law; and

"United Kingdom" means Great Britain and Northern Ireland.

- 1.2 Unless the context otherwise requires, words or expressions contained in the articles bear the same meaning as in the Act as in force on the adoption date.

- 1.3 Where an ordinary resolution of the Members is expressed to be required for any purpose, a special resolution of the Members is also effective for that purpose.
- 1.4 References to any statutory provision or statute include all modifications thereto and all re-enactments (with or without modification) thereof and all subordinate legislation made thereunder in each case for the time being in force, unless expressly stated otherwise. This article 1.4 does not affect the interpretation of article 1.2.
- 1.5 A Member is "present" at a meeting if the Member (being an individual) attends (otherwise than by his duly appointed proxy) or if the Member (being a corporation) attends by its duly authorised corporate representative or if the Member attends by his duly appointed proxy.
- 1.6 The *ejusdem generis* principle of construction shall not apply. Accordingly, general words shall not be given a restrictive meaning by reason of their being preceded or followed by words indicating a particular class of acts, matters or things or by examples falling within the general words.
- 1.7 The headings in the articles do not affect their interpretation or construction.
- 1.8 In the articles, words importing one gender shall include each gender and a reference to a "spouse" shall include a reference to a civil partner under the Civil Partnership Act 2004.
- 1.9 No regulations or model articles contained in any statute or subordinate legislation, including those contained in the Model Articles, apply as the articles of association of the Company.

2. PRIVATE COMPANY STATUS AND LIABILITY OF MEMBERS

- 2.1 The Company is a private company limited by shares and accordingly any offer to the public to subscribe for any shares or debentures of the Company is prohibited.
- 2.2 The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

3. SHARE CAPITAL

- 3.1 The share capital of the Company at the date of adoption of these articles is divided into:
 - 3.1.1 A Ordinary Shares; and
 - 3.1.2 B Ordinary Shares.

4. EXCLUSION OF PRE-EMPTION RIGHTS AND DIRECTORS' AUTHORITY TO ALLOT SHARES

- 4.1 Pursuant to section 567 of the Act, the pre-emption provisions of section 561 and 562 of the Act do not apply to an allotment of the Company's equity securities.

- 4.2 Subject to the articles, the directors are generally and unconditionally authorised for the purposes of section 551 of the Act and otherwise to exercise the powers of the Company to allot and issue:
- 4.2.1 10,000,000 A Ordinary Shares; and
- 4.2.2 3,571,428 B Ordinary Shares at a subscription price of £1.00 per B Ordinary Share.
- 4.3 The authority conferred on the directors by this article 4 shall remain in force until the fifth anniversary of the date of adoption of these articles unless previously renewed, renewed, revoked or varied by the Company in accordance with the Act.
- 4.4 The Company may pursuant to the authorisation conferred by this article 4 make offers or agreements which would or might require the allotment, grant of options, rights of subscription or conversion over or other disposal of shares after its expiry and the directors may, after the authorisation has expired, allot, grant options, rights of subscription or conversion over or otherwise dispose of shares in pursuance of any such offer or agreement made before the authorisation expired.

5. RIGHTS ATTACHING TO SHARES

General

- 5.1 The A Ordinary Shares and the B Ordinary Shares shall constitute separate classes of shares for the purposes of the Act and the articles but, except as provided in these articles, shall rank *pari passu* in all respects.
- 5.2 The rights and restrictions attaching to the A Ordinary Shares and the B Ordinary Shares in respect of, *inter alia*, voting, distribution and return of capital are as set out in the articles.

Voting

- 5.3 The A Ordinary Shares shall carry the right to receive notice of, attend, speak and vote at general meetings of the Company and on written resolutions of Members.
- 5.4 The B Ordinary Shares shall not carry the right to receive notice of or to attend, speak or vote at any general meeting of the Company nor to vote on any written resolution of Members.

Distributions - general

- 5.5 The A Ordinary Shares shall be entitled to receive all distributions of profit and capital payable by the Company, save as provided for in articles 5.6 to 5.10 (inclusive). Save as provided for in articles 5.6 to 5.10 (inclusive), the B Ordinary Shares shall not be entitled to any receive any distributions of (a) profit, including any allotment to members of unissued shares of the Company (whether or not fully paid) as a result of the capitalisation of any sum standing to the credit of share premium account or of any reserve (whether or not available for distribution) of the Company or (b) of capital whether on a liquidation, reduction of capital, share buy-back or otherwise.

Liquidation preference

- 5.6 On a return of capital on a liquidation, dissolution or winding up of the Company, the surplus assets of the Company remaining after the satisfaction of its then outstanding liabilities shall (to the extent that the Company is lawfully able to do so) be applied in the following order of priority:
- 5.6.1 first, in paying on each B Ordinary Share an aggregate amount of £1.00 inclusive of any amounts previously paid on such share by operation of articles 5.7 to 5.10 inclusive and article 5.12 (and, if there is a shortfall of assets remaining to satisfy the entitlements on each B Ordinary Share in full, the surplus assets shall be applied pro rata on each B Ordinary Share); and
- 5.6.2 second, in paying the balance of any funds pro rata on each A Ordinary Share.

Asset Sale

- 5.7 On an Asset Sale, the surplus assets of the Company remaining after the satisfaction of its then outstanding liabilities shall be distributed to the Members by way of dividend, distribution, capital payment, share buyback, or other return of capital or by any other lawful means (to the extent that the Company is lawfully able to do so) in the following order of priority:
- 5.7.1 first, in paying on each B Ordinary Share an amount of £1.00 (and, if there is a shortfall of assets remaining to satisfy the entitlements on each B Ordinary Share in full, the surplus assets shall be applied pro rata on each B Ordinary Share);
- 5.7.2 second, in paying the balance of any funds pro rata on each A Ordinary Share, and the Members and the Company shall procure (so far as reasonably practicable) that on an Asset Sale by any subsidiary undertaking of the Company, the surplus assets of such subsidiary undertaking shall (to the extent legally permissible) be distributed to the Company (whether directly or indirectly) so as to enable such assets to be distributed as set out in articles 5.7.1 and 5.7.2.

Share Sale

- 5.8 Any proceeds arising as a result of or in connection with a Share Sale shall be applied in the following order of priority:
- 5.8.1 first, in paying on each B Ordinary Share an amount of £1.00 (and, if there are insufficient proceeds to satisfy the entitlements on each B Ordinary Share in full, such proceeds shall be applied pro rata on each B Ordinary Share); and
- 5.8.2 second, in paying the balance of any funds pro rata on each A Ordinary Share.
- 5.9 The directors may refuse to register any transfer of shares if the proceeds of such Share Sale are not applied in the manner referred to in article 5.8.

Listing

- 5.10 Any proceeds arising as a result of or in connection with a Listing shall be applied in the following order of priority:
- 5.10.1 first, in paying on each B Ordinary Share an amount of £1.00 (and, if there are insufficient proceeds to satisfy the entitlements on each B Ordinary Share in full, such proceeds shall be applied pro rata on each B Ordinary Share); and
- 5.10.2 second, (unless otherwise determined by the directors) in paying the balance of any funds pro rata on each A Ordinary Share.

Obligations on the Company, the Members and others

- 5.11 The Company and each Member shall take all steps and procure (to the extent it is able to) that the subsidiary undertakings of the Company take all steps reasonably required by the B Ordinary Shareholders (acting by a majority) in order to enable full payment on the B Ordinary Shares in accordance with articles 5.6 to 5.10 including (but not limited to) any actions that may be necessary to create (where possible) any distributable reserves required for the purposes of any distribution or to put the Company and/or its subsidiary undertakings (as the case may be) into voluntary liquidation (where a distribution cannot be lawfully made under article 5.7)).
- 5.12 Any person receiving an amount which should be applied on a B Ordinary Share in accordance with articles 5.6 to 5.10 above shall be deemed to have received such amount on trust for each B Ordinary Shareholder, and shall pay on such B Ordinary Shareholder's demand, the amount to which such B Ordinary Shareholder would be entitled in respect of its holding of B Ordinary Shares in accordance with articles 5.6 to 5.10.

Variation of Rights

- 5.13 The rights attaching to the A Ordinary Shares shall only be varied with the consent in writing of all of the Members. The rights attaching to the B Ordinary Shares shall only be varied with the consent in writing of all of the B Ordinary Shareholders.

6. ALL SHARES TO BE FULLY PAID

- 6.1 No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the Company in consideration for its issue.
- 6.2 This does not apply to shares taken on the formation of the Company by the subscribers to the Company's memorandum.

7. POWER TO ISSUE DIFFERENT CLASSES OF SHARE

- 7.1 Subject to the Act and the articles, but without prejudice to the rights attached to any existing share, the Company may issue a further class or classes of shares with such rights or restrictions as may be determined by ordinary resolution of the Members.
- 7.2 Subject to the Act, the Company may with the consent in writing of all of the Members issue shares which are to be redeemed, or are liable to be redeemed at the

option of the Company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

- 7.3 If rights and restrictions attaching to shares are determined pursuant to this article 7, those rights and restrictions shall apply in place of any rights or restrictions that would otherwise apply by virtue of the Act in the absence of any provisions in the articles, as if those rights and restrictions were set out in the articles.

8. **DIRECTORS' GENERAL AUTHORITY**

Subject to the Act and the articles, the directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

9. **MEMBERS' RESERVE POWER AND EFFECT OF ALTERING ARTICLES**

- 9.1 The Members may, by special resolution of the Members, direct the directors to take, or refrain from taking, specified action.
- 9.2 No such special resolution of the Members invalidates anything which the directors have done before the passing of the resolution.
- 9.3 No alteration of the articles invalidates anything which the directors have done prior to the alteration.

10. **DIRECTORS MAY DELEGATE**

- 10.1 Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles:
- 10.1.1 to such person or committee;
 - 10.1.2 by such means (including by power of attorney or otherwise);
 - 10.1.3 to such an extent;
 - 10.1.4 in relation to such matters or territories; and
 - 10.1.5 on such terms and conditions,
as they think fit.
- 10.2 If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.
- 10.3 Where a provision in the articles refers to the exercise of a power, authority or discretion by the directors and that power, authority or discretion has been delegated by the directors to a committee or a member of a committee, the provision shall be construed as permitting the exercise of the power, authority or discretion by the committee or a member of a committee.

- 10.4 The directors may revoke any delegation in whole or part, or alter its terms and conditions.

11. COMMITTEES

- 11.1 Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

- 11.2 The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

12. DIRECTORS TO TAKE DECISIONS COLLECTIVELY

- 12.1 Subject to article 12.2, decisions of the directors must be taken:

12.1.1 at a directors' meeting; or

12.1.2 in the form of a directors' written resolution in accordance with article 20.

- 12.2 If:

12.2.1 the Company has only one director for the time being; and

12.2.2 the provisions of article 24 do not require it to have more than one director,

the director may (for so long as he remains the sole director) exercise all the powers conferred on the directors by the articles by any means permitted under the Act. For the purpose of article 15, the quorum for the transaction of business by a sole director is one, and all other provisions of the articles apply with any necessary modification (unless a provision expressly provides otherwise).

13. CALLING A DIRECTORS' MEETING

- 13.1 Subject to the provisions of any agreement entered into between the Members, any director may call a directors' meeting by giving 7 clear days' notice of the meeting (subject to article 13.5) to the directors or by authorising the company secretary (if any) to give such notice.

- 13.2 Notice of any directors' meeting must indicate:

13.2.1 its proposed date and time;

13.2.2 where it is to take place; and

13.2.3 if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

- 13.3 Notice of a directors' meeting must be given to each director and may (but need not) be in writing.

- 13.4 Notice of a directors' meeting need not be given to a director who waives his entitlement to receive notice of that meeting by giving notice to that effect to the Company at any time prior to or after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.
- 13.5 Subject to (and in addition to) the provisions of any agreement entered into between the Members, directors' meetings may be convened by giving not less than 72 hours' notice if:
- 13.5.1 the interests of the Company would in the opinion of the director convening the meeting be likely to be adversely affected to a material extent if the business to be transacted at such board meeting were not dealt with as a matter of urgency; or
 - 13.5.2 in such circumstances as may be agreed by all Members; or
 - 13.5.3 all of the directors otherwise agree in writing.

14. PARTICIPATION IN DIRECTORS' MEETINGS

- 14.1 Subject to the articles, directors "**participate**" in a directors' meeting, or part of a directors' meeting, when:
- 14.1.1 the meeting has been called and takes place in accordance with the articles; and
 - 14.1.2 each director can communicate to the others any information or opinions he has on any particular item of the business of the meeting.
- 14.2 In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how the directors communicate with each other.
- 14.3 If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever the chairman is physically present.

15. QUORUM FOR DIRECTORS' MEETINGS

- 15.1 Subject to article 15.3, at a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 15.2 Subject always to article 12.2 and article 21.2.3 and the provisions of any agreement entered into between the Members, the quorum for the transaction of business at a directors' meeting may be fixed from time to time by a decision of the directors and unless otherwise fixed it is two.
- 15.3 Subject always to article 12.2, if the total number of directors for the time being in office is less than the quorum required for directors' meetings, the directors must not take any decision other than a decision:
- 15.3.1 to appoint further directors; or

15.3.2 to call a general meeting so as to enable the Members to appoint further directors.

16. CHAIRING DIRECTORS' MEETINGS

16.1 Subject to the provisions of any agreement entered into between the Members, the directors may appoint a director to chair their meetings.

16.2 The person so appointed for the time being is known as the "**chairman**".

16.3 Subject to the provisions of any agreement entered into between the Members, the directors may terminate the chairman's appointment at any time.

17. VOTING BY DIRECTORS

17.1 Subject to the articles, a decision is taken at a directors' meeting by a majority of votes of participating directors.

17.2 Subject to the articles, each director participating at a directors' meeting has one vote.

17.3 Without prejudice to the obligation of a director to disclose his interest in accordance with article 21, a director may vote at any directors' meeting or meeting of a committee of directors on any resolution concerning a matter in relation to which he has, directly or indirectly, an interest or duty, subject always to article 21 and the terms on which such authorisation is given. Subject to the foregoing, the relevant director shall be counted in the quorum present at a meeting when any such resolution is under consideration and if he votes his vote shall be counted.

17.4 Subject to article 17.5, if a question arises at a directors' meeting or meeting of a committee of directors as to the right of any director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.

17.5 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or part of the meeting) for voting or quorum purposes.

18. CHAIRMAN'S CASTING VOTE AT DIRECTORS' MEETINGS

18.1 If the numbers of votes at a directors' meeting for and against a proposal are equal (ignoring any votes which are to be discounted in accordance with the articles, section 175(6) of the Act or pursuant to the terms of any authorisation given under section 175 of the Act), the chairman has a casting vote.

18.2 Article 18.1 shall not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the articles, the chairman is not to be counted as participating in the decision-making process for quorum or voting purposes.

19. **PROPOSING A DIRECTORS' WRITTEN RESOLUTION**

- 19.1 Any director may propose a directors' written resolution.
- 19.2 The company secretary (if any) must propose a directors' written resolution if a director so requests.
- 19.3 A directors' written resolution is proposed by giving notice of the resolution to the directors.
- 19.4 Notice of a proposed directors' written resolution must include:
 - 19.4.1 the proposed resolution;
 - 19.4.2 the time by which it is proposed that the directors should adopt it provided that unless all the Members otherwise agree, such time period must not be less than the time that would be required to call a meeting of the Board to discuss the matters that are the subject of the proposed directors' written resolution; and
 - 19.4.3 the manner in which directors can indicate their agreement in writing to it, for the purposes of article 20.
- 19.5 Notice of a proposed directors' written resolution must be given in writing to each director.

20. **ADOPTION OF DIRECTORS' WRITTEN RESOLUTIONS**

- 20.1 A proposed directors' written resolution is adopted when all the directors who would have been entitled to vote on the resolution at a directors' meeting have signed one or more copies of it, provided that those directors would have formed a quorum at such a meeting.
- 20.2 A written resolution signed by an alternate director (or to which an alternate director otherwise indicates his agreement in writing) need not also be signed by his appointor and, if it is signed by his appointor (or his appointor otherwise indicates his agreement to it in writing), it need not be signed by the alternate director in that capacity.
- 20.3 A director may sign or otherwise indicate his agreement to the written resolution before or after the time by which the notice proposed that it should be adopted.
- 20.4 Once a directors' written resolution has been adopted, it must be treated as if it had been a decision taken at a directors' meeting in accordance with the articles.

21. **DIRECTORS' INTERESTS**

21.1 **Group companies**

A director shall be authorised for the purposes of section 175 of the Act to act or continue to act as a director of the Company notwithstanding that at the time of his appointment or subsequently he also:

- 21.1.1 holds office as a director of any other group company;

- 21.1.2 holds any other office or employment with any other group company;
- 21.1.3 participates in any scheme, transaction or arrangement for the benefit of the employees or former employees of the Company or any other group company (including any pension fund or retirement, death or disability scheme or other bonus or employee benefit scheme); or
- 21.1.4 is interested directly or indirectly in any shares or debentures (or any rights to acquire shares or debentures) in the Company or any other group company.
- 21.2 Directors' interests other than in relation to transactions or arrangements with the Company - authorisation under section 175 of the Act**
- 21.2.1 Subject to the provisions of any agreement entered into between the Members, the directors may authorise any matter proposed to them which would, if not so authorised, involve a breach of duty by a director under section 175 of the Act.
- 21.2.2 Any authorisation under article 21.2.1 will be effective only if:
- (a) any requirement as to the quorum at the meeting at which the matter is considered is met without counting the director in question or any other director interested in the matter under consideration; and
 - (b) the matter was agreed to without such directors voting or would have been agreed to if such directors' votes had not been counted.
- 21.2.3 If, at a meeting at which the relevant matter is considered, there are insufficient directors to form a quorum pursuant to article 21.2.2(a), one director entitled to vote on the matter under consideration shall constitute a quorum for that purpose.
- 21.2.4 Subject to the provisions of any agreement entered into between the Members, the directors may give any authorisation under article 21.2.1 upon such terms as they think fit.
- 21.2.5 For the purposes of this article 21, a conflict of interest includes a conflict of interest and duty and a conflict of duties, and interest includes both direct and indirect interests.
- 21.3 Confidential information and attendance at directors' meetings**
- 21.3.1 A director shall be under no duty to the Company with respect to any information which he obtains or has obtained otherwise than as a director of the Company and in respect of which he owes a duty of confidentiality to another person. In particular the director shall not be in breach of the general duties he owes to the Company by virtue of sections 171 to 177 of the Act if he:
- (a) fails to disclose any such information to the directors or to any director or other officer or employee of, or consultant to, the Company; or

- (b) does not use or apply any such information in performing his duties as a director of the Company.

However, to the extent that his relationship with that other person gives rise to a conflict of interest or possible conflict of interest, this article 21.3.1 applies only if the existence of that relationship has been authorised pursuant to article 21.1, authorised by the directors pursuant to article 21.2 or authorised by the Members (subject, in any such case, to any terms upon which such authorisation was given).

- 21.3.2 Where the existence of a director's relationship with another person has been authorised pursuant to article 21.1, authorised by the directors pursuant to article 21.2 or authorised by the Members and his relationship with that person gives rise to a conflict of interest or possible conflict of interest, the director shall not be in breach of the general duties he owes to the Company by virtue of sections 171 to 177 of the Act.
- 21.3.3 The provisions of articles 21.3.1 and 21.3.2 are without prejudice to any equitable principle or rule of law which may excuse the director from:
 - (a) disclosing information, in circumstances where disclosure would otherwise be required under the articles; or
 - (b) attending meetings or discussions or receiving documents and information as referred to in article 21.3.2, in circumstances where such attendance or receiving such documents and information would otherwise be required under the articles.

21.4 Declaration of interests in proposed or existing transactions or arrangements with the Company

- 21.4.1 A director who is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the Company shall declare the nature and extent of his interest to the other directors before the Company enters into the transaction or arrangement.
- 21.4.2 A director who is in any way, directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company shall declare the nature and extent of his interest to the other directors as soon as is reasonably practicable, unless the interest has already been declared under article 21.4.1.
- 21.4.3 Any declaration required by article 21.4.1 may (but need not) be made:
 - (a) at a directors' meeting;
 - (b) by notice in writing in accordance with section 184 of the Act; or
 - (c) by general notice in accordance with section 185 of the Act.
- 21.4.4 Any declaration required by article 21.4.2 must be made:
 - (a) at a directors' meeting;

- (b) by notice in writing in accordance with section 184 of the Act; or
- (c) by general notice in accordance with section 185 of the Act.

21.4.5 If a declaration made under article 21.4.1 or 21.4.2 proves to be, or becomes, inaccurate or incomplete, a further declaration must be made under article 21.4.1 or 21.4.2 as appropriate.

21.4.6 A director need not declare an interest under this article 21:

- (a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- (b) if, or to the extent that, the other directors are already aware of it (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware);
- (c) if, or to the extent that, it concerns terms of his service contract that have been or are to be considered by a directors' meeting or by a committee of the directors appointed for the purpose under the articles; or
- (d) if the director is not aware of his interest or is not aware of the transaction or arrangement in question (and for this purpose a director is treated as being aware of matters of which he ought reasonably to be aware).

21.5 Ability to enter into transactions and arrangements with the Company notwithstanding interest

21.5.1 Subject to the provisions of the Act and provided that he has declared the nature and extent of any direct or indirect interest of his in accordance with this article 21 or where article 21.4.6 applies and no declaration of interest is required or where article 21.1 applies, a director notwithstanding his office:

- (a) may be a party to, or otherwise be interested in, any transaction or arrangement with the Company or in which the Company is directly or indirectly interested;
- (b) may act by himself or through his firm in a professional capacity for the Company (otherwise than as auditor), and in any such case on such terms as to remuneration and otherwise as the directors may decide; or
- (c) may be a director or other officer of, or employed or engaged by, or a party to any transaction or arrangement with, or otherwise be interested in, any body corporate in which the Company is directly or indirectly interested.

21.6 Remuneration and benefits

A director shall not, by reason of his office, be accountable to the Company for any remuneration or other benefit which he derives from any office or employment or

engagement or from any transaction or arrangement or from any interest in any body corporate:

21.6.1 the acceptance, entry into or existence of which has been authorised pursuant to article 21.1, authorised by the directors pursuant to article 21.2 or authorised by the Members pursuant to article 21.5.1 (subject, in any such case, to any terms upon which such authorisation was given); or

21.6.2 which he is permitted to hold or enter into pursuant to article 21.5.1 or otherwise pursuant to the articles,

nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act. No transaction or arrangement authorised or permitted pursuant to article 21.1, 21.2, or 21.5.1 or otherwise pursuant to the articles shall be liable to be avoided on the ground of any such interest or benefit.

22. INTERESTS OF ALTERNATE DIRECTORS

For the purposes of articles 17 and 21, in relation to an alternate director, the interest of his appointor is treated as the interest of the alternate director in addition to any interest which the alternate director otherwise has. Articles 17 and 21 apply to an alternate director as if he were a director of the Company.

23. DIRECTORS' DISCRETION TO MAKE FURTHER RULES

Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

24. NUMBER OF DIRECTORS

Subject to the provisions of any agreement entered into between the Members, the number of directors (other than alternate directors) is not subject to a maximum and the minimum number is two.

25. METHODS OF APPOINTING DIRECTORS

25.1 Subject to (and in addition to) the provisions of any agreement entered into between the Members, any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:

25.1.1 by ordinary resolution of the Members;

25.1.2 by a decision of the directors.

26. TERMINATION OF DIRECTOR'S APPOINTMENT

26.1 A person ceases to be a director as soon as:

26.1.1 he ceases to be a director by virtue of any provision of the Act or is prohibited from being a director by law;

- 26.1.2 a bankruptcy order is made against him;
- 26.1.3 a composition is made with his creditors generally in satisfaction of his debts;
- 26.1.4 a registered medical practitioner gives a written opinion to the Company stating that he has become physically or mentally incapable of acting as a director and may remain so for more than 3 months;
- 26.1.5 by reason of his mental health, a court makes an order which wholly or partly prevents him from personally exercising any powers or rights which he would otherwise have;
- 26.1.6 he is removed from office in accordance with the provisions of any agreement entered into between the Members; or
- 26.1.7 notification is received by the Company from the director that he is resigning from office as a director, and such resignation has taken effect in accordance with its terms.

27. **DIRECTORS' REMUNERATION**

- 27.1 Directors may undertake any services for the Company that the directors decide.
- 27.2 Save as provided in article 27.3 or the provisions of any agreement entered into between the Members, the directors shall not be entitled to any remuneration:
 - 27.2.1 for their services to the Company as directors; and
 - 27.2.2 for any other service which they undertake for the Company.
- 27.3 Subject to the Act, the directors may appoint one or more of their number to the office of managing director or to any other executive office of the Company and may enter into an agreement or arrangement with any director for his employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the directors determine and they may remunerate any such directors for his services as they think fit. Any appointment of a director to an executive office shall determine if he ceases to be a director but without prejudice to any claim for damages he may have for breach of the contract of service between the director and the Company.

28. **EXPENSES OF DIRECTORS, ALTERNATE DIRECTORS AND THE COMPANY SECRETARY**

The Company may pay any reasonable out-of-pocket expenses which the directors (including alternate directors) and the company secretary (if any) properly incur in connection with their attendance at:

- 28.1.1 meetings of directors or committees of directors;
- 28.1.2 general meetings; or

28.1.3 separate meetings of the holders of any class of shares or of debentures of the Company,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

29. APPOINTMENT AND REMOVAL OF ALTERNATE DIRECTORS

29.1 Any director (other than an alternate director) (the "**appointor**") may appoint any person willing to act, whether or not he is a director of the Company and without the approval of the directors, to:

29.1.1 exercise that director's powers; and

29.1.2 carry out that director's responsibilities,

in relation to the taking of decisions by the directors in the absence of his appointor (such person to be known as an "**alternate director**").

29.2 Any appointment or removal of an alternate director must be effected by notice in writing to the Company signed by the appointor, which shall take effect immediately upon receipt of the notice by the Company in accordance with article 68, or in any other manner approved by the directors.

29.3 The notice must:

29.3.1 identify the proposed alternate director; and

29.3.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate director that he is willing to act as the alternate of the director giving the notice.

29.4 Any person appointed as an alternate director under this article 29 may act as an alternate director for more than one director.

30. RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS

30.1 An alternate director has the same rights as his appointor, in relation to any directors' meeting or directors' written resolution.

30.2 Except as the articles specify otherwise, an alternate director is:

30.2.1 deemed for all purposes to be a director of the Company;

30.2.2 liable for his own acts and omissions;

30.2.3 subject to the same restrictions as his appointor; and

30.2.4 not deemed to be an agent of or for his appointor.

30.3 Subject to the articles, a person who is an alternate director and also a director of the Company:

30.3.1 may be counted as participating for the purposes of determining whether a quorum is participating both on his own account and on behalf of his appointor (but only if his appointor is not participating); and

30.3.2 may vote on a resolution proposed at a directors' meeting or sign or otherwise indicate his agreement to a written resolution both on his own account and on behalf of his appointor (but only if his appointor has not voted on or signed or otherwise indicated his agreement to such resolution in circumstances where he would have been entitled to do so).

30.4 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director except such part of his appointor's remuneration as his appointor may direct by notice in writing made to the Company.

31. TERMINATION OF ALTERNATE DIRECTORSHIP

31.1 An alternate director's appointment as such terminates:

31.1.1 when his appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;

31.1.2 on the occurrence of any event in relation to him which, were he a director of the Company, would result in the termination of his appointment as a director of the Company;

31.1.3 on the death of his appointor; or

31.1.4 when the appointor's appointment as a director of the Company terminates.

32. SHARE CERTIFICATES

32.1 Except where otherwise specified in the articles, the Company must issue free of charge to each holder of shares, one or more certificates in respect of the shares which that person holds.

32.2 Every certificate must specify:

32.2.1 in respect of how many shares, of what class, it is issued;

32.2.2 the nominal value of those shares;

32.2.3 that those shares are fully paid; and

32.2.4 any distinguishing numbers assigned to them.

32.3 No certificate may be issued in respect of shares of more than one class.

32.4 If more than one person holds a share, only one certificate may be issued in respect of it and delivery of a certificate to the senior holder shall constitute delivery to all of them.

32.5 Every certificate must:

32.5.1 be executed in accordance with the Act; or

32.5.2 be issued in such other manner as the directors may approve.

33. **CONSOLIDATED AND SEPARATE SHARE CERTIFICATES**

33.1 When a person's holding of shares of a particular class increases, the Company may issue that person with:

33.1.1 a single, consolidated certificate in respect of all the shares of a particular class which that person holds; or

33.1.2 a separate certificate in respect of only those shares by which that person's holding has increased.

33.2 When a person's holding of shares of a particular class is reduced, the Company must ensure that such person is issued with one or more certificates in respect of the number of shares held by such person after the reduction. However, the Company need not (in the absence of a request from such person) issue any new certificate if:

33.2.1 all the shares which such person no longer holds as a result of the reduction; and

33.2.2 none of the shares which such person retains following the reduction, were, immediately before the reduction, represented by the same certificate.

33.3 Any holder of shares may request the Company, in writing, to replace:

33.3.1 his separate certificates with a consolidated certificate; or

33.3.2 his consolidated certificate with two or more separate certificates representing such proportion of the shares as such holder may specify.

33.4 When the Company complies with such a request it may charge such reasonable fee as the directors may decide for doing so.

33.5 A consolidated certificate or separate certificates must not be issued unless any certificates which they are to replace have first been returned to the Company for cancellation or the holder has complied with such reasonable conditions as to evidence and indemnity as the directors decide.

34. **REPLACEMENT SHARE CERTIFICATES**

34.1 If a certificate issued in respect of any person's shares is:

34.1.1 damaged or defaced; or

34.1.2 said to be lost, stolen or destroyed,

that person is, subject to having first complied with the obligations in articles 34.2.2 and 34.2.3, entitled to be issued with a replacement certificate in respect of the same shares.

34.2 Any holder of shares exercising the right to be issued with such a replacement certificate:

34.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;

34.2.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and

34.2.3 must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

35. **SHARE TRANSFERS**

Subject to the provisions of any agreement entered into between the Members:

35.1.1 shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.

35.1.2 no fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.

35.1.3 the Company may retain any instrument of transfer which is registered.

35.1.4 the transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.

35.1.5 the directors may refuse to register the transfer of a share which is not fully paid to a person of whom they do not approve and they may refuse to register the transfer of a share on which the Company has a lien and in the circumstances referred to in article 5.11. They may also refuse to register a transfer unless:

(a) it is lodged at the office or at such other place as the directors may appoint and is accompanied by the certificate for the shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer;

(b) it is in respect of only one class of shares; and

(c) it is in favour of not more than four transferees,

and, if the directors refuse to register a transfer of a share, they shall within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.

36. **TRANSMISSION OF SHARES**

- 36.1 If title to a share passes to a transmittee, the Company may only recognise the transmittee as having any title to that share.
- 36.2 Subject to article 36.3, a transmittee who produces such evidence of entitlement to shares as the directors may properly require:
- 36.2.1 may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person; and
 - 36.2.2 subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder from whom the transmittee derived such entitlement had.
- 36.3 Transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the event which gave rise to the transmission, unless they become the holders of those shares.

37. **EXERCISE OF TRANSMITTEES' RIGHTS**

- 37.1 Transmittees who wish to become the holders of shares to which they have become entitled must notify the Company in writing of that wish.
- 37.2 If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- 37.3 Any transfer made or executed under this article 37 is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

38. **TRANSMITTEES BOUND BY PRIOR NOTICES**

If a notice is given to a member in respect of shares and a transmittee (or any person nominated by the transmittee under article 36.2) is entitled to those shares, the transmittee (and any person nominated by the transmittee under article 36.2) is bound by the notice if it was given to the member before the transmittee's name, or the name of any person nominated under article 36.2, has been entered in the register of members.

39. **PROCEDURE FOR DECLARING DIVIDENDS**

- 39.1 Subject to the Act and the provisions of any agreement entered into between the Members, the Company may by ordinary resolution of the Members declare dividends, and the directors may decide to pay interim dividends.
- 39.2 A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.

- 39.3 No dividend may be declared or paid unless it is in accordance with the respective rights of the shares.
- 39.4 Unless the terms on which shares are issued specify otherwise, dividends must be paid by reference to each person's holding of shares in the class in respect of which the dividend is paid on the date of the resolution or decision to declare or pay such dividend.
- 39.5 Subject to the Act and the provisions of any agreement entered into between the Members, the directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

40. PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS

- 40.1 Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means:
- 40.1.1 transfer to a bank or building society account specified by the distribution recipient in writing;
 - 40.1.2 sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient in writing;
 - 40.1.3 sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified in writing; or
 - 40.1.4 any other means of payment as the directors agree with the distribution recipient in writing.
- 40.2 In the articles, the "**distribution recipient**" means, in respect of a share in respect of which a dividend or other sum is payable:
- 40.2.1 the holder of the share;
 - 40.2.2 if the share has two or more joint holders, whichever of them is named first in the register of members (the "**senior holder**"); or
 - 40.2.3 if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

41. NO INTEREST ON DISTRIBUTIONS

- 41.1 The Company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by:
- 41.1.1 the terms on which the share was issued; or
 - 41.1.2 the provisions of another agreement between the holder of that share and the Company.

42. **UNCLAIMED DISTRIBUTIONS**

42.1 All dividends or other sums which are:

42.1.1 payable in respect of shares; and

42.1.2 unclaimed after having been declared or become payable,

may be invested or otherwise made use of by the directors for the benefit of the Company until claimed.

42.2 The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it.

42.3 If:

42.3.1 twelve years have passed from the date on which a dividend or other sum became due for payment; and

42.3.2 the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company.

43. **NON-CASH DISTRIBUTIONS**

43.1 Subject to the terms of issue of the share in question, the Company may, by ordinary resolution of the Members on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including shares or other securities in any company).

43.2 For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:

43.2.1 fixing the value of any assets;

43.2.2 paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and

43.2.3 vesting any assets in trustees.

44. **WAIVER OF DISTRIBUTIONS**

44.1 A distribution recipient may waive his entitlement to a dividend or other distribution payable in respect of a share by giving the Company notice in writing to that effect, but if:

44.1.1 the share has more than one holder; or

44.1.2 more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

45. **AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS**

45.1 Subject to the articles and the Act, the directors may, if they are so authorised by an ordinary resolution of the Members:

45.1.1 decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and

45.1.2 appropriate any sum which they so decide to capitalise (a "**capitalised sum**") to the persons who would have been entitled to it if it were distributed by way of dividend (the "**persons entitled**") and in the same proportions.

45.2 Capitalised sums must be applied:

45.2.1 on behalf of the persons entitled; and

45.2.2 in the same proportions as a dividend would have been distributed to them.

45.3 Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.

45.4 A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.

45.5 Subject to the articles, the directors may:

45.5.1 apply capitalised sums in accordance with articles 45.3 and 45.4 partly in one way and partly in another;

45.5.2 make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article 45 (including the issuing of fractional certificates or the making of cash payments); and

45.5.3 authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article 45.

46. **CONVENING OF GENERAL MEETINGS**

The directors may call general meetings and, on the requirement of Members pursuant to the Act, shall call a general meeting (i) within 21 days from the date on which the directors become subject to the requirement, and (ii) to be held on a date not more than 28 days after the date of the notice convening the meeting.

47. **LENGTH OF NOTICE**

A general meeting (other than an adjourned meeting) shall be called by notice of at least 19 clear days. A general meeting may be called by shorter notice if it is so agreed by a majority in number of the Members having a right to attend, speak and vote at the meeting, being a majority who together hold not less than 90 per cent. in nominal value of the A Ordinary Shares.

48. **FORM OF NOTICE**

The notice shall specify the time, date and place of the meeting and the general nature of the business to be dealt with at the meeting. If the meeting is convened to consider a special resolution of the Members, the text of the resolution and the intention to propose the resolution as a special resolution of the Members shall also be specified. The notice of meeting shall also specify, with reasonable prominence, the Members' rights to appoint one or more proxies under section 324 of the Act.

49. **ENTITLEMENT TO RECEIVE NOTICE**

49.1 Subject to the articles and to any restrictions imposed on any shares, the notice shall be given to all the Members, to all transmittees (and any person nominated by a transmittree under article 36.2) if the Company has been notified of their entitlement to a share, and to the directors and auditors.

49.2 Every person who becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the register of members, has duly been given to the person from whom he derives his title.

50. **OMISSION TO SEND NOTICE**

The accidental omission to give notice of a general meeting or to send, supply or make available any document or information relating to a meeting to, or the non receipt of any such notice, document or information by, a person entitled to receive any such notice, document or information shall not invalidate the proceedings at that meeting.

51. **ATTENDANCE, SPEAKING AND VOTING AT GENERAL MEETINGS**

51.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

51.2 A person is able to exercise the right to vote at a general meeting when:

51.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and

51.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

- 51.3 The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- 51.4 In determining attendance at a general meeting, it is immaterial whether any two or more Members present at the meeting are in the same place as each other.
- 51.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

52. QUORUM FOR GENERAL MEETINGS

- 52.1 No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the Members present at the meeting do not constitute a quorum. If the Company has only one Member entitled to attend and vote at the meeting, one qualifying person present at the meeting and entitled to vote is a quorum. Subject to the Act, article 52.2 and (in respect of adjourned meetings) article 55, in all other cases a quorum shall consist of at least two Members holding in aggregate in excess of fifty per cent of the A Ordinary Shares then in issue.
- 52.2 Where the Company has more than one Member entitled to attend and vote at a meeting, one qualifying person present at the meeting and entitled to vote as:

52.2.1 the duly authorised corporate representative of two or more corporations, each of which is a Member entitled to attend and vote upon the business to be transacted at the meeting; or

52.2.2 a proxy duly appointed by two or more Members entitled to attend and vote upon the business to be transacted at the meeting,

is a quorum, provided that such corporate representative or proxy (as the case may be) is appointed in respect of Members holding in aggregate in excess of 50 per cent of the A Ordinary Shares then in issue..

53. CHAIRING GENERAL MEETINGS

- 53.1 If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.

- 53.2 If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:

53.2.1 the directors present; or

53.2.2 (if no directors are present), the meeting,

may appoint a director or Member present to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

- 53.3 The person chairing a meeting in accordance with this article 53 is referred to as the "chairman of the meeting".

54. ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-MEMBERS

- 54.1 Directors may attend and speak at general meetings, whether or not they are Members.
- 54.2 The chairman of the meeting may permit other persons who are not:
- 54.2.1 Members of the Company; or
 - 54.2.2 otherwise entitled to exercise the rights of Members in relation to general meetings,
- to attend and speak at a general meeting.

55. ADJOURNMENT

- 55.1 If a quorum is not present within half an hour of the time at which the meeting was due to start, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.
- 55.2 The chairman of the meeting may adjourn a general meeting at which a quorum is present if:
- 55.2.1 the meeting consents to an adjournment; or
 - 55.2.2 it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 55.3 The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- 55.4 When adjourning a general meeting, the chairman of the meeting must:
- 55.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors; and
 - 55.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 55.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it:
- 55.5.1 to the same persons to whom notice of the Company's general meetings is required to be given; and
 - 55.5.2 containing the same information which such notice is required to contain.
- 55.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.
- 55.7 If, at any adjourned meeting, there is present within half an hour of the time at which the meeting was due to start a qualifying person (or qualifying persons) representing a Member (or Members) holding in aggregate in excess of fifty per cent of the A

Ordinary Shares then in issue, those present shall constitute a quorum but otherwise the meeting shall be dissolved.

56. VOTING

56.1 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the articles.

56.2 Subject to any rights or restrictions attached to any shares, whether or not such rights or restrictions are set out in the articles, on a vote on a resolution:

56.2.1 on a show of hands at a meeting:

- (a) every Member present (but not being present by proxy) and entitled to vote on the resolution has one vote; and
- (b) every proxy present who has been duly appointed by a Member entitled to vote on the resolution has one vote, except where:
 - (i) that proxy has been duly appointed by more than one Member entitled to vote on the resolution; and
 - (ii) the proxy has been instructed:
 - (A) by one or more of those Members to vote for the resolution and by one or more of those Members to vote against the resolution; or
 - (B) by one or more of those Members to vote in the same way on the resolution (whether for or against) and one or more of those Members has given the proxy discretion as to how to vote,

in which case, the proxy has one vote for and one vote against the resolution; and

56.2.2 on a poll taken at a meeting, every Member present and entitled to vote on the resolution has one vote in respect of each share held by the relevant Member or Members.

56.3 In the case of joint holders of a share, only the vote of the senior holder who votes (and any proxy or corporate representative duly authorised by the relevant Member) may be counted by the Company.

56.4 In the case of an equality of votes on a show of hands or a poll, the chairman of the meeting shall not be entitled to a casting vote.

56.5 The Company is not obliged to verify that a proxy or corporate representative of a Member has acted in accordance with the terms of his appointment and any failure to so act shall not affect the validity of any proceedings at a meeting of the Company.

57. **ERRORS AND DISPUTES**

57.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.

57.2 Any such objection must be referred to the chairman of the meeting, whose decision is final.

58. **CHAIRMAN'S DECLARATION**

Unless a poll is duly demanded, a declaration by the chairman of the meeting that a resolution has or has not been passed or has or has not been passed by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. An entry in respect of such a declaration in minutes of the meeting recorded in accordance with section 355 of the Act is also conclusive evidence of that fact without such proof.

59. **DEMANDING A POLL**

59.1 A poll on a resolution may be demanded:

59.1.1 in advance of the general meeting where it is to be put to the vote; or

59.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.

59.2 Subject to the Act, a poll may be demanded at any general meeting by:

59.2.1 the chairman of the meeting; or

59.2.2 any Member present and entitled to vote on the resolution.

59.3 A demand for a poll may be withdrawn if:

59.3.1 the poll has not yet been taken; and

59.3.2 the chairman of the meeting consents to the withdrawal.

A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.

60. **PROCEDURE ON A POLL**

60.1 Subject to the articles, polls at general meetings must be taken when, where and in such manner as the chairman of the meeting directs.

60.2 The chairman of the meeting may appoint scrutineers (who need not be Members) and decide how and when the result of the poll is to be declared.

60.3 The result of a poll shall be the decision of the meeting in respect of the resolution on which the poll was demanded.

- 60.4 A poll on:
- 60.4.1 the election of the chairman of the meeting; or
 - 60.4.2 a question of adjournment,
- must be taken immediately.
- 60.5 A poll on any other question must be taken within 30 days of the poll being demanded.
- 60.6 A demand for a poll does not prevent a general meeting from continuing, except as regards the question on which the poll was demanded.
- 60.7 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.
- 60.8 In any other case, at least 7 clear days' notice must be given specifying the time, date and place at which the poll is to be taken.

61. **APPOINTMENT OF PROXY**

A Member may appoint another person as his proxy to exercise all or any of his rights to attend and to speak and to vote (both on a show of hands and on a poll) on a resolution or amendment of a resolution, or on other business arising, at a meeting or meetings of the Company. A Member may appoint more than one proxy in relation to a meeting, provided that each proxy is appointed to exercise the rights attached to a different share or shares held by the Member.

62. **CONTENT OF PROXY NOTICES**

- 62.1 Proxies may only validly be appointed by a notice in writing (a "proxy notice") which:
- 62.1.1 states the name and address of the Member appointing the proxy;
 - 62.1.2 identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;
 - 62.1.3 is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - 62.1.4 is delivered to the Company in accordance with the articles and any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate.
- 62.2 The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 62.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 62.4 Unless a proxy notice indicates otherwise, it must be treated as:

- 62.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
- 62.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

63. DELIVERY OF PROXY NOTICES

- 63.1 Any notice of a general meeting must specify the address or addresses ("**proxy notification address**") at which the Company or its agents will receive proxy notices relating to that meeting, or any adjournment of it, delivered in hard copy or electronic form.
- 63.2 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.
- 63.3 Subject to articles 63.4 and 63.5, a proxy notice must be delivered to a proxy notification address at any time before the start of the general meeting or adjourned meeting to which it relates.
- 63.4 In the case of a poll taken more than 48 hours after it is demanded, the notice must be delivered to a proxy notification address at any time before the time appointed for the taking of the poll.
- 63.5 In the case of a poll not taken during the meeting but taken not more than 48 hours after it was demanded, the proxy notice must be delivered:
 - 63.5.1 to a proxy notification address at any time before the time appointed for the taking of the poll to which it relates; or
 - 63.5.2 at the meeting at which the poll was demanded, to the chairman of the meeting, the company secretary (if any) or any director.
- 63.6 A proxy notice which is not delivered in accordance with this article 63 shall be invalid.
- 63.7 The directors may require the production of any evidence which they consider necessary to determine the validity of any proxy notice.

64. CORPORATE REPRESENTATIVES

In accordance with the Act, a corporation which is a Member of the Company may, by resolution of its directors or other governing body, authorise a person or persons to act as its representative or representatives at any meeting of the Company (a "**corporate representative**"). A director, the company secretary (if any) or other person authorised for the purpose by the company secretary (if any) may require a corporate representative to produce a certified copy of the resolution of authorisation before permitting him to exercise his powers.

65. TERMINATION OF AUTHORITY

The termination of the authority of a person to act as proxy or as the duly authorised corporate representative of a Member does not affect whether he counts in deciding whether there is a quorum at a meeting, the validity of anything he does as chairman of a meeting, the validity of a poll demanded by him at a meeting, or the validity of a vote given by that person unless notice of the termination is given in writing by or on behalf of the Member by whom or on whose behalf the corporate representative was appointed or the proxy notice was given and is received by the Company at the office or, in the case of a proxy, the proxy notification address:

- 65.1.1 at any time before the start of the general meeting or adjourned meeting to which it relates;
- 65.1.2 (in the case of a poll not taken during the meeting but taken not more than 48 hours after it was demanded) at any time before the start of the general meeting or adjourned meeting to which it relates, or at the meeting at which the poll was demanded; or
- 65.1.3 (in the case of a poll taken more than 48 hours after it is demanded) at any time before the time appointed for taking the poll.

66. AMENDMENTS TO RESOLUTIONS

- 66.1 An ordinary resolution of the Members to be proposed at a general meeting may be amended by ordinary resolution of the Members if:
 - 66.1.1 notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine); and
 - 66.1.2 the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- 66.2 A special resolution of the Members to be proposed at a general meeting may be amended by ordinary resolution of the Members, if:
 - 66.2.1 the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
 - 66.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 66.3 If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman of the meeting's error does not invalidate the vote on that resolution.

67. RESOLUTIONS IN WRITING

A resolution of the Members and a resolution of the B Ordinary Shareholders may be passed as a written resolution in accordance with the Act.

68. **COMMUNICATIONS BY AND TO THE COMPANY**

- 68.1 Save where the articles expressly require otherwise, any notice, document or information to be sent or supplied by or to the Company pursuant to the Act, the articles or otherwise may be sent or supplied in accordance with the Act. Nothing in this article 68 affects any provision of the Act or any other legislation or any other provision of the articles requiring notices, documents or information to be delivered in a particular way.
- 68.2 A notice, document or information sent by post from an address within the United Kingdom to another address within the United Kingdom is deemed to have been given to, and received by, the intended recipient:
- 68.2.1 24 hours after posting, if pre-paid as first class post; and
- 68.2.2 48 hours after posting, if pre-paid as second class post.
- 68.3 A notice, document or information sent by post between different countries is deemed to have been given to, and received by, the intended recipient 72 hours after posting, if pre-paid as airmail.
- 68.4 A notice, document or information not sent by post but delivered by hand (which shall, for the avoidance of doubt, include delivery by courier) to the intended recipient's registered address or address for service is deemed to have been given to, and received by, the intended recipient on the day it is left.
- 68.5 A notice, document or information sent by electronic means to an email address or a fax number specified for the purpose by the intended recipient is deemed to have been given to, and received by, the intended recipient 24 hours after it was sent.
- 68.6 A notice, document or information sent, served or delivered by any other means authorised in writing by the recipient is deemed to have been sent when the sender has taken the action it has been authorised to take for that purpose.
- 68.7 Proof that an envelope containing the notice, document or information was properly addressed, pre-paid and posted or delivered is conclusive evidence that the notice, document or information was so sent or supplied. Proof that a notice, document or information sent or supplied by electronic means was properly addressed and sent is conclusive evidence that the notice, document or information was so sent or supplied.
- 68.8 In the case of joint holders of a share, a notice, document or information shall be validly sent or supplied to all joint holders if sent or supplied to the senior holder. Anything to be agreed or specified in relation to a notice, document or information to be sent or supplied to joint holders, may be agreed or specified by the senior holder in respect of the joint holding.
- 68.9 A holder of any share present at a meeting of the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 68.10 A notice may be given by the Company to the transmittee of any holder of any share by sending or delivering it, in any manner authorised by the articles for the giving of

notice to a member, addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt or by any like description, at the address, if any, supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

69. COMPANY SECRETARY

Subject to the Act and the provisions of any agreement entered into between the Members, the company secretary (if any) shall be appointed by the directors for such term at such remuneration and upon such conditions as they may think fit, and any company secretary so appointed may be removed by the directors.

70. RECORDS OF DECISIONS TO BE KEPT

70.1 The directors or the company secretary (if any) must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision:

70.1.1 of all appointments of officers made by the directors;

70.1.2 of every decision taken by the directors, including by written resolution, and any committee of the directors; and

70.1.3 of all proceedings of general meetings of the Company and of the holders of any class of shares in the Company.

70.2 The Company shall also keep records comprising copies of all resolutions of the holders of any shares passed otherwise than at general meetings and of details provided to the Company of decisions taken by a sole Member or other sole holder of a class of shares. All such records must be kept for at least 10 years from the date of the meeting or resolution or decision (as appropriate).

71. NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS

Except as provided by law or any agreement entered into between the Members or an ordinary resolution of the Members or as authorised by the directors, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a member.

72. PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS

The directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that subsidiary.

73. WINDING UP OF THE COMPANY

Subject to the provisions of the articles, if the Company is wound up, the liquidator may, with the sanction of a special resolution of the Members and any other sanction required by the Act, divide among the holders of any shares in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and

determine how the division shall be carried out as between such persons. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the holders of any shares as he with the like sanction determines, but no holder of any shares shall be compelled to accept any assets upon which there is a liability.

74. INDEMNITY OF OFFICERS AND FUNDING DIRECTORS' DEFENCE COSTS

74.1 To the extent permitted by the Act and without prejudice to any indemnity to which he may otherwise be entitled, every person who is or was a director or other officer of the Company (other than any person (whether or not an officer of the Company) engaged by the Company as auditor) shall be and shall be kept indemnified out of the assets of the Company against all costs, charges, losses and liabilities incurred by him (whether in connection with any negligence, default, breach of duty or breach of trust by him or otherwise as a director or such other officer of the Company) in relation to the Company or its affairs provided that such indemnity shall not apply in respect of any liability incurred by him:

74.1.1 to the Company or to any associated company;

74.1.2 to pay a fine imposed in criminal proceedings;

74.1.3 to pay a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (howsoever arising);

74.1.4 in defending any criminal proceedings in which he is convicted;

74.1.5 in defending any civil proceedings brought by the Company, or an associated company, in which judgment is given against him; or

74.1.6 in connection with any application under any of the following provisions in which the court refuses to grant him relief, namely:

(a) section 661(3) or (4) of the Act (acquisition of shares by innocent nominee); or

(b) section 1157 of the Act (general power to grant relief in case of honest and reasonable conduct).

74.2 In article 74.1.4, 74.1.5, or 74.1.6 the reference to a conviction, judgment or refusal of relief is a reference to one that has become final. A conviction, judgment or refusal of relief becomes final:

74.2.1 if not appealed against, at the end of the period for bringing an appeal; or

74.2.2 if appealed against, at the time when the appeal (or any further appeal) is disposed of.

An appeal is disposed of if:

- (a) it is determined and the period for bringing any further appeal has ended; or
- (b) it is abandoned or otherwise ceases to have effect.

74.3 To the extent permitted by the Act and without prejudice to any indemnity to which he may otherwise be entitled, every person who is or was a director of the Company acting in its capacity as a trustee of an occupational pension scheme shall be and shall be kept indemnified out of the assets of the Company against all costs, charges, losses and liabilities incurred by him in connection with the Company's activities as trustee of the scheme provided that such indemnity shall not apply in respect of any liability incurred by him:

74.3.1 to pay a fine imposed in criminal proceedings; or

74.3.2 to pay a sum payable to a regulatory authority by way of a penalty in respect of non compliance with any requirement of a regulatory nature (howsoever arising); or

74.3.3 in defending criminal proceedings in which he is convicted.

For the purposes of this article 74.3, a reference to a conviction is to the final decision in the proceedings. The provisions of article 74.2 shall apply in determining when a conviction becomes final.

74.4 Without prejudice to article 74.1 or to any indemnity to which a director may otherwise be entitled, and to the extent permitted by the Act and otherwise upon such terms and subject to such conditions as the directors may in their absolute discretion think fit, the directors shall have the power to make arrangements to provide a director with funds to meet expenditure incurred or to be incurred by him in defending any criminal or civil proceedings or in connection with an application under section 661(3) or (4) of the Act (acquisition of shares by innocent nominee) or section 1157 of the Act (general power to grant relief in case of honest and reasonable conduct) or in defending himself in an investigation by a regulatory authority or against action proposed to be taken by a regulatory authority or to enable a director to avoid incurring any such expenditure.

75. **POWER TO PURCHASE INSURANCE**

To the extent permitted by the Act, the directors may exercise all the powers of the Company to purchase and maintain insurance for the benefit of a person who is or was:

75.1.1 a director, alternate director or a secretary (if any) of the Company or of a company which is or was a subsidiary undertaking of the Company or in which the Company has or had an interest (whether direct or indirect); or

75.1.2 trustee of a retirement benefits scheme or other trust in which a person referred to in article 75.1.1 is or has been interested,

indemnifying him and keeping him indemnified against liability for negligence, default, breach of duty or breach of trust or other liability which may lawfully be insured against by the Company.

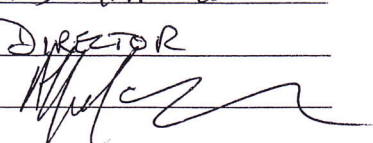
EXECUTED by the parties

Signed on: 19 APRIL 2010)

Location: _____)

By: ALFRED GRANGER)

Position: DIRECTOR)

Signature: )

duly authorised representative of)

EEH (BIDCO) LIMITED)

Signed on: _____)

Location: _____)

By: _____)

Position: _____)

Signature: _____)

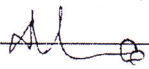
duly authorised representative of)

EXCELSOFT TECHNOLOGIES PRIVATE LIMITED)


EXECUTED by the parties

Signed on: _____)
Location: _____)
By: _____)
Position: _____)
Signature: _____)

duly authorised representative of)
EEH (BIDCO) LIMITED)

Signed on: 19 APRIL 2010)
Location: _____)
By: D. SUDHANVA)
Position: CEO)
Signature: )

duly authorised representative of)
EXCELSOFT TECHNOLOGIES PRIVATE LIMITED)


ET

MASTER SERVICES AGREEMENT

Dated 19 APRIL 2010

ExcelSoft Technologies Private Limited

&

Cyclonehaven Limited



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MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (the "**Agreement**") is made and entered into on this the 19th day of April, 2010

BETWEEN

EXCELSOFT TECHNOLOGIES PRIVATE LIMITED, a company incorporated under the provisions of the Indian Companies Act, 1956 and having its registered office at 1-B, Hootagalli Industrial Area, Mysore 570 018, India (hereinafter referred to as "**Vendor**" which expression shall unless repugnant to the context or meaning hereof, mean and include its successors-in-interest and permitted assigns) of the ONE PART;

AND

CYCLONEHAVEN LIMITED (Reg no. 7093115), a company incorporated in England, whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH, United Kingdom (hereinafter referred to as the "**Customer**", which expression shall unless repugnant to the context and meaning thereof mean and include its successors and permitted assigns) of the OTHER PART.

(Vendor and Customer are hereinafter collectively referred to as the '**Parties**' and individually as a '**Party**')

RECITALS

- A. The Vendor is engaged in software designing and providing e-learning software, services and solutions, having other business solutions including software tools, content, consulting and advisory services for the global market;
- B. The Customer is engaged in the business of developing, enhancing, exploiting and distributing the Software (as defined below) and the provision of services to third parties using, amongst other things, the Software (as defined below);
- C. The Vendor has assigned its right, title and interest in the Software (as defined below) to the Customer pursuant to a separate agreement between the Parties dated the same date as this Agreement.

- D. The Customer is desirous of obtaining software services from the Vendor in relation to the further development, enhancement, error-correction and modification of the Software (as defined below) and other software, and the Vendor is agreeable to providing the Customer with the Services (as defined below) as detailed in various Statements of Work (as defined below) corresponding to Vendor Proposals (as defined below), to be executed pursuant to this Agreement.
- E. The Parties are now desirous of reducing into writing the terms and conditions of their understanding by executing these presents.

NOW THEREFORE IN CONSIDERATION OF THE MUTUAL AGREEMENTS AND COVENANTS HEREAFTER SET FORTH, THE PARTIES HERETO AGREE AS FOLLOWS:

1. DEFINITIONS

Unless the context requires otherwise, the terms defined hereinafter shall have the meaning assigned to them herein:

- a) **Change Order** means an addendum in the agreed form issued by the Customer in respect of any Statement of Work, corresponding to a Change Request.
- b) **Change Request** means a document created by the Vendor in response to any request by a Party from time to time for a change in the Services and/or Deliverables to be provided under any Statement of Work.
- c) **Charges** means, in respect of each Statement of Work, the Vendor's charges for the Services and Deliverables to be provided pursuant to that Statement of Work, as set out in that Statement of Work.
- d) **Confidential Information and Proprietary Information** has the meaning given to that term in clause 11.1.
- e) **Deliverables** means all items, including Object Deliverables, Source Deliverables and Documentation, that the Vendor is required to deliver under the relevant Statement of Work.
- f) **Documentation** means a copy of all technical specifications, operating instructions and

other information in relation to all Object Deliverables and Source Deliverables to be created by the Vendor pursuant to a Statement of Work.

- g) **Effective Date** in respect of this Agreement means the date of the execution of this Agreement by the Party signing last in time and in respect of each Statement of Work issued hereunder means the date when such Statement of Work is issued by the Customer against a corresponding Vendor Proposal.
- h) **Force Majeure Event** has the meaning given to that term in clause 18.2.
- i) **IPR** means: (a) patents, trade marks, service marks, logos, designs, devices, trade, business, brand and company names, internet domain names, e mail addresses, copyrights, database rights, rights in software (including source code and object code), know-how, whether such rights or intellectual property are registered or not; (b) rights under licences, consents, orders, statutes or otherwise in relation to a right in paragraph (a); (c) rights in inventions, discoveries, designs (including website designs), drawings, patterns, techniques, know-how or other design, manufacturing, scientific, technical or commercial information, performances, semi-conductor topographies, marketing material and the presentation of goods and services; and (d) rights to apply for the registration or other protection of all or any of the rights and intellectual property referred to in paragraphs (a), (b) and (c), in each case in any jurisdiction.
- j) **Key Persons** has the meaning given to this term in clause 9.6.1.
- k) **Object Deliverable** means the machine-readable object code that the Vendor is required to produce and deliver to the Customer as part of the Services.
- l) **Offshore Development Centre or ODC** means the Offshore Development Centre, a dedicated but fungible team of Vendor personnel who will be used to provide the Services and create the Deliverables under the Statements of Work, to be established and maintained by the Vendor in accordance with clauses 9.6 and 9.7 and the remainder of this Agreement.
- m) **Project Executive** means the executive appointed by each of the Parties for the relevant Statement of Work.
- n) **Project Manager** means the manager appointed by each of the Parties for the relevant

Statement of Work and for the purposes of clause 3.3.

- o) **Rate Card** means the time and material rates and/or fees set out in Schedule 2 in respect of the Services, as adjusted in accordance with the terms of this Agreement.
- p) **Services** means, in respect of each Statement of Work, the software development, modification and/or services to be performed by the Vendor for the Customer, as detailed in the relevant Vendor Proposal(s) corresponding to the relevant Statement of Work issued under this Agreement.
- q) **Software** means the software as defined in the IP Assignment Agreement entered into between the Parties on or about the date of this Agreement.
- r) **Software Roadmap** means the plan of the proposed improvements, enhancements and additional functionality and features and other software applications which are to be developed in the future in relation to the Software, as set out in Schedule 1.
- s) **Source Deliverable** means the human-readable source code that the Vendor is required to produce and deliver to the Customer as part of the Services.
- t) **Specifications** means, in respect of any particular Deliverables, the specifications for those Deliverables set out in the relevant Vendor Proposal and the corresponding Statement of Work.
- u) **Statement Of Work** means a document issued by the Customer under this Agreement, in the agreed form, corresponding to a Vendor Proposal and expressly referring the Vendor Proposal it relates to and this Agreement.
- v) **Third Party Components** has the meaning given to it in clause 3.6.1.
- w) **VAT or Value Added Tax** means:
 - (a) any tax imposed in compliance with the council directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112) (including, in relation to the United Kingdom, value added tax imposed by the Value Added Tax Act 1994 and legislation and regulations supplemental thereto); and
 - (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in (a), or elsewhere.
- x) **Vendor Proposal** means a document that describes the Services to be performed by the

Vendor for the Customer, in the agreed form, expressly referring to this Agreement and executed by an authorized representative of each Party, and at a minimum which specifies the following: (a) a detailed description of the Services to be performed by the Vendor; (b) the term during which the Vendor performs those Services; (c) the Charges for those Services; (d) the effective date for the commencement of those Services; (e) the success/fail criteria for acceptance testing of the Deliverables to be produced under that Vendor Proposal; and (f) the overall timetable for the development, delivery and acceptance of the Deliverables to be produced under that Vendor Proposal.

- y) **Warranty Period** means, in respect of each Deliverable, a period of 12 months after that Deliverable has been accepted by the Customer in accordance with the terms of this Agreement.

2. APPOINTMENT AND EXCLUSIVITY

2.1 Subject to the terms and conditions of this Agreement, the Customer has approached the Vendor to provide the Services to it and the Vendor has accepted the same. In consideration of the Vendor providing the Services subject to the terms and conditions of this Agreement, the Customer has agreed to pay the Vendor in terms of clause 5 of this Agreement.

2.2 The Vendor's appointment under this Agreement commences on the Effective Date and will thereafter endure until this Agreement is terminated in accordance with its terms.

2.3 Subject to this clause 2.3 and clauses 2.4 and 2.5, the Vendor is hereby appointed on an exclusive basis (meaning that the Customer shall not appoint any third party to provide services to it that are the same as or materially similar to the services described further in this clause) to develop and enhance, and perform error-correction and modification services, in relation to the Software (but not any other software) for the period of three (3) years following the Effective Date (the "**Exclusive Period**"). After the expiry of the Exclusive Period the Vendor's appointment shall automatically become non-exclusive. For the avoidance of doubt, the Vendor's exclusivity granted under this clause only extends to the development of the Software to introduce similar functionality and capability as is presently incorporated under the Vendor's pre-existing proprietary:

2.3.1 learning and assessment management system (known as "SARAS") for the purposes of re-engineering the components of the existing SARAS platform into stand alone independently functioning modules to operate alongside or integrate with the "book viewer" application (previously referred to as "ibook"); and

2.3.2 "book viewer" application (previously referred to as "ibook"), together with such other features, components and functionality as may be agreed to between the Parties during the period of this Agreement. However, the Vendor's exclusivity under this clause does not extend to the development of any independent software applications and applications in respect of e-learning applications, "The Community" platform and functionality and "The Global 'e' School".

- 2.4** The Vendor's exclusivity granted in clause 2.3 shall terminate automatically (without further notice) if any of the following events should occur:
- 2.4.1 if this Agreement expires or is terminated in accordance with clause 16.1, clause 16.2 or clause 18.2; or
 - 2.4.2 if the Vendor ceases to be a shareholder in the Customer; or
 - 2.4.3 the Customer has finally rejected any one or more Deliverable(s), and the Vendor is not entitled to any further opportunity to remedy the defect, pursuant to clause 3.5.1, or the Vendor has failed to provide any one or more Deliverable(s) in accordance with any timetable or other requirements under a Statement of Work, on three (3) successful occasions or on any six (6) occasions (in any rolling 18 month period).

For the avoidance of doubt, without prejudice to the foregoing and clause 2.5, in the event that a Statement of Work is terminated under clause 16.3 or clause 16.6 for convenience only (and for no other reason), the Vendor's exclusivity granted in clause 2.3 will not be terminated in respect of services that are the same or materially similar as those contained in the relevant Statement of Work.

- 2.5** Nothing in this Agreement (including clause 2.3) shall prevent the Customer from appointing a third party to perform services (including services that are the same or similar to the Services) for it in the following circumstances:
- 2.5.1 where the Parties are unable to agree on and finalise the terms of a Statement of Work within 60 calendar days from the date of first request for a Statement of Work by the Customer (but this right shall only extend to the Customer insofar as the services concerned are the same or materially similar as those discussed in relation to the relevant Statement of Work);
 - 2.5.2 where the Parties are unable to agree and finalise the terms of a Change Order within 60 calendar days from the date of first request for a change to the relevant Services by the Customer (but this right shall only extend to the Customer insofar as the services concerned are the same or materially similar as those discussed in relation to the relevant Change Order);
 - 2.5.3 where the Customer is allowed to do so under clause 3.5.1; or
 - 2.5.4 where a Statement of Work has been terminated under clause 18.2 (but this right shall only extend to the Customer insofar as the services concerned are the same or materially similar as those contained in the relevant Statement of Work).

3. PERFORMANCE BY VENDOR

3.1 Statement of Work

3.1.1 If the Customer requires the Vendor to perform any Services, it shall request the same from the Vendor, providing as much detail regarding its requirements as possible in the circumstances. The Vendor shall then prepare a draft Vendor Proposal based on the Customer's requirements, and the Parties shall discuss the same and make such changes to the draft Vendor Proposal as they consider appropriate. Any Charges that the Vendor proposes to charge for the work to be performed shall conform to the requirements set out in this Agreement. Once both Parties agree the content of the Vendor Proposal, it shall be executed by an authorized representative of each Party, after which a corresponding Statement of Work will be issued by the Customer. Upon execution of both documents, the applicable Vendor Proposal and the corresponding Statement of Work shall be incorporated herein as part of this Agreement, and the Vendor shall then commence providing the Services to be performed and any related Deliverables and other materials to be produced as stated in the relevant Vendor Proposal and related Statement of Work in accordance with the relevant Statement of Work (incorporating the related Vendor Proposal). Until the Customer has issued a Statement of Work, the Customer does not authorize the Vendor to commence providing any Services or performing any work for it. The Customer shall be entitled to terminate discussions regarding any proposed Vendor Proposal and related Statement of Work at any time and without liability, before it has issued the Statement of Work.

3.1.2 In the event of any conflict between this Agreement and the relevant Statement of Work, the terms contained in the Statement of Work shall prevail over the terms of the Agreement. This shall, however, not affect the terms of any other Statement of Work then existing or that may be issued thereafter. Amendments to this Agreement may only be made in the manner contemplated in this Agreement.

3.1.3 The Parties have agreed that the Software should be further developed and enhanced (including through the production of modules for certain functionality) in accordance with the Software Roadmap, on an incremental basis via Statements of Works to be agreed by the Parties in accordance with this clause 3.

3.2 Change Requests and Change Orders

3.2.1 If, after issuing a Statement of Work, a Party wishes to modify the terms, Services and/or the Specifications to be provided and/or performed thereunder, that Party shall provide to the other Party a detailed description of such modifications. In all such events, the Vendor shall, taking into account the relevant requested modifications, develop in good faith and

deliver to the Customer a Change Request setting forth the revised scope and Deliverables to be executed by the Vendor and any other relevant changes to the Statement of Work, including without limitation, proposed changes to compensation to the Vendor and the schedule for performance and delivery of Services and Deliverables. The Parties shall then discuss the same and make such changes to the draft Change Request as they consider appropriate. The Customer shall not be obliged to accept any changes proposed by the Vendor. Once both Parties agree the content of the Change Request, they shall execute it and upon execution of the Change Request by an authorized representative of both the Customer and the Vendor, the Customer shall issue a Change Order to the corresponding Statement of Work. Such Change Orders shall be binding on the Parties and become a part of the relevant Statement of Work. Until the Customer has issued a Change Order, the Customer does not authorize the Vendor to comply with the Change Request. The Customer shall be entitled to terminate discussions regarding any proposed Change Request at any time and without liability, before it has issued the Change Order. If a Change Request requires additional Services to be performed or requires the Vendor to perform work beyond what is originally contemplated by the Parties, the consideration payable shall be appropriately re-worked and mutually agreed upon, however the Vendor shall only: (i) in time-and-materials Statements of Work, be entitled to increase the fees and charges to be paid under the relevant Statement of Work commensurate with the additional amount of effort required from it pursuant to the Change Order (or decrease it if the overall workload has decreased); and (ii) in fixed fee Statements of Work, be entitled to increase the fixed fee by a reasonable amount and then only if the Vendor is able to demonstrate that the Change Order requires the Vendor to carry out materially more work or that it will require the Vendor to accept a materially increased risk profile.

3.3 Project Managers and Executives

- 3.3.1 The Vendor shall appoint/nominate for each Statement of Work a "**Project Manager**" who will serve as the liaison officer between the Customer and the Vendor with respect to the Services to be provided under such Statement of Work. The Vendor Project Manager shall: (i) have day-to-day responsibility for supervising the performance of the Vendor's obligations under the relevant Statement of Work; (ii) have responsibility for seeking any necessary approvals to commit the Vendor to any course of action, undertaking, obligation or responsibility in connection with the Vendor's performance of the relevant Statement of Work; and (iii) facilitate the creation of any amendments or modifications to the relevant Statement of Work.
- 3.3.2 The Customer shall appoint a Project Manager for each Statement of Work. Such Project Manager shall co-ordinate the Customer's obligations, including providing necessary information and acceptance to the Vendor. The Project Managers so appointed by the

Parties shall not have the authority to execute any Change Requests, unless communicated otherwise.

- 3.3.3 Each Party shall appoint a Project Executive for the purposes contemplated under clause 3.8 below.

3.4 Provision of the Services

- 3.4.1 Without limiting any specific obligations and requirements imposed on the Vendor under this Agreement, the Vendor shall perform its obligations under this Agreement (including the Services):

3.4.1.1 with promptness and otherwise in accordance with any timetable(s) specified in this Agreement and the relevant Statements of Work (incorporating the applicable Vendor Proposal(s));

3.4.1.2 using the skill and care of a diligent, suitably qualified, well managed, trustworthy and experienced professional provider of services equivalent to the Services;

3.4.1.3 in accordance with prevailing good practices in the software development services industry and applicable to the e-learning end-user market, from time to time; and

3.4.1.4 in respect of any Statements of Works which are priced on a time-and-materials basis without a cap on the Charges, use reasonable endeavours to efficiently use all software, hardware, systems, services, staff, contractors and other resources necessary or beneficial to the provision of the Services. In particular, but without limiting the foregoing, the Vendor shall use its reasonable endeavours to:

3.4.1.4.1 utilise resources (including staff and contractors) used by the Vendor in connection with this Agreement and the Services to carry out any additionally chargeable activities for the Customer under this Agreement from time to time, so as to, acting reasonably, avoid or minimise additional costs to the Customer; and

3.4.1.4.2 minimise costs and other expenses (to the extent to which it is reasonable to expect the Vendor to do so) that may be charged to the Customer (if any) under this Agreement.

3.5 Review, Testing and Acceptance of Deliverables and Warranty Period

- 3.5.1 Upon the Vendor's completion of each Deliverable to be produced or delivered by the Vendor under a Statement of Work, the Vendor shall deliver such Deliverable to the Customer for its review and, if appropriate, testing, to determine whether such Deliverable conforms to the applicable Specifications for such Deliverables, and to otherwise determine whether the Deliverables meet the Customer's requirements as set out in the relevant Statement of Work. The Customer shall perform its review and/or testing of each Deliverable within two (2) weeks from the date on which the Vendor has delivered the

Deliverable to the Customer and notified the Customer that the Deliverable is ready for such review and/or testing, or such longer period if the Customer notifies the Vendor that it requires additional time (but in any event, within a maximum period of three (3) weeks from the date on which the Vendor has delivered the Deliverable to the Customer and notified the Customer that the Deliverable is ready for such review and/or testing). In the event the Customer reports to the Vendor any failure of the Deliverable to conform in a material respect to the applicable Specifications, the Vendor shall promptly remedy such defect(s) or deficiency(ies), within the mutually agreed number of business days (and in any event, within a maximum period of 60 calendar days), at the Vendor's cost and expense. Upon the Vendor's correction of such failure(s), the Vendor shall re-deliver the Deliverable to the Customer for its further review and/or testing in accordance with this subsection, and the process herein shall be repeated until the Vendor remedies all such failures to the Customer's reasonable satisfaction in accordance with this clause. However, if any failures have not been corrected after the second opportunity that the Vendor has been requested by the Customer under this clause to do so, the Customer shall be entitled to reject the relevant Deliverable, terminate the relevant Statement of Work, receive a reimbursement of all amounts already paid under that Statement of Work and (if the Customer wishes) appoint a third party to perform the relevant Services for it. For clarity, if the Customer utilises for a commercial purpose any Deliverable provided by the Vendor under a Statement of Work which the Customer has rejected in accordance with the provisions of this clause, the Customer shall only make payment to the Vendor of the amount agreed by the Parties for that work less any reasonable amount that the Customer has incurred to develop such Deliverable to comply with the relevant Specifications.

- 3.5.2 If the Customer is not able to identify any material defects or deficiencies in any Deliverable and has not notified the Vendor accordingly within the period set out in clause 3.5.1, it shall be deemed that the Deliverable has been developed in accordance with the relevant Specifications set out in the Statement of Work.
- 3.5.3 For the duration of the Warranty Period, the Vendor shall ensure at no cost to the Customer that the Deliverables will substantially comply with all relevant Specifications as indicated in the relevant Statement of Work, and be substantially free from errors in operation and performance.
- 3.5.4 Subject to the other provisions of this clause 3, if, in the Customer's reasonable opinion, the Vendor is not providing the Services and/or Deliverables to the agreed standard or time frame then, prior to the date on which the relevant Deliverable or Service has been accepted under this clause 3.5, the Customer may require the Vendor to perform or provide again the relevant Services and/or Deliverables at its own expense.

3.6 Third Party Components

- 3.6.1 The Vendor shall specify in each Vendor Proposal any third-party products or materials required by it to be incorporated into or provided as part of any Services performed for, or Deliverables delivered to, the Customer under such proposal, or required by the Customer to be able to use the Services or Deliverables (“**Third Party Components**”). If agreed under the relevant Statement of Work, the Customer shall be responsible for the costs associated with any rights, licenses and consents to use Third Party Components, but the Vendor shall be responsible for procuring the same. The Vendor agrees to minimize the reliance on Third Party Components as far as reasonably practicable, but the Customer acknowledges that in some cases it may be more cost-effective for the Vendor to propose the use of Third Party Components.
- 3.6.2 Save as otherwise provided in this Agreement (including clause 13) or under a Statement of Work, the Vendor offers no representations, undertakings or warranties of whatsoever nature with respect to the Third Party Components.
- 3.6.3 The Vendor agrees and warrants that, unless otherwise agreed by the Parties, it will not include any Third Party Components in any Deliverables unless these have been specified and agreed under a Statement of Work and then only if the Vendor has procured the necessary licences for the Customer to use such Third Party Components so as to permit the Customer to use, sub-license and modify the Deliverable freely.

3.7 Technology, Equipment and Other Resources

- 3.7.1 The Customer shall provide, at its sole cost and expense, only the equipment, hardware and software required in connection with the use and performance of the Deliverables as agreed and specified in the relevant Statement of Work. All such equipment, hardware and software shall be procured directly by the Customer, unless the Vendor Proposal provides otherwise.
- 3.7.2 Unless otherwise agreed in a Statement of Work, any resources (including technology, equipment and personnel) and modification, customisation, enhancement, training, maintenance and/or support requirements or services required in respect of the Services and Deliverables for the purposes of this Agreement shall be provided by and/or procured by the Vendor.

3.8 Issue Management and Escalation

- 3.8.1 Any Vendor issue identified by the Customer in the performance of Services by the Vendor shall be brought to the attention of the Vendor’s Project Manager. In the event that such

issue is not resolved by the Vendor's Project Manager to the Customer's reasonable satisfaction within five (5) business days of notification by the Customer, such issue shall be referred to the Vendor's Project Executive to whom the Vendor's Project Manager reports. In the event that such issue is not resolved by such Vendor's Project Executive to the Customer's reasonable satisfaction within five (5) business days of reference to such Project Executive, such issue shall be referred to an appropriate senior executive of the Vendor.

3.8.2 Any Customer issue identified by the Vendor in the performance of Services shall be brought to the attention of the Customer's Project Manager. In the event such issue is resolved by the Customer's Project Manager to the Vendor's reasonable satisfaction within five (5) business days of notification by the Vendor, such issue shall be referred to the Customer's Project Executive to whom the Customer's Project Manager reports. In the event that such issue is not resolved by such Customer's Project Executive to the Vendor's reasonable satisfaction within five (5) business days of reference to such Project Executive, such issue shall be referred to an appropriate senior executive of the Customer.

3.8.3 Notwithstanding the foregoing provisions, either Party may at any time seek relief or make a claim in relation to any issue or dispute in relation to this Agreement from any court of competent jurisdiction and in accordance with clause 18.8 below.

3.9 Sub-contractors

3.9.1 The Vendor shall not sub-contract or delegate any of its obligations under any Statement of Work other than to its subsidiaries without the prior written approval of the Customer, which approval shall not be unreasonably withheld. Sub-contractors approved by the Customer with respect to each Statement of Work shall be listed in the relevant Statement of Work. The Vendor shall remain responsible for all obligations performed by its subsidiaries and/or sub-contractors to the same extent as if such obligations were directly performed by the Vendor, including any acts or omissions by the subsidiaries and/or sub-contractors. The Vendor shall include in the agreements with such subsidiaries and sub-contractors provisions consistent with this Agreement.

3.10 Meetings and Reports

3.10.1 Not less frequently than fortnightly, the Vendor and the Customer shall conduct a meeting via conference call to review operational issues, unresolved issues in relation to the Deliverables, billing issues, general relationship issues and other matters that relate to the Vendor's provision of the Services. The Customer and the Vendor agree to deliver to the other an agenda for each meeting prior to the meeting date, unless otherwise agreed in writing, it being understood that additional issues may be subsequently added to the agenda

by each Party as such Party deems appropriate. The fortnightly review meetings shall be attended by the Vendor's Project Managers and any other appropriate qualified personnel relevant to the issues to be addressed based on the agendas proposed by the Parties. The Vendor shall prepare and maintain a report on all issues discussed at such review meetings and for the purposes contemplated under clause 9.7.5 in respect of Key Persons and the management and operation of the ODC, such report to be promptly prepared and/or updated following each such meeting. The Vendor shall provide a copy of each such report (updated as necessary) to the Customer no later than five (5) business days following each such meeting.

3.10.2 In addition to the fortnightly review meetings described above, the Vendor agrees to communicate with the Customer via conference call on a weekly basis (or more frequently, if reasonably requested by the Customer) to discuss status, workflow, operational issues and other matters that relate to the Vendor's provision of the Services. Provided that, if any of the Vendor's personnel are required to travel to any location other than where they are currently performing the Services, the Customer shall bear the expenses related thereto if and only to the extent agreed under the relevant Statement of Work.

3.10.3 The Vendor understands and acknowledges that a collaborative approach is essential to ensure that the Services are rendered in the manner contemplated in this Agreement. Accordingly the Vendor shall ensure that its Project Manager duly follows the performance of the Services, provides all necessary information including business information relevant to the performance of the Services and interacts during the conference calls and otherwise so that the Services are smoothly performed.

3.11 Records and Inspection

3.11.1 The Vendor shall, at the Vendor's cost and expense, maintain during the subsistence of the relevant Statement of Work and for six (6) years from the termination/expiry of this Agreement or such Statement of Work, whichever is earlier, all appropriate records relating to the Services rendered to the Customer under this Agreement and Statements of Work issued pursuant thereto. Without prejudice to the Customer's rights under clause 9, the Vendor shall, at the Customer's cost and expense and not more than once in any calendar quarter during the term of this Agreement, provide to the Customer or its duly authorized representatives access to: (i) such records and the premises from which the Services are provided for inspection; and (ii) the staff engaged in the performance of the Services, at any time on not less than five (5) calendar days' notice, including access after the termination/expiry of this Agreement. Any inspection of such records shall be carried out on the Vendor's premises, save (if agreed with the Customer) to the extent that transferable records may be made available to the Customer at its premises by any means, and during

normal business hours, and the Customer shall use its reasonable endeavours to minimise any disruption to the business and/or operations of the Vendor during the course of exercising its rights under this clause 3.11.1, including coordinating the actions of its authorized representatives.

3.11.2 Any such inspection may be carried out by the Customer for any reasonable business purpose, including without limitation: (a) to verify the accuracy of Charges and invoices when work is performed on a time-and-materials basis; (b) to conduct audits and examinations required by regulatory authorities; (c) to verify that the Vendor's performance complies with the terms of the Agreement and the relevant Statements of Work; (d) to examine the Vendor's quality initiatives and quality assurance; and (e) to inspect the management and operation of the ODC and the performance of Key Persons.

3.11.3 The Vendor shall provide to such representatives of the Customer all the required assistance in conducting the required inspection. The Customer shall ensure that all such representatives who are engaged in conducting such inspection shall be bound by adequate confidentiality obligations. Copies of such documents binding the persons conducting the inspection shall be furnished to the Vendor and the Vendor shall be a beneficiary under such agreements.

3.11.4 The inspection shall be restricted to materials and information that is directly concerned with this Agreement and the Statements of Work. Under no circumstances shall the Vendor be required to disclose any confidential information or show any documents or material containing any confidential information to the persons carrying out the inspection. Notwithstanding anything contained in this provision, the Vendor shall also have no obligation whatsoever to provide any financial or commercial data pursuant to any audit or review conducted by or on behalf of the Customer unless and only to the extent this is required to audit or verify a financial amount or Charge under a Statement of Work. Further, the Vendor shall not be required to provide any data relating to its other customers, or any personnel or employee related data.

4. DUTIES AND OBLIGATIONS OF THE CUSTOMER

4.1 The Customer shall pay the Vendor for its performance of the Services in accordance with the terms of this Agreement and as per the Charges and at the time(s) stipulated in the relevant Statement of Work or agreed to between the Parties through a Change Order.

4.2 The Customer shall fulfill its obligations under this Agreement or any Statement of Work and promptly respond to the Vendor's request for any hardware, software or information (including, without limitation, report formats, test data and other documents) that the

Customer has agreed to provide under the relevant Statement of Work and which the Vendor may need for performing the Services.

- 4.3 The Customer shall provide the Vendor's employees working on-site at the Customer's premises (if necessary) with suitable office facilities, including telecommunication resources, computing resources, clerical support and reprographic facilities, required for carrying out Services under this Agreement, but only if the Customer has agreed to provide these under the relevant Statement of Work. If such facilities are reasonably required by the Vendor but not provided by the Customer in accordance with the Statement of Work, the Vendor shall not be liable for any delay in the performance of the Services or any breach of the Agreement or the relevant Statement of Work so long as such delay or breach results from or is attributable to the Customer failing to provide these facilities to the Vendor.
- 4.4 The Vendor will provide generic hardware and software required for performance of the Services at its own facilities. However, should special or project specific hardware or software be required, these may be provided on loan by the Customer if set forth in the relevant Statement of Work. All hardware and software provided on a loan basis will be promptly returned to the Customer after the project is completed or terminated in the same condition it was delivered, reasonable wear and tear excepted. The Customer shall only be responsible for the shipping, handling, insurance, and annual maintenance costs of all loaned hardware and software as agreed under the relevant Statement of Work.
- 4.5 The Vendor shall not be liable for any delay in performance of Services or any breach of the Agreement or the relevant Statement of Work so long as such delay or breach results from or is attributable to reasons on the part of the Customer in failing to provide the facilities, hardware, software, inputs, third party licences or information, as applicable, under clauses 4.3 and 4.4 above or its failure in complying with its obligations under this Agreement.
- 4.6 The Customer shall co-operate with the Vendor, including making available management decisions, information, approvals and acceptances, as reasonably requested by the Vendor so that the Vendor may accomplish its obligations and responsibilities under any Statement of Work.

5. PAYMENT TERMS AND RATE CARD

- 5.1 The Customer agrees that it shall pay the Vendor the Charges as may be detailed in the relevant Statement of Work subject to the terms of this Agreement, the relevant Statement of Work and invoice issued under the relevant Statement of Work. The Parties shall state in each Statement of Work how the Charges are to be calculated (which may include that the Charges are based on a time-and-materials basis, with or without a cap, or a fixed fee basis, or other basis) and when they will be invoiced (including as an example that they will be payable in accordance with a milestone plan, at completion of the relevant acceptance tests or regular periodic billing). Where the Charges are calculated on a time-and-materials basis, the Vendor may not use rates that exceed those in the Rate Card.

- 5.2 The Vendor agrees that, save as otherwise agreed by the Parties in a Statement of Work or under the terms of this Agreement, the Charges payable to it under the Statements of Work shall be fully-inclusive of all of the Vendor's costs of providing the Services and complying with its obligations under the Agreement, and the Vendor will not be entitled to pass any costs or out-of pocket expenses of whatever nature to the Customer in connection with the Agreement or any Statement of Work, but the fact that no extra costs or charges may be made will not relieve the Vendor from the performance of its obligations under this Agreement. Without limiting the generality of the foregoing, the Charges are fully inclusive of all: software licence, installation and configuration costs; connectivity costs required to deliver the Services; tooling required to deliver the Services; relocation, travel and accommodation (local and international) for the Vendor's staff and agents, including transport charges from any site, both onshore and offshore, if any, to any sites; required equipment and other hardware costs; software costs; facilities and utilities costs; overhead and infrastructure needed to deliver the Services (including project management, human resources, finance and legal); equipment installation and decommissioning costs; and costs of sub-contractors used by the Vendor.
- 5.3 The Parties agree that the rates set out in the Rate Card shall be fixed for the initial period of three (3) years following the Effective Date. Following the expiry of this three (3) year period the Parties shall use reasonable endeavours to agree on a revised Rate Card. Until a new Rate Card is agreed, the then-current Rate Card shall continue to apply.
- 5.4 Unless otherwise agreed between the Parties, all quotations and invoices for Deliverables and Services will be expressed and paid in sterling (£).
- 5.5 Unless otherwise agreed, each Party will bear its own costs in full for performing any obligations or terms it undertakes in respect of a Statement of Work.
- 5.6 The Vendor shall raise all invoices on its letter head or in electronic form and payment shall be made by the Customer in accordance with the terms of this Agreement together with the relevant Statement of Work or Change Order(s).
- 5.7 The Customer agrees to pay all invoices within thirty (30) calendar days after the invoice date. Any delay in the payment of the amounts due under this Agreement, excluding amounts that are disputed in good faith by the Customer, shall be subject to interest at a rate of 1% plus the prevailing LIBOR per month or part thereof of the delay. The Customer shall reimburse the Vendor for expenses reasonably incurred by the Vendor while performing the Services only if and to the extent this is agreed under the relevant Statement of Work.
- 5.8 Each Statement of Work (including the Charges payable under it) is independent and separate from the other Statements of Work and there is no cross-default between the Statements of Work. Neither Party has a right of set-off against the other.

6. TAXES

- 6.1 Any and all Charges and other amounts paid/payable by the Customer for the Services under this Agreement are exclusive of any taxes (including VAT), rates and/or duties that may be levied by the relevant authorities in the UK under English law. The Customer shall, subject to the presentation of a valid invoice (including for VAT) by the Vendor, pay the amount of such additional taxes, rates and/or duties at the prevailing rate applicable to such Charges and other amounts.
- 6.2 The Vendor shall account, and agrees to bear the payment, for any and all taxes (including VAT), rates and duties that are payable or applicable under Indian law in relation to the Charges and other amounts paid/payable by the Customer under this Agreement for the Services. If the Customer is required to make any payments to an Indian authority for any such taxes, rates and duties, the Vendor shall indemnify and reimburse the Customer for the amount of any such payments made."
- 6.3 The Customer shall make payment to the Vendor after deduction of any relevant withholding tax at appropriate rates, for which necessary certificates shall be issued to the Vendor. The Customer will account to the relevant tax authority for the withholding tax, provided that the Customer shall disclose any withholding tax requirements to the Vendor and shall set out the same in the relevant Statement of Work.
- 6.4 The Vendor shall, upon written request from the Customer, furnish declaration of the Vendor's tax residence on the prescribed forms and obtain certification from the relevant tax authorities in order to confirm the applicability and availability of any reduced rate of withholding tax under the provisions of the relevant double-taxation treaties.
- 6.5 Nothing in this clause 6 shall interfere with the right of either Party to arrange its tax affairs as it deems appropriate. The Parties shall co-operate with each other to determine accurately their respective liabilities under the relevant tax laws and reduce such liabilities to the extent permitted by law.

7. COMPLIANCE WITH LAWS

- 7.1 Each Party shall in the execution of this Agreement comply with all applicable laws, including laws notified by either Party to the other Party.
- 7.2 In the event that there are any changes in law which affect the Vendor's ability to render the Services under any relevant Statement of Work, the Vendor shall promptly notify the Customer of the same. The Parties shall upon mutual agreement amend the Statement of Work via a Change Order in order to enable the Vendor to render the Services to the Customer in accordance with the applicable laws. Such Change Order (and the relevant Services) shall be subject to the terms of clause 3.2 above.

8. PERSONNEL

- 8.1 Without prejudice to clause 9.6 below, the Vendor shall assign an adequate number of personnel to perform the Services. The Vendor shall assign the performance of Services under this Agreement to such of its personnel who are properly educated, trained and qualified for the Services they are to perform.
- 8.2 The Vendor shall cause all personnel who perform any Services at the Customer's premises to comply with all rules and policies of the Customer, which are applicable on the premises of the Customer provided the same are not interfering in the performance of Services by the Vendor's personnel.
- 8.3 All personnel of the Vendor who are based on-site at the Customer's premises shall perform Services solely for the benefit of the Customer, and shall not provide services to other entities from the Customer's premises.
- 8.4 The Vendor shall efficiently manage the replacement of personnel in the event of holiday, sickness, unplanned absence, resignation, transfer or dismissal and shall ensure continuity of the Services and a clear handover from each member of staff to another.
- 8.5 The Vendor shall ensure that no personnel of the Vendor is a national or resident of any embargoed or restricted country, as identified under the laws and regulations applicable to either Party.

9. FACILITIES

- 9.1 The Vendor shall provide the required Services under each Statement of Work either on-site or off-site as may be detailed in the relevant Statement of Work.
- 9.2 In the event that the Vendor is required to provide the Services on-site, to the extent agreed in the relevant Statement of Work and without prejudice to the provisions of clause 4.3, the Customer shall provide the Vendor and its personnel all facilities that may be reasonably required by the Vendor for the Vendor to provide the Services. All such facilities that are provided by the Customer shall be utilized for the sole purpose of performing the Services and the Vendor shall use the said facilities in an efficient manner. The use of the Customer facilities by the Vendor shall not constitute any leasehold or other property interest in favour of the Vendor or any exclusive right to occupy or use the said facilities or transfer any title in the facilities to Vendor.
- 9.3 The Vendor shall not permit any person to use the facilities of the Customer other than by its authorised personnel without the Customer's prior written permission, which the Customer acting in its sole discretion may withhold. The Customer shall permit the Vendor and its agents and representatives to enter into such facilities at all reasonable times and as

may be required by the Vendor in order to perform its obligations under this Agreement and the relevant Statements of Work.

9.4 Except as otherwise provided in this Agreement, the Vendor shall provide all space and equipment that is necessary to provide the Services at its own facilities.

9.5 The Vendor shall perform all Services that are to be performed at the Vendor's facilities and shall provide the security measures and safeguards to guard against the destruction, loss or alteration of any of the Customer's property or data that is maintained or stored at the Vendor's facilities.

9.6 ODC and Key Persons appointment and functions

9.6.1 In this clause, "**Key Persons**" shall mean contractors, agents and/or employees of the Vendor and/or its affiliates who either: (a) have a material or detailed knowledge or understanding of the Software, or (b) are to be dedicated to the provision of any of the Services.

9.6.2 The Parties shall develop and agree on a list of named individuals as "Key Persons" as soon as may be practicable but in any event within 14 calendar days after the Effective Date, who will form the initial development team for the purposes of the Offshore Development Centre to be operated by the Vendor. Such Key Persons are to be appointed in accordance with the structure of the initial development team as set out in Schedule 3. The Parties acknowledge and agree the Customer may change this structure from time to time to accommodate the changing development requirements for the Software.

9.6.3 The Parties agree that the ODC shall include key members or personnel involved in the Vendor's research and development.

9.6.4 The Vendor shall ensure that Key Persons are not removed from their respective roles or duties during the term of this Agreement unless:

9.6.4.1 a Key Person ceases to be an employee of the Vendor; or

9.6.4.2 the written consent of the Customer is obtained; or

9.6.4.3 the Parties agree that the services of a particular Key Person are no longer required.

9.6.5 The Vendor shall ensure that it implements appropriate measures and procedures to ensure the continuity of the performance of its obligations to the Customer under this Agreement at all times in the event of loss or absence of its relevant personnel (including Key Persons) including appropriate succession planning, knowledge capturing and transfer processes, training and work shadowing.

9.6.6 Without prejudice to its obligations under clause 9.6.5, the Vendor agrees that if the attrition rate of the staff allocated to provide any Services under any one or more Statements of Work at the ODC exceeds 10% in any rolling period of 12 months, it shall promptly inform the Customer thereof, inform the Customer of the reasons why

the attrition rate has exceeded this percentage (with reference also to attrition rates in the industry), and propose to and agree with the Customer a remedial action plan to reduce the attrition rate below 10% and to address related issues. Once agreed, the Vendor shall implement such remedial action plan in accordance with its terms.

9.7 Offshore Development Centre and Key Persons – obligations

9.7.1 All Key Persons' appointments are to comply with the following:

9.7.1.1 they are to be full-time employees of the Vendor, unless otherwise agreed;

9.7.1.2 they are to work in the ODC and dedicate their time to the Services for the Customer on a full time basis;

9.7.1.3 they are to sign a non-disclosure agreement with both Parties (on terms consistent with and similar to the terms of this Agreement, including rights for the benefit of and which can be exercised by the Customer); and

9.7.1.4 during their appointment, they are not to work on any other project in respect of another customer.

9.7.2 If any Key Person continues to under-perform, in the Customer's reasonable opinion, then the Customer may exercise any of the following rights:

9.7.2.1 require that a replacement for such Key Person is made from the pool of existing personnel at the ODC;

9.7.2.2 if the Parties cannot agree on such a replacement, require the Vendor to recruit a new person with suitable qualifications, skills and experience at its own expense; and

9.7.2.3 if the Parties cannot agree on a replacement, or on an appointment, under the foregoing provisions, within 60 calendar days from the first date of the Customer's notice or request under this clause, then the Vendor shall propose a number of replacement personnel from whom the Customer may select a replacement at its choice. If the Vendor fails to propose a replacement personnel (with suitable qualifications, skills and experience) within a further period of 10 business days (following the relevant period of 60 calendar days), then the Customer may make the appointment or replacement at its discretion.

9.7.3 Any Key Person (despite signing a non-disclosure agreement) that ceases to work on in relation to the development of the Software and remains or returns to work at the Vendor or the ODC on another project or in respect of another customer, shall not work on any school (k-12) education project or school (k-12) education-related matter for a minimum period of 6 months after the date of such cessation, unless such project or matter relates to the Customer. The Parties agree that if this provision is breached at any time, the Vendor shall pay liquidated damages to the Customer for each such breach of a minimum amount of €10,000.

9.7.4 The Vendor undertakes to procure, following the first calendar month following the Effective Date, to have a minimum pool of 20 people who are suitably qualified and who can join the ODC within a four (4) week notice period, in the event that the

Customer wishes to accelerate the development of the Software or requires additional functions or features to those set out in the existing Software Roadmap. Such people shall join the ODC at the existing financial rates agreed under the Rate Card.

- 9.7.5 The Vendor shall include in its fortnightly reports to be provided pursuant to clause 3.10.1: (i) details on the identity and allocation of Key Persons who are to deliver Deliverables under a Statement of Work; (ii) any performance issues; (iii) any other information relevant to the provision of a Deliverable in accordance with the terms of this Agreement; and (iv) answers to address any reasonable information requests by the Customer in respect of the operation and management of the ODC.
- 9.7.6 The Vendor acknowledges and agrees that the Customer may also audit the operation and management of the ODC pursuant to its rights under clause 3.11, including the implementation and maintenance of confidentiality and security measures in respect of the Software and Deliverables, the provision of adequate training to Key Persons, and the attrition rate for the purposes contemplate under clause 9.6.6.

9.8 Knowledge Transfer and Support

- 9.8.1 As and when requested by the Customer, the Vendor shall provide reasonable support, training, assistance and information to the Customer in respect of the Deliverables, to the extent specified in the relevant Statement of Work, including:
- 9.8.1.1 training, user documentation, standards and best practice guides;
 - 9.8.1.2 a documented overview of the Software framework;
 - 9.8.1.3 "How to" guides for each architecture layer that the Customer will use;
 - 9.8.1.4 logical entity relationship model for the Software databases;
 - 9.8.1.5 automated build and test procedures;
 - 9.8.1.6 deployment processes for moving through test environments;
 - 9.8.1.7 documented problem determination guides;
 - 9.8.1.8 standards for logging and viewing logs; and
 - 9.8.1.9 source code, documentation and know-how.

10. OWNERSHIP OF IPR AND LICENCES

- 10.1 Subject to the terms of the licence of any software provided or licensed by a third party and provided by the Vendor under this Agreement or any Statement of Work, all Deliverables and all modifications or enhancements to the Customer's IPR (including the Software) (including but not limited to maintenance, conversion or re-engineering services, the computer code and other elements comprising the Deliverables), shall be the sole and exclusive property of the Customer.
- 10.2 The Vendor shall assign, and hereby assigns (by way of future assignment), with full title guarantee to the Customer, all rights, title and interests that it or any of its sub-contractors or agents may have in any and all Deliverables and other IPR that may be developed by or

on behalf of it under or in connection with any Statement of Work ("**Developed IPR**") upon the creation thereof.

- 10.3 The Vendor shall deliver to the Customer the relevant Deliverables and a copy of the source code and object code of all Developed IPR.
- 10.4 The Vendor has no right, title or interest in or to the Developed IPR other than such as may be granted or confirmed to it under this Agreement and/or a related agreement with the Customer.
- 10.5 The Vendor shall promptly at the Customer's request and expense execute any documents and take any steps necessary to give effect to the vesting or transfer of title in Developed IPR to the Customer pursuant to this clause.
- 10.6 The Vendor shall not challenge the validity of the registration by the Customer or its nominee of any IPR developed pursuant to this Agreement.
- 10.7 Subject to any confidentiality obligations and other restrictions set out in this Agreement, each Party may use in its business activities all experience and learning gained in providing or using the Services, which are retained in the unaided memories of that Party's employees or staff who are or were engaged in the performance of this Agreement, provided, however, that the foregoing will not allow a party to use, disclose, publish or disseminate:
 - 10.7.1 the source of the relevant information or knowledge;
 - 10.7.2 any financial, statistical or personnel data of the other Party; or
 - 10.7.3 any business plans of the other Party.

Nothing in this clause shall be construed as granting a Party a licence to use the other Party's Intellectual Property Rights, or any rights in respect of Confidential Information and Proprietary Information of the other Party, other than those specifically set out herein.

- 10.8 The Customer hereby grants to the Vendor a limited right to use the source code in the Software and other code and material in relation to the Software provided to it by the Customer solely for the purposes of performing its obligations under this Agreement and Statements of Work. Subject to clause 4.5 above, the Customer may terminate this licence at its discretion at any time.

11. CONFIDENTIALITY AND SECURITY

- 11.1 Each Party acknowledges and agrees that any and all information emanating from the other Party's business, in any form, including but not limited to the Software, information relating to the disclosing Party's past, present or future research, development or business activities, the specifications, designs, documents, correspondence, software, documentation, data and other materials and work products produced by or for the Vendor in the course of performing the Services is "**Confidential Information and Proprietary Information**". In particular, the rates and charges offered by the Vendor to the Customer shall be considered

Confidential Information and Proprietary Information. Each Party agrees that it will not, during or after the term of this Agreement, permit the duplication or disclosure of any such Confidential Information and Proprietary Information to any person (other than an employee, agent or representative of the other Party who needs to have access to such information for the performance of the obligations hereunder), unless such duplication, use or disclosure is specifically authorized by the disclosing Party in writing. “**Confidential Information and Proprietary Information**” is not meant to include any information which: (a) is publicly available prior to this Agreement or is made publicly available by the disclosing Party without restriction; (b) is rightfully received by the receiving Party from third parties without accompanying secrecy obligations; (c) is already in the receiving Party’s possession and was lawfully received from sources other than the disclosing Party; (d) is independently developed by the receiving Party; or (e) is required to be disclosed by applicable law or regulations, order of the court of competent jurisdiction or an appropriately empowered governmental, statutory or regulatory agency.

- 11.2 Before the receiving Party makes any disclosure under clause 11.1(e), it must provide the disclosing Party with prompt written notice of the requirement to disclose Confidential Information and Proprietary Information to enable the disclosing Party to seek an appropriate protective order or to take steps to resist or narrow the scope of the requirement to disclose the Confidential Information and Proprietary Information. When making any disclosure, the receiving Party must only disclose the minimum Confidential Information and Proprietary Information required to comply with the applicable law or order.
- 11.3 Each Party acknowledges that any breach of the terms and conditions of this clause 11 may cause the other Party irreparable damage for which recovery of money damages would be inadequate. Therefore, the receiving Party of Confidential Information and Proprietary Information agrees that the disclosing Party shall be entitled, in addition to any other remedies available to it, to seek injunctive relief and/or other equitable relief to prevent or restrain any breach by the receiving Party or its employees/officials, or otherwise to protect its rights, under this Agreement
- 11.4 This clause 11 shall remain in effect without limit in time.
- 11.5 Each Party agrees to implement and undertake reasonable security and other practical measures, and in accordance with good industry practice, to safeguard and protect against the unauthorised disclosure, use or theft of any Confidential Information and Proprietary Information of the other Party, including procuring that each of its relevant employees, service providers, contractors and agents who have access to any Confidential Information and Proprietary Information are aware of the provisions of this clause and of the receiving Party’s obligations under it.

12. REPRESENTATIONS AND WARRANTIES

- 12.1 Each Party represents and warrants that, as of the Effective Date of this Agreement and each Statement of Work:

- (i) it is a company duly incorporated, validly existing and in good standing under the laws of the state or country in which it was incorporated;
- (ii) it has all of the necessary competence and authority to own, lease and operate its assets and to carry on its business as presently conducted and as it will be conducted pursuant to each Statement of Work;
- (iii) it has all necessary corporate power and authority to enter into this Agreement and perform its obligations thereunder and that the execution, delivery and the consummation of the transactions contemplated thereby have each been authorized by all necessary and lawful action and do not violate any judgment, order or decree and
- (iv) the execution, delivery, performance and consummation of the transactions contemplated by this Agreement and any Statement of Work do not constitute a material default pursuant to any material contract by which it or any of its material assets are bound, or an event that would, with notice or lapse of time or both, constitute such a default.

- 12.2 The Vendor represents and warrants to the Customer that it will provide the Services with promptness, diligence and in a workmanlike manner, in accordance with the generally accepted industry standards and practices.
- 12.3 The Vendor represents and warrants to the Customer that the Vendor is authorized to grant to the Customer all right, title and interest and ownership in the Deliverables in accordance with and in the manner provided in clause 10 of this Agreement. Provided however, and subject to the Vendor performing its obligations under clause 3.6, that the Customer shall obtain appropriate licenses and permissions to use any third party software or materials that form a part of the Deliverables.
- 12.4 The Vendor will perform its responsibilities under each of the Statement of Work in an efficient manner and shall not infringe any IPR, trade secrets or other proprietary rights of a third party.
- 12.5 EXCEPT AND ONLY TO THE EXTENT EXPRESSLY SET FORTH HEREIN, BOTH PARTIES HEREBY DISCLAIM ALL REPRESENTATIONS AND WARRANTIES TO EACH OTHER AND ALL THIRD-PARTIES, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SERVICES AND DELIVERABLES PROVIDED UNDER THIS AGREEMENT AND STATEMENTS OF WORK ISSUED HEREUNDER AND ALL COMPONENTS THEREOF, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE.

13. INDEMNITY

13.1 The Vendor shall indemnify the Customer for any cost, claims, losses, damages, expenses and fees whatsoever arising from any claim, suit or action by third parties (other than liability arising solely out of the fault of the Customer) that: (i) any Deliverable provided by the Vendor to the Customer pursuant to this Agreement infringes that third party's IPR; or (ii) any Third Party Components included in a Deliverable or provided to the Customer in connection with any Statement of Work has not been properly licensed for the Customer's intended use thereof (as set out in writing in the relevant Statement of Work), or not disclosed in accordance with clause 3.6.3, and in each case shall also pay any damages or settlement assessed against the Customer under such a claim. The Customer shall at the Vendor's request allow the Vendor to have sole control and authority over the defence or settlement of such a claim, suit or action. The Vendor shall be entitled, at its sole, but reasonable, discretion, to: (i) procure for the Customer the right to use the infringing Deliverable or to obtain the required third party consents in relation to the Third Party Components in question (as appropriate); (ii) replace the infringing Deliverable with a non-infringing, functionally equivalent Deliverable or obtain replacement and properly licensed Third Party Components and perform any required re-work of the affected Deliverables at the Vendor's cost and expense (as appropriate); or (iii) suitably modify the infringing Deliverable to avoid the infringement but not to affect the functionality thereof in a materially adverse way. The Customer shall be obligated to give the Vendor prompt written notice of any such claim, suit or action, including appeals and negotiations. This indemnity shall not extend to any claim of infringement or misappropriation that arises because of the Vendor's development of any software or other material resulting from the Customer's request or the Customer's modification of the Deliverables and use or incorporation of the Deliverables in a manner for which the Deliverables were not designed or with items not provided by the Vendor, the use of the software contrary to Documentation or modification, reverse engineering, disassembly or de-compilation of the software or changes to the software carried out by a person other than the Vendor, the failure by the Customer to use any updates that may be released by the Vendor, or the use of the Deliverables in conjunction with software or hardware to which the infringement is attributable.

13.2 CLAUSE 13.1 ABOVE STATES THE ENTIRE INDEMNITY OBLIGATIONS OF THE VENDOR, AND THE EXCLUSIVE REMEDY OF THE CUSTOMER, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHT BY ANY DELIVERABLE PROVIDED BY THE VENDOR TO THE CUSTOMER PURSUANT TO THIS AGREEMENT.

13.3 The Customer shall indemnify the Vendor for any cost, claims, losses, damages, expenses and fees whatsoever arising from any claim, suit or action brought against the Vendor by third parties (other than liability arising solely out of the fault of the Vendor) that any materials provided by the Customer to the Vendor pursuant to this Agreement (other than materials which have been developed by or on behalf of the Vendor (including the Software as originally assigned to the Customer)) infringes a third party's IPR, and shall also pay any

damages or settlement assessed against the Vendor under such a claim. The Vendor shall at the Customer's request allow the Customer to have sole control and authority over the defence or settlement of such a claim, suit or action. The Vendor shall be obligated to give the Customer prompt written notice of any such claim, suit or action, including appeals and negotiations. This indemnity shall not extend to any claim of infringement or misappropriation resulting from the Vendor's unauthorized modification of such material provided by the Customer.

- 13.4 CLAUSE 13.3 ABOVE STATES THE ENTIRE INDEMNITY OBLIGATIONS OF THE CUSTOMER, AND THE EXCLUSIVE REMEDY OF THE VENDOR, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHT BY ANY MATERIAL PROVIDED BY THE CUSTOMER TO THE VENDOR PURSUANT TO THIS AGREEMENT.
- 13.5 The Customer and the Vendor each indemnify the other for any claim or damages due to injury or death of any individual, or the loss or damage to real or tangible personal property, resulting from the acts or omissions of the indemnifying Party, its agents or employees.

14. LIMITATION OF LIABILITY

- 14.1 Other than for claims arising under clause 13 or 14.6 of this Agreement (to which no limit or exclusion applies), the aggregate liability of each Party for claims made by the other Party in respect of loss or damage arising out of or in connection with any breach of that Party's representations and warranties and obligations under any Statement of Work, whether arising for breach of contract, tort, negligence, or howsoever otherwise, shall not exceed at the point in time when a claim arises an amount equal to: (i) at any time following the 12 month period after the Effective Date, the aggregate of all Charges paid and/or payable under all Statements of Works in the 12 month period immediately prior to that point in time, or (ii) at any time within the 12 month period after the Effective Date, £1,000,000. Nothing in this provision shall affect the Customer's obligations to pay for the Services (duly completed) together with interest thereon in the manner set forth in this Agreement, and any damages and compensation payable under or in connection with this Agreement shall be payable in addition to the payment of any such charges (and interest where appropriate) for the Services.
- 14.2 SUBJECT TO CLAUSES 14.4 AND 14.5, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER DAMAGES OR DAMAGES IN THE NATURE OF LOSS OF PROFITS, HOWEVER CAUSED, INCLUDING, WITHOUT LIMITATION, ANY SUCH DAMAGES RESULTING FROM LOSS OF USE, LOSS OF DATA, LOSS OF PROFITS OR LOSS OF BUSINESS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OR ANY OTHER OBLIGATIONS RELATING TO THIS AGREEMENT, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- 14.3 THE ESSENTIAL PURPOSE OF THIS PROVISION IS TO LIMIT THE POTENTIAL LIABILITY OF BOTH PARTIES ARISING OUT OF THIS AGREEMENT. THIS ALLOCATION OF RISK IS REFLECTED IN THE CHARGES PAYABLE HEREIN.
- 14.4 Each Party's liability under any and all indemnities given by it under clauses 13 and 14.6 however arising (including liability under contract, for tort (including negligence) and under a statute) shall not be limited by any terms of this Agreement.
- 14.5 Nothing in this Agreement shall have the effect of limiting or restricting any liability of a Party for fraud or death or personal injury.

14.6 Employees on exit

14.6.1 If:

- 14.6.1.1 any employee of the Vendor or another party performing the Services by or on behalf of the Vendor under this Agreement asserts or establishes that he or she has become employed by the Customer, any affiliate of the Customer or any replacement provider of the Services or obligations to be performed by the Vendor under this Agreement (each a "**Transferee**"), either during the term or as a result of the termination of this Agreement or the termination of any of the Services; and
- 14.6.1.2 the Transferee does not wish to employ such person, then the Transferee shall within five (5) business days of becoming aware of such assertion notify the Vendor in writing that it does not wish to employ such person (the "**Affected Employee**") and the Vendor shall be given the opportunity (but shall not be obliged) to offer the Affected Employee employment with the Vendor.

14.6.2 If the Affected Employee accepts an offer made by the Vendor pursuant to clause 14.6.1.2, the Transferee will immediately release that person from his or her employment and waive any notice period or restrictive covenants under his or her employment contract with the Transferee.

14.6.3 If, within five (5) business days of being notified in accordance with this clause, the Vendor has not made an offer or an offer has been made but, within 5 business days of the offer being made, it has not been accepted by the Affected Employee:

- 14.6.3.1 the Transferee will be entitled within a further twenty (20) business day period to terminate the employment of the Affected Employee and, to the extent practicable, will do so by following the process for dismissal laid down in the "ACAS Code of Practice 1: Disciplinary and Grievance" (as amended from time to time) in all circumstances save redundancy and the non-renewal of a fixed term contract; and
- 14.6.3.2 the Vendor will indemnify the Customer for and/or pay the Customer an amount equal to the reasonable costs and expenses incurred by the Transferee arising under or in connection with such termination of the Affected Employee's contract of employment.

14.6.4 If the Transferee continues the employment of the Affected Employee beyond the relevant twenty (20) business day period described in this clause, then the Vendor will indemnify the Customer for and/or pay the Customer an amount equal to any costs and expenses incurred by the Transferee arising only from claims in connection with such Affected Employee's previous employment and which claims arose in connection with the period prior to the relevant date of transfer of employment to the Transferee.

15. TERM

15.1 The term of this Agreement commences on the date this Agreement is executed by the Party signing last in time and this Agreement shall remain in force for a period of five (5) years and shall stand automatically renewed for successive periods of twelve (12) months, unless terminated by either party (for convenience) in the six (6) month period immediately prior to the expiry of the then current term (by providing two (2) months' minimum notice to the other Party) or otherwise terminated in accordance with the provisions of this Agreement.

15.2 The obligations under this Agreement which by their nature continue or are intended to continue beyond termination, cancellation or expiration of this Agreement shall survive termination, cancellation or expiration of this Agreement, including terms governing liability of the parties, confidentiality, governing law and dispute resolution, and the interpretation of this Agreement.

16. TERMINATION

16.1 Either Party has the right to terminate this Agreement if the other Party breaches or is in default of any material obligation hereunder or under any Statement of Work which default is incapable of remedy or which, being capable of remedy, has not been remedied within thirty (30) calendar days after receipt of notice of such default (or such additional remedial period as the non-defaulting Party may authorize). In lieu of termination of this Agreement and all Statements of Work, either Party may choose to terminate only a particular Statement of Work for cause.

16.2 Either Party may terminate this Agreement by written notice to the other Party and may regard the other Party as in default of this Agreement, if the other Party becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceedings under any bankruptcy or insolvency law, whether domestic or foreign, or is wound up or liquidated, voluntarily or otherwise. In the event that any one of the above events occurs, that Party shall immediately notify the other Party of its occurrence.

- 16.3 The Customer may terminate any Statement of Work immediately by giving written notice to the Vendor, unless the Statement of Work in question requires the Customer to give a notice period. The Vendor shall immediately cease the provision of all Services under each such Statement of Work on termination thereof and shall in such an event be entitled to invoice the Customer as follows:
- 16.3.1 where the Charges payable under the relevant Statement of Work are based on a time-and-materials basis, the Vendor shall invoice the Customer for all Charges incurred up to the point of termination (but where the Charges were agreed to be subject to a maximum amount, the Vendor shall not be entitled to invoice the Customer for any Charges in excess of this maximum amount); or
- 16.3.2 where the Charges payable under the relevant Statement of Work are fixed fees, then those fixed fee arrangements shall no longer apply and the Vendor shall only be entitled to invoice the Customer for all agreed work actually done under that Statement of Work on a time-and-material basis up to the point of termination (but subject to a maximum of the agreed fixed fee).
- 16.4 The Vendor's right to receive, and the Customer's obligation to make, payment under clause 16.3 shall be the Vendor's sole and exclusive remedy and the Customer's sole and exclusive liability arising from a termination of a Statement of Work under clause 16.3.
- 16.5 On termination of this Agreement (other than on expiry), all Statements of Work shall also immediately be terminated unless the Customer requires any of those Statements of Work to be completed (in which case they will continue to be performed on their terms and the terms of this Agreement). On expiry of this Agreement, all Statements of Work will continue to be performed in accordance with their terms (and the terms of this Agreement) until such time as all Services under them have been completed or until they are otherwise terminated.
- 16.6 Without prejudice to its termination rights under this Agreement, the Customer may terminate any individual Statement of Work issued under this Agreement (for convenience) by providing the Vendor with written notice of not less than sixty (60) calendar days. In the event that the Customer terminates a Statement of Work (for convenience) it shall pay the Vendor all amounts due for the Services rendered up to the date of termination and any demobilization costs incurred by the Vendor. The demobilization costs shall be agreed by the Parties in the relevant Statement of Work.
- 16.7 Upon termination of this Agreement by either Party, or its expiration, each Party shall forthwith return to the other Party all papers, materials and other properties (including IPR and Confidential Information and Proprietary Information) of the other Party held by it in connection with the performance of this Agreement.
- 16.8 Following termination of this Agreement by the Vendor for cause or by the Customer for convenience, the Customer shall pay the Vendor the relevant outstanding Charges for all Services and Deliverables provided to the Customer up to the date of termination.

- 16.9 Termination of this Agreement shall not affect any of the Parties' accrued rights and liabilities in relation to this Agreement.

17. NOTICES

- 17.1 Subject to clause 17.3, all notices to be given in connection with this Agreement shall be effective upon receipt, shall be made in writing and shall be sufficiently given if personally delivered or if sent by courier or other express mail service, postage prepaid, addressed to the Party entitled or required to receive such notice at the address for such Party as follows below. Any notice or other communication under or in connection with this Agreement shall not be sent by e-mail as long as it is followed up by written notice sent by registered mail, courier or fax.

To the Vendor:

Excelsoft Technologies Private Limited

1-B, Hootagalli Industrial Area, Mysore 570 018, India

Tel: +91 821 4282000

Fax: +91 821 4282208

Attention: Sudhanva D

To the Customer:

Cyclonehaven Limited

Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH

Tel: +44 (0) 1242 278202

Fax: +44 (0)1242 253076

Attention: Ian Andow

- 17.2 Either Party may change such address/addressee by giving written notice to the other Party.
- 17.3 In the absence of evidence of earlier receipt, any notice or other communications shall be deemed to have been duly given:
- 17.3.1 if delivered personally, when left at the address referred to in this clause 17, provided that if the date of delivery is not a business day, then delivery shall be deemed to occur on the next succeeding business day;
 - 17.3.2 if sent by registered mail or courier service, 48 hours after guaranteed delivery time; and
 - 17.3.3 if sent by fax, when confirmation of its transmission has been recorded on the sender's fax machine.

18. GENERAL PROVISIONS

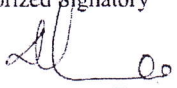
- 18.1 *Non-Waiver and Amendment:* No waiver, alteration, modification, or cancellation of any of the provisions of this Agreement shall be binding unless made in writing and signed by both

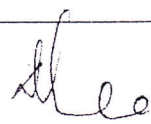
the Customer and the Vendor. The failure of either the Customer or the Vendor at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce such or any other provision. No remedy referred to in this Agreement is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to herein or otherwise available at law, in equity or otherwise.

- 18.2 *Force Majeure:* Neither Party shall be liable to the other for any delay or failure to perform its obligations under this Agreement or any Statement of Work issued hereunder as a result of natural disasters, actions or decrees of governmental bodies, communication line failures not attributable to either Party, or any other delay or failure which arises from causes beyond a Party's reasonable control including but not limited to earthquakes, floods, typhoons, labour and transportation strikes (other than strikes by the Vendor's or its sub-contractors' staff which are not of an industry wide application), economic recession, civil strife and acts of terrorism (hereafter referred to as a "**Force Majeure Event**"). If a Force Majeure Event arises, the Party whose performance has been so affected shall immediately give notice to the other Party and shall do everything reasonably possible to resume performance. Upon receipt of such notice, this Agreement or the particular obligations affected shall be immediately suspended. If the period of non-performance exceeds fifteen (15) business days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been affected by the Force Majeure Event may by giving written notice terminate (with immediate effect) this Agreement or the relevant Statement of Work. The occurrence of all, some or any of the Force Majeure Events shall not affect the payment obligations of the Parties.
- 18.3 *Assignment/Third Party Rights:* Each Party shall not assign, transfer or subcontract any of its obligations under this Agreement to a third party without the prior written consent of the other Party, that consent not to be unreasonably withheld or delayed. A person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 18.4 *Independent Contractors:* It is expressly understood that the Vendor and the Customer are contractors independent of each other, and that neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both Parties hereto.
- 18.5 *Customer Name:* This Agreement allows the Vendor to include the Customer's name in a general listing of the Vendor's customers. The general listing may be used for any purpose, but inclusion in the list will not imply endorsement of the Vendor by the Customer, nor will it include any details about specific projects. With the Customer's prior written consent, which shall not be unreasonably withheld, the Vendor may prepare case studies from time to time which provide specific details about the services being provided to the Customer.
- 18.6 *Severability:* If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be severed from this Agreement, and the other remaining provisions of this Agreement shall remain in full force and effect.


- 18.7 *Non-solicitation:* Except as otherwise expressly agreed to by the Vendor in writing, during the term of this Agreement and for a period of two (2) years following its termination or expiration, the Customer agrees not to directly or indirectly or through third parties solicit for itself or for any of its vendors or service providers or hire for employment or any other engagement (whether as consultant, adviser or otherwise) any of Vendor's current or previous employees (unless: (i) a period of twelve months has elapsed from the date that the employee was last employed by the Vendor; or (ii) the employee has responded to a publication or public advertisement for a position by the Customer).
- 18.8 *Governing Law and Jurisdiction:* This Agreement shall be governed by, and construed and enforced in accordance with the laws of England and Wales without regard to conflict of law principles. The courts of England and Wales shall have exclusive jurisdiction over interpretation of this Agreement. The Parties agree that any matter in relation to this Agreement shall be referred to the commercial court of the Queen's Bench Division of the Supreme Court in England and Wales in the first instance. Each Party waives all immunity it or its assets or revenues may otherwise have in any jurisdiction.
- The Vendor hereby appoints EC3 Services Limited of 51 Eastcheap, London EC3M 1JP, United Kingdom (ref: 1003376/ADM), as its process agent to receive on its behalf service of process of any proceedings in the United Kingdom. Such service shall be deemed completed on delivery to such process agent, whether or not it is forwarded to the Vendor. If for any reason such process agent ceases to be able to act as process agent, the Vendor irrevocably agrees to appoint a substitute process agent and to deliver to the Customer a copy of the new process agent's acceptance of that appointment within 10 business days thereof.
- 18.9 *Entire Agreement:* This Agreement and any related agreement entered into by the Parties, including any Vendor Proposal and any Statement of Work, sets forth the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes all prior oral and written agreements, understandings, representations, conditions and all other communication relating thereto.
- 18.10 *Costs.* Unless otherwise agreed, each Party shall bear its own costs and expenses of the negotiation, preparation, execution and implementation of this Agreement and of all other documents referred to in it.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT BY THEIR AUTHORIZED REPRESENTATIVES AS OF THE DATE FIRST WRITTEN ABOVE.

<i>Vendor</i> ExcelSoft Technologies Private Limited	<i>Customer</i> Cyclonehaven Limited
Authorized Signatory 	Authorized Signatory
Name D. SUDHANYA	Name
Title CEO	Title
Date 19 APRIL 2010	Date


r.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT BY THEIR AUTHORIZED REPRESENTATIVES AS OF THE DATE FIRST WRITTEN ABOVE.

<i>Vendor</i> ExcelSoft Technologies Private Limited	<i>Customer</i> Cyclonehaven Limited
Authorized Signatory	Authorized Signatory 
Name	Name ALFRED GRAINGER
Title	Title DIRECTOR
Date	Date 19 April 2010

SCHEDULE 1 SOFTWARE ROADMAP

Core Roadmap

This roadmap defines a logical ordering for development of the Software. The grouping of features into releases is based on projected business requirements and the estimated complexity of development and should not be viewed as a confirmed delivery schedule.

Development will follow an agile methodology with the feature set for each release validated and selected before embarking on the each round of development based on the prevailing priorities.

R1 – NT k!books

First customer release

When

End of 2009 Q4 – for BETT 2010

Required Features

- Shared Annotation site (core application for school user)
- Wizards to ease organisation set-up

Desired Features

- iLesson proof of concept and demos
- Community demo

R1.1 – Usability updates

Updates and tuning in response to first customer feedback

When

Mid 2010 Q1

Required Features

- Phase 1 UDB integration (for NU HE adoption)
- Improved zoom behaviour, including "Zoom to Explain"

- *Others based on user feedback*

Desired Features

- Direct URL interface for launching specific page from links in search results (for NU HE and Liber requirements)
- Whiteboard tuning including auto-hiding of toolbars

R1.2 – Usability & NU HE

First major update for customers which adds a number of key functional improvements.

When

End 2010 Q1

Required Features

- Voice annotation – recorded voice notes
- Phase 2 UDB integration (for NU HE adoption)

R1.3 – WeTeach Pilot

Second major update for customers, introducing the WeTeach lesson building tools, further updates to the annotations and paves the way for the **pilot** community.

When

End 2010 Q2

Required Features

- Single sign on for community pilot (controlled user base)
- WeTeach lesson creation tool, allowing teachers to sequence a series of annotations and activities linked to the book into a lesson (a.k.a. Teacher Recorded Lessons or TRLs)
- Diagram/freehand drawing annotation – needed to allow easy creation of equations for maths and science topics
- Initial Kerboodle integration: resource linking

Desired Features

- Generalised backoffice integration API - first used for Liber portal integration

- Quiz annotation – Series of basic question types with instant feedback for the student (note that scores are not recorded or reported for teacher user at this point)

R1.4 – Live Teacher Community

Major update adding deeper community integration in readiness for use by all teachers (Community phase 1)

When

End 2010 Q3 - Start of 2010-11 academic year

Required Features

- Kerboodle! SSO support
- WeTeach lesson/annotation set sharing with the community.
- Enhanced weblink annotation allowing easy access to resources which have been shared in the community

Desired Features

- Embeddable view of a user's book with limited/static functionality for use within external systems such as forum/blog postings.
- Annotation sets with multiple authors/contributors
- Synchronous annotation updates - annotation edits & additions are updated live to all viewers

R2 – Live Student Community

Update adding support for phase 2 of the community and the core features that would the system to be piloted as the replacement for a traditional VLE.

When

End 2010 Q4 – BETT 2011

Required Features

- Full support for student access to the community
- Links in the book viewer highlighting relevant content and questions available in the community
- Quiz annotation extended to allow richer question types supporting full test and assessment functionality

- Progress tracking and tracing - allowing progress and scores on SCORM content and Quiz annotations to be tracked and reported against by students and teachers.

Unscheduled Features

The following features will be implemented as separate development tracks as appropriate:

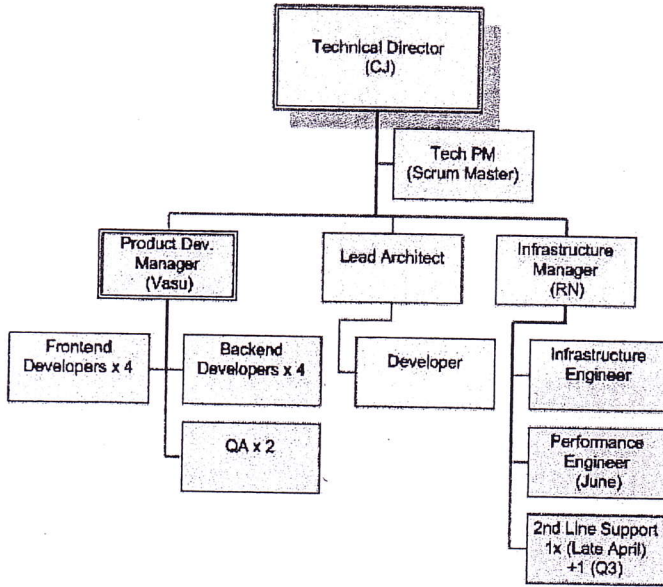
- Offline reader support – reader application supporting single books with one-way import of teachers' annotations
- Book viewer tutorial UI – a synchronised view of the book where the teacher is able to centrally control their students' view during distance learning tutorials
- UI optimised for use on mobile devices.
- Further book viewer whiteboard toolset development
- Extension to annotation types (e.g. ability to drag and drop an MS Office doc to a page)
- Import of alternative eBook formats to display in the book viewer interface (e.g. an ePub)
- Self-service on-line book creation from digital assets (e.g. ppt)
- 'In-page' media view (e.g. video display on page itself – necessary unless we restrict 5 to static pages)
- Fully-featured book viewer widget for integration with non-IL platforms

SCHEDULE 2 RATE CARD

£130 per full day per ODC employee (including Key Persons).

SCHEDULE 3

Pale blue boxes signify the Customer's roles based in the UK; Green boxes signify ODC roles.



**CYCLONEHAVEN LIMITED
AND**

NELSON THORNES LIMITED

SERVICES AGREEMENT

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THIS AGREEMENT is made on 19 April 2010

BETWEEN:

- (1) **CYCLONEHAVEN LIMITED** (Reg no. 7093115), a company incorporated in England, whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH ("**Service Provider**"); and
- (2) **NELSON THORNES LIMITED**, (Reg no. 01083899), a company incorporated in England, whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH ("**Customer**").

RECITALS:

- (A) The Service Provider owns certain software and other technologies whereby books and text can be converted into electronic form, and those electronic versions of the book can be hosted on-line to allow Service Provider's customers to sell access to those electronic books to their end-user customers.
- (B) Customer requires Service Provider to provide those services to it, and Service Provider has agreed to do so, on the terms of and subject to this Agreement.

IT IS AGREED as follows:

1. **INTERPRETATION**

1.1 In this Agreement:

"**Affiliate**" means, in relation to any specified person, any other person directly or indirectly Controlling or Controlled by, or under direct or indirect common Control with, the specified person.

"**Back List Electronic Book**" has the meaning given to that term in clause 2.1.1.

"**Business Day**" means any day other than a Saturday or Sunday or a public holiday in England & Wales.

"**Control**" means the power of a person to secure that the affairs of another person are conducted directly or indirectly in accordance with the wishes of that person, including by means of:

- (a) in the case of a company, being the beneficial owner of more than 50 per cent. of the issued share capital of, or of the voting rights in, that company, or having the right to appoint or remove a majority of the directors or otherwise control the votes at board meetings of that company by virtue of any powers conferred by the articles of association, shareholders' agreement or any other document regulating the affairs of that company; and
- (b) in the case of a partnership, being the beneficial owner of more than 50 per cent. of the capital of that partnership, or having the right to control the composition of or the votes to the majority of the management,

and "**Controlled**" and "**Controlling**" shall be construed accordingly.

"**Data Protection Laws**" means any legislation in force from time to time which implements the EU's Data Protection Directives and is applicable to the performance of any obligations pursuant to this Agreement, including the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426).

"**Electronic Book**" means any Front List Electronic Book and Back List Electronic Book that is created and hosted by the Service Provider as part of the Services.

"**End-Users**" means the Customer's customers to whom it may from time to time offer the ability to have books converted into electronic form and/or to access electronic versions on-line.

"**Front List Electronic Book**" has the meaning given to that term in clause 2.1.2.

"**Insolvency Event**" means, in respect of any party, any of the following events:

- (a) a moratorium is declared in respect of any indebtedness of such party;
- (b) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration of, or the appointment of an administrator to, such party;
- (c) the appointment of a provisional liquidator, a liquidator, receiver, receiver or manager, administrative receiver, administrator, compulsory or interim manager or other similar officer in respect of such party or any of its assets;
- (d) the enforcement by a creditor of any security over any assets of such party; or
- (e) any analogous event to an event under paragraphs (a) to (d) in any jurisdiction with respect to such party.

"**Intellectual Property Rights**" or "**IPR**" means:

- (a) patents, trade marks, service marks, logos, designs, devices, trade, business brand and company names, internet domain names, e mail addresses, copyrights, database rights, rights in software (including source code and object code), know-how, whether such rights or intellectual property is registered or not;
- (b) rights under licences, consents, orders, statutes or otherwise in relation to a right in paragraph (a);
- (c) rights in inventions, discoveries, designs (including website designs), drawings, patterns, techniques, know-how or other design, manufacturing, scientific, technical or commercial information, performances, semi-conductor topographies, marketing material and the presentation of goods and services; and

- (d) rights to apply for the registration or other protection of all or any of the rights and intellectual property referred to in paragraphs (a), (b) and (c),

in each case in any jurisdiction.

"**Net Revenue**" means, in respect of each sale by the Customer of an Electronic Book to any of its End-Users, the proceeds actually received by the Customer from that End-User (excluding any Value Added Tax or similar sales taxes, and after deduction of any withholding taxes, if any), and after any discount offered by the Customer to any End-User.

"**Service Fees**" has the meaning given to it in clause 5.1.

"**Services**" means the services to be provided by the Service Provider to the Customer under this Agreement, being those tasks and activities described in clause 2.1.

"**Software**" means the software as defined in the IP Assignment Agreement entered into between the Service Provider and Excel Soft Technologies Private Limited on or about the date of this Agreement and as developed from time to time.

"**Underlying IP**" has the meaning given to it in clause 6.1.

"**VAT**" or "**Value Added Tax**" means:

- (a) any tax imposed in compliance with the council directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112) (including, in relation to the United Kingdom, value added tax imposed by the Value Added Tax Act 1994 and legislation and regulations supplemental thereto); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in (a), or elsewhere.

1.2 In this Agreement, a reference to:

- 1.2.1 a statutory provision includes a reference to the statutory provision as modified or re-enacted or both from time to time before the date of this Agreement and any subordinate legislation made under the statutory provision (as so modified or re-enacted) before the date of this Agreement;
- 1.2.2 a "**person**" includes a reference to any individual, firm, company, corporation or other body corporate, government, state or agency of a state or any joint venture, association or partnership, works council or employee representative body (whether or not having separate legal personality);
- 1.2.3 a "**party**" includes a reference to that party's successors and permitted assigns;
- 1.2.4 the singular includes the plural and vice versa (unless the context otherwise requires);

1.2.5 a clause or schedule, unless the context otherwise requires, is a reference to a clause of or schedule to this Agreement; and

1.2.6 an obligation to indemnify any person:

(a) is to be construed as including an obligation to hold that person harmless and to keep that person indemnified; and

(b) against a liability is to be construed as including an obligation to indemnify that person against each loss, liability, and cost (including legal expenses) arising as a result of defending or settling the claim which gave rise to the claim under the indemnity; and

(c) shall be construed as including an obligation to indemnify, to the extent relevant, each director, officer, employee or contractor of that person.

1.3 The *ejusdem generis* principle of construction shall not apply to this Agreement. Accordingly, general words shall not be given a restrictive meaning by reason of their being preceded or followed by words indicating a particular class of acts, matters or things or by examples falling within the general words. Any phrase introduced by the terms "other", "including", "include" and "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.4 The headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

2. PROVISION OF THE SERVICES

2.1 From the date of signature hereof and thereafter until termination of this Agreement, but subject to clause 4.2, the Service Provider shall provide the following services using the Software in its then-current developed format (which format is to be developed and determined by the Service Provider from time to time):

2.1.1 in respect of any books and titles that were first published by the Customer in 2009 or earlier, at the Service Provider's discretion, convert such books and other titles provided by the Customer into electronic format (each such converted book or title, a "**Back List Electronic Book**");

2.1.2 in respect of any books and titles that were or will be first published by the Customer in 2010 or later, as and when the Customer so requests, convert such books and other titles provided by the Customer into electronic format (each such converted book or title, a "**Front List Electronic Book**");

2.1.3 at the Customer's request, host each Electronic Book on a web site or web sites managed by the Service Provider, and allow access thereto to the Customer and those of the Customer's End-Users who have been authorised by the Customer from time to time to have access to the same;

- 2.1.4 immediately cease hosting any Electronic Book at the request of the Customer and/or cease making available access to any particular Electronic Book(s) to particular End-Users identified by the Customer from time to time (and take all steps necessary to ensure that those End-Users are not able to obtain access to the Electronic Book(s) in question); and
- 2.1.5 enhanced functionality in relation to the foregoing services, as and when developed by the Service Provider (at the Service Provider's discretion), for the Customer to use at its own discretion,

together, the "Services".

2.2 The Service Provider shall perform its obligations under this Agreement:

- 2.2.1 with promptness and otherwise in accordance with any timetable(s) that may be agreed between the parties from time to time;
- 2.2.2 using the skill and care of a diligent, suitably qualified, well managed, trustworthy and experienced professional provider of services equivalent to the Services; and
- 2.2.3 in accordance with good industry practices applicable to the Services from time to time.

2.3 The Service Provider will, at no additional charge to the Customer, correct and re-perform any Services which do not meet the requirements of the Agreement, and remedy any defect in the Services and any root causes that gave rise to the failure to perform those Services in accordance with this Agreement.

2.4 The Service Provider's appointment under this Agreement is non-exclusive and the Customer does not make any warranty or representation regarding any minimum or projected volume of Services or revenues.

3. **SERVICE PROVIDER'S GENERAL OBLIGATIONS**

3.1 Subject to clause 5.8, the Service Provider shall be responsible for obtaining and maintaining, for as long as may be required and at its cost, all authorisation(s), licence(s), permit(s) or approval(s) required for the proper and lawful delivery of the Services and the performance of the Service Provider's other obligations under and in accordance with this Agreement.

4. **ARRANGEMENTS IN RELATION TO END-USERS**

4.1 The Service Provider acknowledges that the End-Users are customers of the Customer, and therefore agrees that it shall:

- 4.1.1 not seek to do business with or independently contact, or procure directly or indirectly any other person to do business with or contact, any End-User; and

- 4.1.2 not provide any marketing or advertising of whatever nature to any End-User, and not offer to sell to any End-User any services or items, without the Customer's prior written consent.
- 4.2 Promptly following the signing of this Agreement, the parties shall jointly develop and agree on a set of terms and conditions, including an Acceptable Usage Policy ("AUP") and a Fair Usage Policy ("FUP"), which are to apply to and govern the End-Users' use of and interaction with the Services. The parties agree that these terms and conditions are to be developed and implemented in accordance with the following terms:
- 4.2.1 at a minimum, these terms and conditions are to be based on and consistent with the Customer's usage terms and conditions for the "k!book" services which are located at the following url:
http://cdn.mykbook.com/kbook/info/terms_and_conditions.pdf;
- 4.2.2 these terms and conditions shall include requirements on the End-User not to:
- (a) copy, adapt, reverse-engineer, decompile, disassemble, develop or modify the Software in whole or in part, or make any derivative works based on it, other than as permitted by any applicable law; and
 - (b) remove, tamper with or evade any technical measures taken by the Service Provider to protect the Software;
- 4.2.3 subject to clause 4.2.4, the Customer shall have the right to monitor the End-Users' compliance with the terms and conditions, including the AUP, and shall have the right to enforce (at its discretion) these terms against any of the End-Users; and
- 4.2.4 the Service Provider shall have the right to monitor the End-Users' compliance with the FUP, but shall only have the right to enforce (at its discretion) the terms of the FUP against any of the End-Users subject to and following prior consultation with, and consent from, the Customer (which consent may not be unreasonably withheld).

The parties agree that the Services shall not be made or provided on a commercial basis to any End-User until the parties have agreed on the set of terms and conditions for the purposes contemplated under this clause.

- 4.3 The parties agree that the Service Provider will be a data processor when it processes any data, including personal data, provided by or obtained from the Customer and/or any End-User under or in connection with this Agreement ("**Data**"). The Service Provider agrees that it will only process the Data in accordance with the Customer's written instructions from time to time and that it will take such steps as are necessary to ensure the safety and confidentiality of such Data in accordance with the Data Protection Laws. The Service Provider will, at no additional cost, promptly provide such information and assistance to the Customer as the Customer may reasonably require to allow the Customer to comply with the rights of data subjects, including subject access rights, or with information notices served by any relevant authority or

to facilitate timely resolution of any issues related to the Data or any related investigation. The Service Provider may only transfer personal data (as defined in the Data Protection Laws) of the Customer to countries outside the European Union that ensure an adequate level of protection for the rights of the data subject and after prior written authorisation of the Customer, which may be granted subject to such conditions as the Customer thinks are necessary to ensure adequate protection for the Data.

- 4.4 The Service Provider must not do, or omit to do, anything that would cause, or may be reasonably expected to cause the Customer to be in breach of any applicable legislation relating to data privacy.

5. SERVICE FEES AND PAYMENT TERMS

- 5.1 In consideration of the provision of the Services, the Customer agrees to make the following payments as service fees to the Service Provider:

5.1.1 in relation to each Back List Electronic Book sold by the Customer to an End-User, the Customer shall pay to the Service Provider 100% of the Net Revenues actually received by the Customer from the End-User in question; and

5.1.2 in relation to each Front List Electronic Book sold by the Customer to an End-User, the Customer shall pay to the Service Provider 40% of the Net Revenues actually received by the Customer from the End-User in question, subject to a minimum payment amount of £1 for each Front List Electronic Book sold,

(collectively, the "**Service Fees**").

- 5.2 The Service Provider acknowledges and agrees that the Customer shall be entitled to determine the price at which it wishes to offer Electronic Books to its End-Users, and that any and all proceeds or service fees paid or payable by such End-Users will be for the Customer's benefit and account.
- 5.3 The Customer shall provide a report, within 30 days after the end of each calendar month, to the Service Provider setting out the total Service Fees due by the Customer to the Service Provider in respect of sales of Electronic Books by the Customer during the month in question.
- 5.4 The Service Provider shall issue an invoice to the Customer within 30 days after receipt of the Customer's report for the total amount of Service Fees due to it (as stated in that report), and the Customer shall pay that invoice within 30 days of receipt of the same.
- 5.5 The Service Fees are exclusive of any applicable VAT or other similar sales taxes that may be levied by the relevant authorities. The Customer shall, subject to the presentation of a valid VAT invoice from the Service Provider, pay the amount of applicable and additional VAT or similar sales tax at the prevailing rate.
- 5.6 On request and on giving reasonable notice (which must not be less than 5 Business Days), the Service Provider may access and audit the records of the Customer (which

records may be redacted for commercially sensitive information) which are reasonably necessary (including invoices issued to the Customer's customers) to verify the calculation of the Service Fees. The Service Provider may only exercise the access and audit rights under this clause once in each consecutive 6 month period during the term of this Agreement. The Customer shall also provide reasonable assistance in relation to such audits.

- 5.7 The Service Fees will be fully-inclusive of all of the Service Provider's costs of providing the Services and complying with its obligations under the Agreement, and subject to clause 5.8, the Service Provider will not be entitled to pass any costs or out-of pocket expenses of whatever nature to the Customer in connection with the Agreement, but the fact that no extra costs or charges may be made will not relieve the Service Provider from performance of its obligations under this Agreement.
- 5.8 The Customer will be responsible for obtaining and maintaining (at its cost and for as long as may be required) all required clearance rights, authorisations, consents and other permissions in respect of the Front List Electronic Books as are necessary to enable the Service Provider to comply with its obligations under clause 2.1.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 All Intellectual Property Rights in the books and texts made available by or on behalf of the Customer to the Service Provider for the creation of the Electronic Books, as well as all the Intellectual Property Rights in the text contained or created in the Electronic Books and all goodwill resulting from any use of such Electronic Books (the "**Underlying IP**"), shall as between the parties be and remain owned by the Customer. To the extent that any of the Underlying IP vests in the Service Provider or any of its sub-contractors or agents, the Service Provider hereby assigns (including by way of future assignment) that Underlying IP to the Customer, and agrees to execute such documents and take such other steps as the Customer may reasonably require in order for the Underlying IP to vest in the Customer.
- 6.2 The Customer hereby grants to the Service Provider a non-exclusive, royalty-free licence to use the Underlying IP for the sole purpose of providing the Services.
- 6.3 The Service Provider shall immediately on request of the Customer return, or at the Customer's option destroy all copies of, the Underlying IP in its possession or control and certify the same to the Customer. The Customer acknowledges that if the Customer requires the Service Provider to do so, its ability to provide the Services in relation to the relevant Underlying IP will be affected.
- 6.4 All Intellectual Property Rights in the Software made available by or on behalf of the Service Provider under or in connection with this Agreement, including the source code in that Software, and all goodwill resulting from any use of the Software (the "**Service Provider IP**"), shall as between the parties be and remain owned by the Service Provider. To the extent that any of the Service Provider IP vests in the Customer or any of its Affiliates or agents, the Customer hereby assigns (including by way of future assignment) that Service Provider IP to the Service Provider, and agrees to execute such documents and take such other steps as the Service Provider may reasonably require in order for the Service Provider IP to vest in the Service Provider.

7. INDEMNITY

7.1 The Service Provider hereby indemnifies and shall hold harmless the Customer from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities resulting from or in respect of any claim (including any claim by any End-User) that:

7.1.1 the software (including the Software) or any other materials used by the Service Provider under or in connection with the Agreement; or

7.1.2 the Services,

infringes any third party's Intellectual Property Rights of whatever nature anywhere in the world.

7.2 The Customer hereby indemnifies and shall hold harmless the Service Provider from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities resulting from or in respect of any claims made by any third parties in connection with the Service Provider's use of the Underlying IP, provided such use is in accordance with the terms of this Agreement. The indemnity provided under this clause however does not include in scope or extend to any claims made by any third parties in connection with the Service Provider's failure to obtain any required clearance rights, authorisations, consents and other permissions in respect of the Back List Electronic Books.

7.3 If a party wishes to rely on the indemnity given to it under clause 7.1 (in the case of the Customer) or clause 7.2 (in the case of the Service Provider), it must:

7.3.1 notify the other party as soon as may be reasonably practicable of the matter and consult with the other party with respect to the matter;

7.3.2 at the other party's cost and expense, take any action and institute and conduct any proceedings required by the other party in accordance with its requirements, and give any further information and assistance that the other party may reasonably request and the first-mentioned party is reasonably able to provide, to:

(a) dispute, resist, appeal, compromise, defend, remedy or mitigate the matter; or

(b) enforce against a person the Service Provider's rights in relation to the matter;

7.3.3 in connection with proceedings related to the matter (other than against the other party) use advisers chosen by the other party and, if the other party requests, allow the other party the exclusive conduct of the proceedings; and

7.3.4 not admit liability in respect of, or settle or prejudice in any way, the matter without first obtaining the other party's written consent.

- 7.4 In the event of any claim of infringement in relation to the software (including the Software) or any other materials used by the Service Provider or any Services provided by the Service Provider, the Service Provider shall at its own option, cost and expense, promptly do one or more of the following (without prejudice to its obligation to indemnify the Customer pursuant to clause 7.1):
- 7.4.1 procure the right to continue using the infringing IPR or to provide the Services;
 - 7.4.2 modify the infringing IPR or Services so that the relevant IPR or Services are non-infringing, but without in any way detracting from its overall performance; and/or
 - 7.4.3 replace the infringing IPR or Services with other non-infringing items or services having a capability in substantially all respects equivalent to the infringing IPR or Services.

8. WARRANTIES

As at the date of signature hereof, each party warrants to the other that:

- 8.1.1 it is a limited company duly established under the laws of the respective jurisdiction indicated in the pre-ambles to this Agreement and has been in continuous and valid existence since incorporation;
- 8.1.2 it has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under this Agreement;
- 8.1.3 this Agreement does not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitutes a default or requires any consent under, any agreement or other instrument or arrangement to which it or any of its assets are bound; and
- 8.1.4 no consent, approval, regulatory requirement or any requirement under any law is required to be obtained, fulfilled or performed by it before being asked lawfully to enter into, and perform its respective obligations under this Agreement.

9. LIABILITY

- 9.1 Subject to clause 9.3, each party's entire and aggregate liability in connection with this Agreement (however arising, including liability under contract, for tort (including negligence) and under a statute) in respect of any and all events, breaches and claims, shall not exceed at the point in time when any event, breach and/or claim arises, an amount equal to: (i) at any time following the 12 month period after the date of signing of this Agreement, the aggregate of all Service Fees paid and/or payable under this Agreement in the 12 month period immediately prior to that point in time, or (ii) at any time within the 12 month period after the date of signing of this Agreement, £200,000.

9.2 Subject to clause 9.3, neither party will be liable to the other for any indirect, special or consequential loss, damage or claims of whatever nature.

9.3 Nothing in this Agreement shall have the effect of limiting or restricting any liability of a party:

9.3.1 under any indemnity given by it under this Agreement;

9.3.2 for its fraud;

9.3.3 for death or injury caused by its negligence; and/or

9.3.4 for breach of its confidentiality obligations under clause 11.

9.4 The Service Provider is entitled to use sub-contractors to provide the Services, but shall be liable for the acts and/or omissions of such sub-contractors as if they were the acts and/or omissions of the Service Provider.

9.5 TUPE

9.5.1 If:

(a) any employee of the Service Provider or another party performing the Services by or on behalf of the Service Provider under this Agreement asserts or establishes that he or she has become employed by the Customer, any affiliate of the Customer or any replacement provider of the Services or obligations to be performed by the Service Provider under this Agreement (each a "**Transferee**"), either during the term or as a result of the termination of this Agreement or the termination of any of the Services; and

(b) the Transferee does not wish to employ such person,

then the Transferee shall within five (5) Business Days of becoming aware of such assertion notify the Service Provider in writing that it does not wish to employ such person (the "**Affected Employee**") and the Service Provider shall be given the opportunity (but shall not be obliged) to offer the Affected Employee employment with the Service Provider.

9.5.2 If the Affected Employee accepts an offer made by the Service Provider pursuant to clause 9.5.1, the Transferee will immediately release that person from his or her employment and waive any notice period or restrictive covenants under his or her employment contract with the Transferee.

9.5.3 If, within five (5) Business Days of being notified in accordance with this clause, the Service Provider has not made an offer or an offer has been made but, within 5 Business Days of the offer being made, it has not been accepted by the Affected Employee:

(a) the Transferee will be entitled within a further twenty (20) Business Day period to terminate the employment of the Affected Employee

and, to the extent practicable, by following the process for dismissal laid down in the "ACAS Code of Practice 1: Disciplinary and Grievance" (as amended from time to time) in all circumstances save redundancy and the non-renewal of a fixed term contract; and

- (b) the Service Provider will indemnify the Customer for and/or pay the Customer an amount equal to the reasonable costs and expenses incurred by the Transferee arising under or in connection with such termination of the Affected Employee's contract of employment.

9.5.4 If the Transferee continues the employment of the Affected Employee beyond the relevant twenty (20) Business Day period described in this clause, then the Service Provider will indemnify the Customer for and/or pay the Customer an amount equal to any costs and expenses incurred by the Transferee arising only from claims in connection with such Affected Employee's previous employment and which claims arose in connection with the period prior to the relevant date of transfer of employment to the Transferee.

10. TERM AND TERMINATION

10.1 This Agreement will commence on the date of signature and will endure thereafter until terminated in accordance with its terms.

10.2 The Customer may terminate this Agreement at any time on giving no less than 60 days' written notice to the Service Provider.

10.3 Either party may terminate this Agreement with immediate effect by giving notice to other party if any of the following events occur:

10.3.1 if the other party commits a material breach of this Agreement which is not capable of being remedied, or which is capable of being remedied but has not been remedied within 30 days from the date of written notice requiring it to do so; or

10.3.2 if the other party is subject to an Insolvency Event.

10.4 Any termination of this Agreement shall not affect any of the parties' accrued rights and obligations under this Agreement as at the date of termination.

10.5 Clauses 4, 6, 7 and 9 through 15 (inclusive) shall survive termination of this Agreement.

10.6 Immediately on termination of this Agreement, the Service Provider shall cease to use all Underlying IP and shall promptly return to the Customer or destroy (at the Customer's discretion) all copies of the Underlying IP in its possession or control, and certify the same to the Customer.

11. CONFIDENTIAL INFORMATION

For the purposes of this clause 11, "**Confidential Information**" means all information of a confidential nature disclosed by whatever means by one party (the "**Disclosing Party**") to any other party (the "**Receiving Party**") and includes all information disclosed by or to the Customer and includes the provisions and subject matter of this Agreement.

11.1 Each party undertakes to keep, and shall procure that each of its Affiliates shall keep, the Confidential Information confidential and not disclose it to any person, other than as permitted under this clause 11.

11.2 Clause 11.1 shall not apply to the disclosure of Confidential Information if and to the extent:

11.2.1 required by any law or by regulation of any country with jurisdiction over the affairs of the Receiving Party; or

11.2.2 required by the rules of any securities exchange on which securities of the Receiving Party or any of its Affiliates are listed; or

11.2.3 required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body; or

11.2.4 that such information is in the public domain other than through breach of this clause,

provided that, in the case of clauses 11.2.1, 11.2.2 and 11.2.3, the Receiving Party will to the extent reasonably practicable and permitted by such law or body promptly notify the Disclosing Party and co-operate with the Disclosing Party regarding the timing and content of such disclosure and any action which the Disclosing Party may reasonably wish to take to challenge the validity of such requirement.

11.3 The Receiving Party may disclose Confidential Information to its Affiliates and to the directors, officers, employees, advisers, lenders and direct and indirect shareholders of the Receiving Party and its Affiliates, provided that the Receiving Party makes each such recipient aware of the obligations of confidentiality assumed by it under this Agreement and provided that it uses reasonable endeavours to ensure that such recipient complies with those obligations as if it was a party to this Agreement.

12. NOTICES

12.1 Any notice or other communication under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered mail, courier or fax, to the party due to receive the notice at its address set out in this Agreement or such other address as any party may specify by notice in writing to the other. Any notice or other communication under or in connection with this Agreement may be sent by e-mail as long as it is followed up by written notice sent by registered mail, courier or fax.

12.2 All notices to the Service Provider must be sent to:

Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH

Tel: +44 (0) 1242 278202

Fax: +44 (0)1242 253076

Attention: Ian Andow

12.3 All notices to the Customer must be sent to:

Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH

Tel: +44 (0) 1242 278202

Fax: +44 (0)1242 253076

Attention: Fred Grainger

12.4 In the absence of evidence of earlier receipt, any notice or other communications shall be deemed to have been duly given:

12.4.1 if delivered personally, when left at the address referred to in clause 12.2 or 12.3, provided that if the date of delivery is not a Business Day, then delivery shall be deemed to occur on the next succeeding Business Day;

12.4.2 if sent by registered mail or courier service, 48 hours after guaranteed delivery time; and

12.4.3 if sent by fax, when confirmation of its transmission has been recorded on the sender's fax machine.

13. GENERAL

13.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

13.2 The failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

13.3 The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

13.4 If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this shall not affect or impair the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement. The parties shall negotiate in good faith to replace such illegal, invalid or

unenforceable provision with a valid provision, which, as far as possible, has the same legal and commercial effect as the provision which it replaces.

13.5 This Agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all the counterparts together shall constitute one and the same instrument.

13.6 Unless otherwise agreed, each party shall bear its own costs and expenses of the negotiation, preparation, execution and implementation of this Agreement and of all other documents referred to in it.

14. **ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement, and supersedes any previous agreement, between the parties relating to the subject matter of this Agreement. No representation, warranty or undertaking given between the parties at any stage prior to or after the execution of this Agreement shall be valid and binding as between the parties unless and to the extent that the representation, warranty or undertaking has been reduced to writing and expressly set out in this Agreement.

15. **GOVERNING LAW AND JURISDICTION**

15.1 This Agreement is governed by, and shall be construed in accordance with, English law.

15.2 The courts of England and Wales shall have exclusive jurisdiction over the interpretation of this Agreement.

EXECUTED by the parties

Signed on: 19 APRIL 2010)

Location: _____)

By: D. SUNDY BNYA)

Position: _____)

Signature: *[Handwritten Signature]*)

duly authorised representative of)

CYCLONEHAVEN LIMITED)

Signed on: _____)

Location: _____)

By: _____)

Position: _____)

Signature: _____)

duly authorised representative of)

NELSON THORNES LIMITED)

EXECUTED by the parties

Signed on: _____)

Location: _____)

By: _____)

Position: _____)

Signature: _____)

duly authorised representative of _____)

CYCLONEHAVEN LIMITED)

Signed on: 19 APRIL 2010)

Location: _____)

By: ALFRED GRAINGER)

Position: DIRECTOR)

Signature: )

duly authorised representative of _____)

NELSON THORNES LIMITED)

**CYCLONEHAVEN LIMITED
AND
EXCELSOFT TECHNOLOGIES PRIVATE LIMITED**

IP LICENCE AGREEMENT

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THIS AGREEMENT is made on 19 April 2010

BETWEEN:

- (1) **CYCLONEHAVEN LIMITED** (Reg no. 7093115), a company incorporated in England, whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH ("**Licensor**"); and
- (2) **EXCELISOFT TECHNOLOGIES PRIVATE LIMITED**, a company incorporated under the provisions of the Indian Companies Act, 1956 and having its registered office at 1-B, Hootagalli Industrial Area, Mysore 570 018, India ("**Excelsoft**").

RECITALS:

- (A) Excelsoft has developed certain software that converts books and text into electronic books and text, and that allows those electronic books and text to be hosted online and to be further manipulated and enhanced, including providing interactivity with the end user.
- (B) Excelsoft and EEH (BIDCO) Limited are shareholders in the Licensor and, pursuant to the subscription and shareholders agreement between them entered into on the date hereof ("**Shareholders Agreement**"), Excelsoft has agreed to assign all its right, title and interest in and to the software referred to in Recital (A) to the Licensor, to enable the Licensor to use, further develop and exploit the same.
- (C) The Licensor has agreed to allow Excelsoft to continue to use the software referred to in Recital (A) in the way and for the purposes for which Excelsoft had been using the same immediately prior to the Completion Date, on the terms of and subject to this Agreement.

IT IS AGREED as follows.

1. INTERPRETATION

1.1 In this Agreement:

"**Affiliate**" means, in relation to any specified person, any other person directly or indirectly Controlling or Controlled by, or under direct or indirect common Control with, the specified person.

"**Business Day**" means any day other than a Saturday or Sunday or a public holiday in England & Wales.

"**Completion Date**" means the date of this Agreement.

"**Control**" means the power of a person to secure that the affairs of another person are conducted directly or indirectly in accordance with the wishes of that person, including by means of:

- (a) in the case of a company, being the beneficial owner of more than 50 per cent. of the issued share capital of, or of the voting rights in, that company, or having the right to appoint or remove a majority of the directors or otherwise control the votes at board meetings of that company by virtue of any powers conferred by the articles of association, shareholders' agreement or any other document regulating the affairs of that company; and
- (b) in the case of a partnership, being the beneficial owner of more than 50 per cent. of the capital of that partnership, or having the right to control the composition of or the votes to the majority of the management,

and "**Controlled**" and "**Controlling**" shall be construed accordingly.

"**Insolvency Event**" means, in respect of any party, any of the following events:

- (a) such party is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- (b) a moratorium is declared in respect of any indebtedness of such party;
- (c) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration of, or the appointment of an administrator to, such party;
- (d) a composition or assignment with any creditors of such party arising from or as a result of the inability of such party to repay its debts as and when they become due;
- (e) the appointment of a provisional liquidator, a liquidator, receiver, receiver or manager, administrative receiver, administrator, compulsory or interim manager or other similar officer in respect of such party or any of its assets;
- (f) the enforcement by a creditor of any security over any assets of such party; or
- (g) any analogous event to an event under paragraphs (a) to (f) in any jurisdiction with respect to such party.

"**Intellectual Property Rights**" or "**IPR**" means:

- (a) patents, trade marks, service marks, logos, designs, devices, trade, business, brand and company names, internet domain names, e mail addresses, copyrights, database rights, rights in software (including source code and object code), know-how, whether such rights or intellectual property is registered or not;
- (b) rights under licences, consents, orders, statutes or otherwise in relation to a right in paragraph (a);

- (c) rights in inventions, discoveries, designs (including website designs), drawings, patterns, techniques, know-how or other design, manufacturing, scientific, technical or commercial information, performances, semi-conductor topographies, marketing material and the presentation of goods and services; and
- (d) rights to apply for the registration or other protection of all or any of the rights and intellectual property referred to in paragraphs (a), (b) and (c),

in each case in any jurisdiction.

"**Software**" means the software described in Schedule 1 and specifically excludes any modifications of, enhancements or improvements to, or derivative works based on, the Software created by or on behalf of the Licensor after the date of this Agreement.

1.2 In this Agreement, a reference to:

- 1.2.1 a statutory provision includes a reference to the statutory provision as modified or re-enacted or both from time to time before the date of this Agreement and any subordinate legislation made under the statutory provision (as so modified or re-enacted) before the date of this Agreement;
- 1.2.2 a "**person**" includes a reference to any individual, firm, company, corporation or other body corporate, government, state or agency of a state or any joint venture, association or partnership, works council or employee representative body (whether or not having separate legal personality);
- 1.2.3 a "**party**" includes a reference to that party's successors and permitted assigns;
- 1.2.4 the singular includes the plural and vice versa (unless the context otherwise requires);
- 1.2.5 a clause or schedule, unless the context otherwise requires, is a reference to a clause of or schedule to this Agreement; and
- 1.2.6 an obligation to indemnify any person:
 - (a) is to be construed as including an obligation to hold that person harmless and to keep that person indemnified; and
 - (b) against a liability is to be construed as including an obligation to indemnify that person against each loss, liability, and cost (including legal expenses) arising as a result of defending or settling the claim which gave rise to the claim under the indemnity; and
 - (c) shall be construed as including an obligation to indemnify, to the extent relevant, each director, officer, employee or contractor of that person.

1.3 The *ejusdem generis* principle of construction shall not apply to this Agreement. Accordingly, general words shall not be given a restrictive meaning by reason of their

being preceded or followed by words indicating a particular class of acts, matters or things or by examples falling within the general words. Any phrase introduced by the terms "other", "including", "include" and "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

- 1.4 The headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

2. GRANT OF LICENCE TO EXCELISOFT

- 2.1 Subject to clause 2.2 below and in consideration for the sum of £1, receipt of which is hereby acknowledged, the Licensor hereby grants to Excelsoft with effect from the date of signature hereof a revocable (on the terms hereof), perpetual, non-exclusive, royalty-free licence to continue to:

- 2.1.1 use the Software for the purposes of providing services to those third parties identified or referred to in Schedule 2 (List 1 and List 2) in the same manner that Excelsoft had provided services to them (in the case of the third parties listed or referred to in List 1) or in substantially the same manner that Excelsoft had provided services to the third parties listed or referred to in Schedule 2 List 1 (in the case of the third parties listed or referred to in List 2), immediately prior to the Completion Date;
- 2.1.2 distribute the Software and the related content limited to the text books published by the National Council for Education Research and Training, for K-12 schools only in India; and
- 2.1.3 distribute the Software and the related content for the engineering education sector to technical universities and colleges which are delivering the Indian technical education curriculum (for engineering) to students and relevant support and teaching staff,

and for no other purpose without first having obtained the Licensor's prior written consent.

- 2.2 The licence granted in clause 2.1 to Excelsoft specifically does not include:

- 2.2.1 the right to modify, enhance, adapt, maintain, support or in any other way change the Software, or to sub-licence the rights granted to it in clause 2.1, save to the extent required to enable Excelsoft to comply with its obligations to those parties listed or referred to in Schedule 2 of this Agreement and/or to perform those other activities permitted under clause 2.1;
- 2.2.2 the right to sub-license the Software, and/or use the Software to provide services, to Cengage Learning India and/or Cengage Learning Singapore ("**Cengage Customers**") in the event that any Cengage Customer transfers any IPR, services and/or any products that are developed and/or provided by

Excelsoft to any Affiliate, business partner or business operation of a Cengage Customer; and

2.2.3 the right to sub-license the Software to any of those third parties identified or referred to in Schedule 2. For the avoidance of doubt, the parties acknowledge and agree that the third parties identified or referred to in Schedule 2 do not and shall not have access to the Software (including any of the code pertaining to the Software) but may have access to tools for the purposes of accessing content (including without limitation those tools embedded or otherwise contained in the Software).

2.3 Excelsoft shall from time to time (but not more than once in any consecutive six month period during the term of this Agreement) at the Licensor's request and subject to the Licensor complying with any relevant confidentiality undertakings (which may include but are not limited to those set out in clause 8 of this Agreement where an agreement or information disclosed under this clause 2.3 requires otherwise), provide to the Licensor information about the way and extent to which the Software is used by Excelsoft pursuant to the licence granted under clause 2.1, including if requested extracts from Excelsoft's agreements with the third parties identified or referred to in Schedule 2 (which may be redacted for commercially sensitive information).

2.4 On request and on giving notice (which must not be less than 5 Business Days), the Licensor may access and audit the records of Excelsoft which are reasonably necessary to verify and confirm Excelsoft's compliance with the terms of this Agreement. The Licensor may only exercise the access and audit rights under this clause once for each consecutive 6 month period during the term of this Agreement. Excelsoft shall provide reasonable assistance in relation to such audits.

3. **NO LIABILITY**

3.1 Excelsoft's use of the Software is at its own risk and the Licensor gives no warranty or undertaking, and makes no representation, in respect of the Software (including that the Software is non-infringing, without defects or fit for any purpose).

3.2 The Licensor will have no liability to Excelsoft and any end user customer of Excelsoft in respect of the use of the Software. To the maximum extent possible, Excelsoft shall and agrees to exclude and disclaim the Licensor's liability to each end user customer in its contractual agreement with such end user customer.

3.3 Excelsoft hereby indemnifies and shall hold harmless the Licensor from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities resulting from or in respect of any claims made by any third parties (including the third parties identified or referred to in Schedule 2) to whom or for whom Excelsoft has made available or has used the Software.

4. **OTHER USE**

If Excelsoft wishes to use, modify, enhance, adapt, maintain, support or in any other way change the Software or sub-license it in any way that is not permitted by the licence granted in clause 2.1, it shall first require the Licensor's prior written approval. The Licensor may grant or refuse such approval in its sole discretion and if it grants the same, may grant it on such terms and conditions as the Licensor may at the time determine.

5. **IPR TITLE**

All Intellectual Property Rights and goodwill resulting from the use by Excelsoft of the Software shall inure to the benefit of the Licensor. Excelsoft hereby assigns (including by way of future assignment) the benefit of such Intellectual Property Rights and goodwill, and agrees to execute such documents and take such other steps as the Licensor may reasonably require (subject to the Licensor paying Excelsoft's reasonable costs incurred in complying with this obligation) in order for the Licensor and/or its nominee to obtain the full benefit of any such Intellectual Property Rights and goodwill.

6. **WARRANTIES**

As at the date of signature hereof, each party warrants to the other that:

- 6.1.1 it is a limited company duly established under the laws of the respective jurisdiction indicated in the pre-ambles to this Agreement and has been in continuous and valid existence since incorporation;
- 6.1.2 it has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under this Agreement;
- 6.1.3 this Agreement does not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitutes a default or requires any consent under, any agreement or other instrument or arrangement to which it or any of its assets are bound; and
- 6.1.4 no consent, approval, regulatory requirement or any requirement under any law is required to be obtained, fulfilled or performed by it before being asked lawfully to enter into, and perform its respective obligations under this Agreement.

7. **TERMINATION**

7.1 The Licensor may terminate this Agreement with immediate effect by giving notice to Excelsoft if any of the following events occur:

- 7.1.1 if Excelsoft commits a material breach of this Agreement which is not capable of being remedied, or which is capable of being remedied but has not been

remedied within 30 days from the date of written notice requiring it to do so;
or

7.1.2 if Excelsoft is subject to an Insolvency Event.

7.2 Any termination of this Agreement shall not affect any of the parties' accrued rights and obligations under this Agreement as at the date of termination but, for clarity, the licence in clause 2.1 shall cease immediately on termination of this Agreement.

7.3 Clauses 3, 5 and 7 through 12 (inclusive) shall survive termination of this Agreement.

7.4 Immediately on termination of this Agreement, Excelsoft shall cease to use the Software and shall promptly return to the Licensor or destroy (at the Licensor's discretion) all copies of the Software in its possession or control, and certify the same to Licensor.

8. CONFIDENTIAL INFORMATION

For the purposes of this clause 8, "**Confidential Information**" means all information of a confidential nature disclosed by whatever means by one party (the "**Disclosing Party**") to any other party (the "**Receiving Party**") and includes all information disclosed by or to the Licensor and includes the provisions and subject matter of this Agreement.

8.1 Each party undertakes to keep, and shall procure that each of its Affiliates shall keep, the Confidential Information confidential and not disclose it to any person, other than as permitted under this clause 8.

8.2 Clause 8.1 shall not apply to the disclosure of Confidential Information if and to the extent:

8.2.1 required by any law or by regulation of any country with jurisdiction over the affairs of the Receiving Party; or

8.2.2 required by the rules of any securities exchange on which securities of the Receiving Party or any of its Affiliates are listed; or

8.2.3 required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body; or

8.2.4 that such information is in the public domain other than through breach of this clause,

provided that, in the case of clauses 8.2.1, 8.2.2 and 8.2.3, the Receiving Party will to the extent reasonably practicable and permitted by such law or body promptly notify the Disclosing Party and co-operate with the Disclosing Party regarding the timing and content of such disclosure and any action which the Disclosing Party may reasonably wish to take to challenge the validity of such requirement.

- 8.3 The Receiving Party may disclose Confidential Information to its Affiliates and to the directors, officers, employees, advisers, lenders and direct and indirect shareholders of the Receiving Party and its Affiliates, provided that the Receiving Party makes each such recipient aware of the obligations of confidentiality assumed by it under this Agreement and provided that it uses reasonable endeavours to ensure that such recipient complies with those obligations as if it was a party to this Agreement.

9. NOTICES

- 9.1 Any notice or other communication under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered mail, courier or fax, to the party due to receive the notice at its address set out in this Agreement or such other address as any party may specify by notice in writing to the other. Any notice or other communication under or in connection with this Agreement may be sent by e-mail as long as it is followed up by written notice sent by registered mail, courier or fax.

- 9.2 All notices to the Licensor must be sent to:

Cyclonhaven Limited

Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH

Tel: +44 (0) 1242 278202

Fax: +44 (0)1242 253076

Attention: Ian Andow

- 9.3 All notices to Excelsoft must be sent to:

Excelsoft Technologies Private Limited

1-B, Hootagalli Industrial Area, Mysore 570 018, India

Tel: +91 821 4282000

Fax: +91 821 4282208

Attention: Sudhanva D

- 9.4 In the absence of evidence of earlier receipt, any notice or other communications shall be deemed to have been duly given:

9.4.1 if delivered personally, when left at the address referred to in clause 9.2 or clause 9.30, provided that if the date of delivery is not a Business Day, then delivery shall be deemed to occur on the next succeeding Business Day;

9.4.2 if sent by registered mail or courier service, 48 hours after guaranteed delivery time; and

9.4.3 if sent by fax, when confirmation of its transmission has been recorded on the sender's fax machine.

10. GENERAL

- 10.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

- 10.2 The failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.
- 10.3 The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 10.4 If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this shall not affect or impair the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement. The parties shall negotiate in good faith to replace such illegal, invalid or unenforceable provision with a valid provision, which, as far as possible, has the same legal and commercial effect as the provision which it replaces.
- 10.5 This Agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all the counterparts together shall constitute one and the same instrument.
- 10.6 Unless otherwise agreed, each party shall bear its own costs and expenses of the negotiation, preparation, execution and implementation of this Agreement and of all other documents referred to in it.

11. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement, and supersedes any previous agreement, between the parties relating to the subject matter of this Agreement. No representation, warranty or undertaking given between the parties at any stage prior to or after the execution of this Agreement shall be valid and binding as between the parties unless and to the extent that the representation, warranty or undertaking has been reduced to writing and expressly set out in this Agreement.

12. GOVERNING LAW AND JURISDICTION

- 12.1 This Agreement is governed by, and shall be construed in accordance with, English law.
- 12.2 The courts of England and Wales shall have exclusive jurisdiction over the interpretation of this Agreement.
- 12.3 Excelsoft hereby appoints EC3 Services Limited of 51 Eastcheap, London EC3M 1JP, United Kingdom (ref: 1003376/ADM), United Kingdom, as its process agent to receive on its behalf service of process of any proceedings in the United Kingdom. Such service shall be deemed completed on delivery to such process agent, whether or not it is forwarded to Excelsoft. If for any reason such process agent ceases to be able to act as process agent, Excelsoft irrevocably agrees to appoint a substitute process agent and to deliver to the Licensor a copy of the new process agent's acceptance of that appointment within 10 Business Days thereof.

SCHEDULE 1 THE SOFTWARE

Description of the Software: ibook technology

Any and all functionality provided by the ibook technology in existence as at the date of signing of this Agreement, including the following:

Flash iBook Reader

This is the iBook reader, implemented in Flash/Actionscript.

The features included in the book reader are:

- Zoom (click 2 zoom and the default zoom implementation)
- Highlight tool
- Pen tool
- Snapshot tool
- Note tool
- Eraser tool
- Full screen mode view modifications
- Single page, double page view
- Page flip and Vertical scroll views
- Hotspots and weblinks for external content
- Voice annotations – working with a wowza media server
- Drag and drop of annotations and tool bar
- Sharing of annotation sets between user groups
- Search text in a book
- Jump to page
- Print (single page, double page)
- Bookmark manager
- Persistence of all annotations
- All associated server side for the above listed features and:
- Specific developments for NT and Noordhoof such as
 - UDB/DRM Integration
 - Shared Annotation site for K!Books

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This is the catalog viewer, implemented in Flash/Actionscript.

This is the version currently being served to Infinitas op-cos like Nelson Thornes and Noordhoff.

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Other

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- Alternative platform POCs:
 - AppEngine Python & Java implementations of the book viewer application
 - Book viewer application ported to run against MySQL rather than MS SQL

Documentation

All documentation available in respect of any of the above items.

SCHEDULE 2
THIRD PARTY SERVICE RECIPIENTS

List 1

- Cengage Learning India (subject to the restriction in clause 2.2.2)
- Cengage Learning Singapore (subject to the restriction in clause 2.2.2)
- Free i-book content, as part of the K-12 solution in India based on CBSE/NCERT, provided to k-12 schools
- Engineering education sector content in India for students and relevant support and teaching staff of technical universities and colleges

List 2

As at the Completion Date, Excelsoft has submitted proposals to the following third parties.

- Guardian Professional, UK
- IndiaInfoline, India
- Kotak Bank, India
- Reliance Retail, India
- Manipal Universal Learning
- MeritTrac
- T.I.M.E.
- Cisco
- Council for Scientific and Industrial Research, India
- Fish & Richardson, USA
- IPAI, California
- Formulate IP, India
- JSS International School, Dubai
- JSS Schools in India
- Excel Public Schools in India

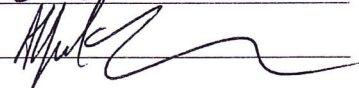
EXECUTED by the parties

Signed on: 19 APRIL 2010)

Location: _____)

By: ALFRED GRANGER)

Position: DIRECTOR)

Signature: )

duly authorised representative of)

CYCLONEHAVEN LIMITED)

Signed on: _____)

Location: _____)

By: _____)

Position: _____)

Signature: _____)

duly authorised representative of)

EXCELSOFT TECHNOLOGIES PRIVATE LIMITED)

EXECUTED by the parties

Signed on: _____)

Location: _____)

By: _____)

Position: _____)

Signature: _____)

duly authorised representative of _____)

CYCLONEHAVEN LIMITED)

Signed on: 19 APRIL 2010)

Location: _____)

By: D. SUBHANVA)

Position: CFD)

Signature: [Handwritten Signature])

duly authorised representative of _____)

EXCELISOFT TECHNOLOGIES PRIVATE LIMITED)

[Handwritten Signature]

**CYCLONEHAVEN LIMITED
AND
EXCELSOFT TECHNOLOGIES PRIVATE LIMITED**

IP ASSIGNMENT AGREEMENT

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THIS AGREEMENT is made on 19 April 2010

BETWEEN:

- (1) **CYCLONEHAVEN LIMITED** (Reg no. 7093115), a company incorporated in England, whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH ("**Newco**"); and
- (2) **EXCELSOFT TECHNOLOGIES PRIVATE LIMITED**, a company incorporated under the provisions of the Indian Companies Act, 1956 and having its registered office at 1-B, Hootagalli Industrial Area, Mysore 570 018, India ("**Excelsoft**")

RECITALS

- (A) Excelsoft has developed certain software that converts books and text into electronic books and text, and that allows those electronic books and text to be hosted online and to be further manipulated and enhanced, including providing interactivity with the end user.
- (B) Excelsoft and EEH (BIDCO) Limited are shareholders in Newco and, pursuant to the subscription and shareholders agreement relating to Newco between them, entered into on the date hereof ("**Shareholders Agreement**"), Excelsoft has agreed to assign all its right, title and interest in and to the software referred to in Recital (A) to Newco, to enable Newco to use, further develop and exploit the same.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 In this Agreement:

"**Affiliate**" means, in relation to any specified person, any other person directly or indirectly Controlling or Controlled by, or under direct or indirect common Control with, the specified person.

"**Business Day**" means any day other than a Saturday or Sunday or a public holiday in England & Wales.

"**Control**" means the power of a person to secure that the affairs of another person are conducted directly or indirectly in accordance with the wishes of that person, including by means of:

- (a) in the case of a company, being the beneficial owner of more than 50 per cent. of the issued share capital of, or of the voting rights in, that company, or having the right to appoint or remove a majority of the directors or otherwise control the votes at board meetings of that company by virtue of any powers conferred by the articles of association, shareholders' agreement or any other document regulating the affairs of that company; and

- (b) in the case of a partnership, being the beneficial owner of more than 50 per cent. of the capital of that partnership, or having the right to control the composition of or the votes to the majority of the management,

and "**Controlled**" and "**Controlling**" shall be construed accordingly.

"**Intellectual Property Rights**" or "**IPR**" means:

- (a) patents, copyrights, database rights, rights in software (including source code and object code), know-how, whether such rights or intellectual property are registered or not;
- (b) rights under licences, consents, orders, statutes or otherwise in relation to right in paragraph (a);
- (c) rights in inventions, discoveries, designs (including website designs), drawings, patterns, techniques, know-how or other design, manufacturing, scientific, technical or commercial information, performances, semi-conductor topographies, marketing material and the presentation of goods and services; and
- (d) rights to apply for the registration or other protection of all or any of the rights and intellectual property referred to in paragraphs (a), (b) and (c),

in each case in any jurisdiction.

"**SARAS Software**" means the software owned and used by Excelsoft as at the date hereof and commonly known as SARAS.

"**Software**" means the software described in Schedule 1.

1.2 In this Agreement, a reference to:

- 1.2.1 a statutory provision includes a reference to the statutory provision as modified or re-enacted or both from time to time before the date of this Agreement and any subordinate legislation made under the statutory provision (as so modified or re-enacted) before the date of this Agreement;
- 1.2.2 a "**person**" includes a reference to any individual, firm, company, corporation or other body corporate, government, state or agency of a state or any joint venture, association or partnership, works council or employee representative body (whether or not having separate legal personality);
- 1.2.3 a "**party**" includes a reference to that party's successors and permitted assigns;
- 1.2.4 the singular includes the plural and vice versa (unless the context otherwise requires);
- 1.2.5 a clause or schedule, unless the context otherwise requires, is a reference to a clause of or schedule to this Agreement; and

1.2.6 an obligation to indemnify any person:

- (a) is to be construed as including an obligation to hold that person harmless and to keep that person indemnified; and
- (b) against a liability is to be construed as including an obligation to indemnify that person against each loss, liability, and cost (including legal expenses) arising as a result of defending or settling the claim which gave rise to the claim under the indemnity; and
- (c) shall be construed as including an obligation to indemnify, to the extent relevant, each director, officer, employee or contractor of that person.

1.3 The *ejusdem generis* principle of construction shall not apply to this Agreement. Accordingly, general words shall not be given a restrictive meaning by reason of their being preceded or followed by words indicating a particular class of acts, matters or things or by examples falling within the general words. Any phrase introduced by the terms "other", "including", "include" and "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.4 The headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

2. ASSIGNMENT OF IPR IN THE SOFTWARE TO NEWCO

2.1 In consideration of Newco agreeing to make payment to Excelsoft in accordance with clause 3 below, Excelsoft hereby assigns to Newco, absolutely and with full title guarantee, with effect from 23:00 on 31 March 2010 (India time) ("**Effective Time**"):

2.1.1 all Intellectual Property Rights of whatever nature in the Software (including all Intellectual Property Rights created between the Effective Time and the date that this Agreement is signed by the last signing party), for the full term during which those rights and any renewals and extensions of those rights subsist, including:

- (a) the exclusive right to do and to authorise others to do the acts restricted by Part 1 of the Copyright, Designs and Patents Act 1988 Act in relation to the Software in the United Kingdom; and
- (b) all rights of a similar nature to those described in clause 2.1.1(a) above conferred in respect of the Software by the laws in force in all other countries; and

2.1.2 the right to sue for and to recover damages and other remedies in respect of any infringement of the Intellectual Property Rights in the Software which may have occurred before the date that this Agreement is signed by the last signing party.

- 2.2 Excelsoft hereby waives, and shall ensure that each of its Affiliates, contractors (including sub-contractors), agents, members, shareholders, directors and staff (in each case, whether past or present), shall waive, its right to be identified as the author of the Software or any part thereof and its right to object to derogatory treatment of the Software or any part thereof.
- 2.3 For clarity, nothing in this Agreement (including clause 2.1) shall operate to transfer to Newco any of Excelsoft's rights or title in the SARAS Software.

3. **CONSIDERATION**

- 3.1 Newco shall pay to Excelsoft, immediately after signature of this Agreement by the last of the parties hereto, by way of electronic transfer to Excelsoft's account (Syndicate Bank, K.R Circle, Mysore Branch, MYSORE - 570 018; Swift Account Code: SYNBINBB087; Current account number: 17001010001338), the sum of £892,857 in consideration for the assignment of the Intellectual Property Rights under clause 2.
- 3.2 Excelsoft shall account, and agrees to bear the payment, for any and all taxes, rates and duties that are payable or applicable under Indian law in relation to the consideration paid by Newco under this clause 3 for the assignment of the IPR under clause 2. If Newco is required to make any payments to an Indian authority for any such taxes, rates or duties, Excelsoft shall indemnify and reimburse Newco for the amount of any such payments made.

4. **PROVISION OF SOFTWARE AND RELATED MATERIALS**

- 4.1 Excelsoft shall upon signature of this Agreement by the last of the parties hereto deliver to Newco all copies and versions of:
- 4.1.1 the Software (including the underlying source code and object code and prior versions, including test and development versions, thereof);
- 4.1.2 all associated development files (including build files, images, data files, test plans and scripts, and so on) necessary or desirable to continue the development and use of the Software, including (to the extent available):
- (a) the application and shared annotations;
 - (b) offline reader;
 - (c) production and conversion tools;
 - (d) proofs of concept or R&D projects related to any of the above; and
- 4.1.3 all related materials (including documents, user guides, manuals, technical and other specifications, data sheets and test information),

including, in each case, in its and/or its Affiliates', and/or its and/or their sub-contractors', possession or control.

4.2 On request by Newco, Excelsoft shall, at its cost and expense, promptly provide all reasonable training and related documented information (including an user guide) as is necessary to enable a reasonably skilled and competent person to be able to understand, use, maintain and modify the Software independently of external resources. Such training and documentation shall include (at a minimum) and be limited to the following terms:

4.2.1 be provided within the 12 month period following on and from the date of signing of this Agreement by both parties;

4.2.2 three (3) face to face sessions (in India) of at least four (4) business days per session;

4.2.3 10 telephone calls per month; and

4.2.4 the following user documentation (to the extent available):

- (a) standards and best practice guides;
- (b) a documented overview of the Software framework;
- (c) logical entity relationship model for the Software databases;
- (d) automated build and test procedures;
- (e) deployment processes for moving through test environments;
- (f) documented problem determination guides;
- (g) standards for logging and viewing logs; and
- (h) source code documentation and know-how.

Any training, information and/or documentation required in addition to these requirements shall be provided at Newco's cost and expense, subject to prior agreement between the parties.

4.3 Excelsoft warrants to Newco and undertakes that the materials to be delivered by it under clause 4.1 constitute all materials which embody the Intellectual Property Rights in the Software, and which a reasonably skilled computer programmer may require to use, maintain, enhance and operate the Software.

5. FURTHER ASSURANCE

At the request of Newco at any time, Excelsoft shall at its own cost and expense do (and procure that each of its Affiliates, contractors (including sub-contractors), agents, members, shareholders, directors and staff (in each case, whether past, present or future) shall do), all things necessary or desirable to:

5.1.1 implement this Agreement and perfect Newco's title in and to the Software;

- 5.1.2 allow and assist Newco to verify that all the Intellectual Property Rights in the Software have been assigned to it and that Excelsoft has complied with its obligations under this Agreement.

6. IPR INDEMNITY

- 6.1 Excelsoft hereby indemnifies and shall hold harmless Newco from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities resulting from or in respect of any claim (including any claim by any customer of Newco) that the Software or any other materials (including materials contemplated by clause 4) made available by or on behalf of Excelsoft under or in connection with the Agreement infringes any third party's Intellectual Property Rights (including also trade marks, service marks, logos, designs, devices, trade names, internet domain names) of whatever nature anywhere in the world.

- 6.2 If Newco wishes to rely on the indemnity given to it under clause 6.1 above, it must:

- 6.2.1 notify Excelsoft as soon as may be reasonably practicable of the matter and consult with Excelsoft with respect to the matter;

- 6.2.2 at Excelsoft's cost and expense, take any action and institute and conduct any proceedings required by Excelsoft in accordance with its requirements, and give any further information and assistance that Excelsoft may reasonably request and Newco is reasonably able to provide, to:

- (a) dispute, resist, appeal, compromise, defend, remedy or mitigate the matter; or

- (b) enforce against a person Excelsoft's rights in relation to the matter;

- 6.2.3 in connection with proceedings related to the matter (other than against Excelsoft) use advisers chosen by Excelsoft and, if Excelsoft requests, allow Excelsoft the exclusive conduct of the proceedings; and

- 6.2.4 not admit liability in respect of, or settle or prejudice in any way, the matter without first obtaining Excelsoft's written consent.

- 6.3 In the event of any claim of infringement, Excelsoft shall at its own option, cost and expense, promptly do one or more of the following (without prejudice to its obligation to indemnify Newco pursuant to clause 6.1 above):

- 6.3.1 procure for Newco the right to continue using the infringing IPR;

- 6.3.2 modify the infringing IPR so that the relevant IPR is non infringing, but without in any way detracting from its overall performance; and/or

- 6.3.3 replace the infringing IPR with other non-infringing items or services having a capability in substantially all respects equivalent to the infringing IPR.

7. WARRANTIES

As at the date of signature hereof, each party warrants to the other that:

- 7.1.1 it is a limited company duly established under the laws of the respective jurisdiction indicated in the pre-ambles to this Agreement and has been in continuous and valid existence since incorporation;
- 7.1.2 it has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under this Agreement;
- 7.1.3 this Agreement does not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitutes a default or requires any consent under, any agreement or other instrument or arrangement to which it or any of its assets are bound; and
- 7.1.4 no consent, approval, regulatory requirement or any requirement under any law is required to be obtained, fulfilled or performed by it before being asked lawfully to enter into, and perform its respective obligations under this Agreement.

8. NOTICES

- 8.1 Any notice or other communication under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered mail, courier or fax, to the party due to receive the notice at its address set out in this Agreement or such other address as any party may specify by notice in writing to the other. Any notice or other communication under or in connection with this Agreement may be sent by e-mail as long as it is followed up by written notice sent by registered mail, courier or fax.
- 8.2 All notices to Newco must be sent to:

Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH
Tel: +44 (0) 1242 278202
Fax: +44 (0)1242 253076
Attention: Ian Andow
- 8.3 All notices to Excelsoft must be sent to:

1-B, Hootagalli Industrial Area, Mysore 570 018, India
Tel: +91 821 4282000
Fax: +91 821 4282208
Attention: Sudhanva D
- 8.4 In the absence of evidence of earlier receipt, any notice or other communications shall be deemed to have been duly given:

- 8.4.1 if delivered personally, when left at the address referred to in clause 8.2 or 0, provided that if the date of delivery is not a Business Day, then delivery shall be deemed to occur on the next succeeding Business Day;
- 8.4.2 if sent by registered mail or courier service, 48 hours after guaranteed delivery time; and
- 8.4.3 if sent by fax, when confirmation of its transmission has been recorded on the sender's fax machine.

9. GENERAL

- 9.1 No variation of this Agreement shall be valid unless it is in writing and signed by on behalf of each of the parties.
- 9.2 The failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.
- 9.3 The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 9.4 If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this shall not affect or impair the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement. The parties shall negotiate in good faith to replace such illegal, invalid or unenforceable provision with a valid provision, which, as far as possible, has the same legal and commercial effect as the provision which it replaces.
- 9.5 This Agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all the counterparts together shall constitute one and the same instrument.
- 9.6 Unless otherwise agreed, each party shall bear its own costs and expenses of the negotiation, preparation, execution and implementation of this Agreement and of other documents referred to in it.

10. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement, and supersedes any previous agreement, between the parties relating to the subject matter of this Agreement. No representation, warranty or undertaking given between the parties at any stage prior to or after the execution of this Agreement shall be valid and binding as between the parties unless and to the extent that the representation, warranty or undertaking has been reduced to writing and expressly set out in this Agreement.

11. **GOVERNING LAW AND JURISDICTION**

- 11.1 This Agreement is governed by, and shall be construed in accordance with, English law.
- 11.2 The courts of England and Wales shall have exclusive jurisdiction over the interpretation of this Agreement.
- 11.3 Excelsoft hereby appoints EC3 Services Limited of 51 Eastcheap, London EC3M 1JP, United Kingdom (ref: 1003376/ADM), as its process agent to receive on its behalf service of process of any proceedings in the United Kingdom. Such service shall be deemed completed on delivery to such process agent, whether or not it is forwarded to Excelsoft. If for any reason such process agent ceases to be able to act as process agent, Excelsoft irrevocably agrees to appoint a substitute process agent and to deliver to Newco a copy of the new process agent's acceptance of that appointment within 10 Business Days thereof.

SCHEDULE 1 THE SOFTWARE

Description of the Software: ibook technology

Any and all functionality provided by the ibook technology in existence as at the date of signing of this Agreement, including the following:

Flash iBook Reader

This is the iBook reader, implemented in Flash/Actionscript.

The features included in the book reader are:

- Zoom (click 2 zoom and the default zoom implementation)
- Highlight tool
- Pen tool
- Snapshot tool
- Note tool
- Eraser tool
- Full screen mode view modifications
- Single page, double page view
- Page flip and Vertical scroll views
- Hotspots and weblinks for external content
- Voice annotations – working with a wowza media server
- Drag and drop of annotations and tool bar
- Sharing of annotation sets between user groups
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Other POCs

- Book viewer embedding widget POC
- Alternative platform POCs:
 - AppEngine Python & Java implementations of the book viewer application
 - Book viewer application ported to run against MySQL rather than MS SQL

Documentation

All documentation available in respect of any of the above items.


EXECUTED by the parties

Signed on: 19 APRIL 2010)

Location: _____)

By: ALFRED GRAINNER)

Position: DIRECTOR)

Signature: )

duly authorised representative of)

CYCLONEHAVEN LIMITED)

Signed on: _____)

Location: _____)

By: _____)

Position: _____)

Signature: _____)

duly authorised representative of)

EXCELSTFT TECHNOLOGIES PRIVATE LIMITED)

EXECUTED by the parties

Signed on: _____)

Location: _____)

By: _____)

Position: _____)

Signature: _____)

duly authorised representative of _____)

CYCLONEHAVEN LIMITED)

Signed on: 19 APRIL 2010)

Location: _____)


By: D. SVDHAWVAJ)

Position: CEO)

Signature: )

duly authorised representative of _____)

EXCELSOFT TECHNOLOGIES PRIVATE LIMITED)



To:

FAO: Chief Executive Officer
EUROPEAN EDUCATION HOLDINGS S.a.r.l (RCS B no 125331)
174 Route de Longwy
L-1940
Luxembourg

and

FAO: The Directors
EEH (BIDCO) LIMITED (Reg no. 06198281)
Delta Place
27 Bath Road
Cheltenham
Gloucestershire
GL53 7TH

and

FAO: The Directors
NELSON THORNES LIMITED (Reg no. 01083899)
Delta Place
27 Bath Road
Cheltenham
Gloucestershire
GL53 7TH

Date: 16 April 2010

Dear Sirs

Consent required pursuant to a subscription and shareholders' agreement (the "2007 SSA") dated 3 August 2007 (as amended)

We refer to the 2007 SSA entered into between, *inter alia*, European Education Holdings S.a.r.l. (the "**Company**") and Bridgepoint Europe III 'A' LP, Bridgepoint Europe III 'B' LP, Bridgepoint Europe III 'C' LP, Bridgepoint Europe III 'D' LP and Bridgepoint Europe III 'E' LP (together, the "**Lead Investors**").

Pursuant to clause 8.1 of the 2007 SSA, we note that the Company is required to obtain the consent of the Lead Investors before the Company or any of its subsidiary undertakings, *inter alia*, (a) enter into any partnership or joint venture arrangement with any person or (b) acquire any interest in any shares of any body corporate or other interest in another company.

We note that it is contemplated that EEH (Bidco) Limited ("**Bidco**"), being a subsidiary undertaking of the Company, will enter into certain joint venture arrangements (the "**Joint Venture Arrangements**") with Excelsoft Technologies Private Limited (a company incorporated in India) ("**Excelsoft**"), including (without limitation) the acquisition by Bidco of certain shares in Cyclonehaven Limited (registered number: 7093115) ("**JVCo**") and the entry into a subscription shareholders' agreement with Excelsoft relating to the operation and management of JVCo (the "**JVCo SSA**").

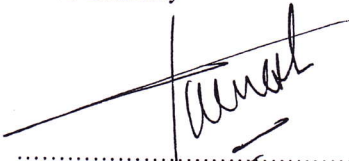
We also note that it is contemplated that Nelson Thornes Limited ("**NT**"), being a subsidiary undertaking of the Company, will enter into a services agreement with JVCo pursuant to which JVCo will provide NT with certain services to allow NT to offer its customers a hosted interactive electronic books solution (the "**Services Agreement**").

We further note that it is contemplated that NT will sign a commitment letter (the "**Commitment Letter**") addressed to Excelsoft pursuant to which NT would undertake to ensure that Bidco pays the relevant price to Excelsoft if Excelsoft exercises its put option in accordance with clause 10.5 of the JVCo SSA.

For the purposes of the 2007 SSA, we hereby consent to:

- (a) the entry by Bidco into the Joint Venture Arrangements (including, without limitation, the JVCo SSA);
- (b) the entry into the Services Agreement by NT;
- (c) the execution by NT of the Commitment Letter; and
- (d) the doing of all such acts and things and the execution of all such notices, certificates, letters, deeds and other documents (whether before, on or after the date of this letter) by or on behalf of Bidco, NT, the Company and/or any of the Company's other subsidiary undertakings as may be required or desirable in connection with the Joint Venture Arrangements and/or the entry into the Services Agreement by NT.

Yours faithfully



.....
Ramesh Venkataraman
For and on behalf of Bridgepoint Capital Limited
(as Manager for the Lead Investors)

FAO: The Directors
Excelsoft Technologies Private Limited
1-B Hootagalli Industrial Area
Mysore 571 186
India

Date: 19 April 2010

Dear Sirs

Subscription and shareholders' agreement: Put Option

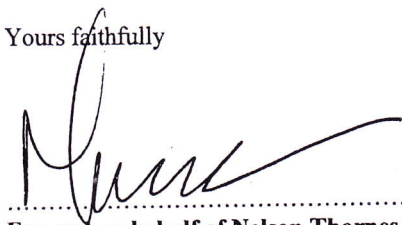
We refer to the subscription and shareholders' agreement (the "SSA") dated on or around the date of this letter between EEH (Bidco) Limited (registered number 6198281) ("IL") and Excelsoft Technologies Private Limited, a company incorporated in India ("ES"). Unless the context requires otherwise, terms defined in the SSA shall have the same meanings where used in this letter.

In consideration of ES entering into the SSA, we hereby undertake to ensure that IL pays the Put Option Price to ES on the date of completion of the sale and purchase of the Put Option Shares specified in clause 10.6.4 of the SSA in the event that ES exercises the Put Option strictly in accordance with the provisions of clause 10.6 of the SSA.

Our commitment under this letter will be effective and binding upon and from execution of this letter by us and will expire immediately (and we will have no further liability hereunder) on the earliest to occur of (i) if ES does not exercise the Put Option within the period specified in clause 10.6.2 of the SSA, the expiry of such period; (ii) if ES exercises the Put Option within the period specified in clause 10.6.2 of the SSA, completion of the sale and purchase of the Put Option Shares in accordance with the provisions of clause 10.6.4 of the SSA; and (iii) termination of the SSA in accordance with its terms.

The terms of this letter shall be governed by and shall be construed in accordance with English law. Any dispute arising under or in connection with this letter or the subject matter hereof shall be brought exclusively in the courts of England.

Yours faithfully



For and on behalf of Nelson Thornes Limited



CERTIFIED THAT THE FOLLOWING IS A TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF EXCELSOFT TECHNOLOGIES PRIVATE LIMITED (HEREINAFTER REFERRED TO AS 'THE COMPANY') ON MONDAY, THE 29TH MARCH 2010 AND THAT IT HAS BEEN ENTERED IN THE USUAL COURSE OF BUSINESS IN THE MINUTES BOOK OF THE COMPANY AND SIGNED THEREIN BY THE CHAIRMAN OF THE MEETING AND IS IN ACCORDANCE WITH THE MEMORANDUM & ARTICLES OF ASSOCIATION OF THE COMPANY

AGENDA # 1 APPROVAL OF THE INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT

"RESOLVED THAT after having perused the draft of the IP assignment agreement ("**IP Assignment Agreement**") to be entered into between Excelsoft Technologies Private Limited ("**Company**") and Cyclone Haven Limited ("**Cyclone**") whereby the Company proposes to assign the intellectual property as identified under the said agreement to Cyclone the Board has satisfied itself that it is in the best interests of the Company to execute the IP Assignment Agreement and hereby accords its approval to the execution of the IP Assignment Agreement and such other documents in relation thereto.

RESOLVED FURTHER THAT Mr. D. Sudhanva, be and is hereby authorized on behalf of the Company to do all such other acts, deeds, things, matters as may be considered necessary or required for giving effect to the aforesaid Resolution, and that he is further specifically authorised to enter into, sign and execute the IP Assignment Agreement for and on behalf of the Company and to do all such other acts and deeds he may consider necessary and expedient in relation to the execution of the said agreement."

-: CERTIFIED TRUE COPY :-
For **Excelsoft Technologies Private Limited,**

D. Sudhanva
Managing Director

1-B, Hootagalli Industrial Area, Mysore - 570 018, INDIA

Tel : +91 - 821 - 4282000

Fax : +91 - 821 - 4282208

E-Mail : info@excelindia.com

Web : www.excelindia.com

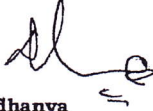
CERTIFIED THAT THE FOLLOWING IS A TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF EXCELSOFT TECHNOLOGIES PRIVATE LIMITED (HEREINAFTER REFERRED TO AS 'THE COMPANY') ON MONDAY, THE 29TH MARCH 2010 AND THAT IT HAS BEEN ENTERED IN THE USUAL COURSE OF BUSINESS IN THE MINUTES BOOK OF THE COMPANY AND SIGNED THEREIN BY THE CHAIRMAN OF THE MEETING AND IS IN ACCORDANCE WITH THE MEMORANDUM & ARTICLES OF ASSOCIATION OF THE COMPANY

AGENDA # 2 APPROVAL OF THE MASTER SERVICES AGREEMENT

"RESOLVED THAT after having perused the draft of the master services agreement ("**Master Services Agreement**") to be entered into between Excelsoft Technologies Private Limited ("**Company**") and Cyclone Haven Limited ("**Cyclone**") the Board has satisfied itself that it is in the best interests of the Company to execute the Master Services Agreement and hereby accords its approval to the execution of the Master Services Agreement and such other documents in relation thereto.

RESOLVED FURTHER THAT Mr. D. Sudhanva, be and is hereby authorized on behalf of the Company to do all such other acts, deeds, things, matters as may be considered necessary or required for giving effect to the aforesaid Resolution, and that he is further specifically authorised to enter into, sign and execute the Master Services Agreement for and on behalf of the Company and to do all such other acts and deeds he may consider necessary and expedient in relation to the execution of the said agreement."

--: CERTIFIED TRUE COPY :-
For Excelsoft Technologies Private Limited,



D. Sudhanva
Managing Director

1-B, Hootagalli Industrial Area, Mysore - 570 018, INDIA

Tel : +91 - 821 - 4282000

Fax : +91 - 821 - 4282208

E-Mail : info@excelindia.com

Web : www.excelindia.com



CERTIFIED THAT THE FOLLOWING IS A TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF EXCELSOFT TECHNOLOGIES PRIVATE LIMITED (HEREINAFTER REFERRED TO AS 'THE COMPANY') ON MONDAY, THE 29TH MARCH 2010 AND THAT IT HAS BEEN ENTERED IN THE USUAL COURSE OF BUSINESS IN THE MINUTES BOOK OF THE COMPANY AND SIGNED THEREIN BY THE CHAIRMAN OF THE MEETING AND IS IN ACCORDANCE WITH THE MEMORANDUM & ARTICLES OF ASSOCIATION OF THE COMPANY

AGENDA # 3 APPROVAL OF THE INTELLECTUAL PROPERTY LICENSE AGREEMENT

"RESOLVED THAT after having perused the draft of the intellectual property license agreement ("**IP License Agreement**") to be entered into between Excelsoft Technologies Private Limited ("**Company**") and Cyclone Haven Limited ("**Cyclone**") the Board has satisfied itself that it is in the best interests of the Company to execute the IP License Agreement and hereby accords its approval to the execution of the IP License Agreement and such other documents in relation thereto.

RESOLVED FURTHER THAT Mr. D. Sudhanva, be and is hereby authorized on behalf of the Company to do all such other acts, deeds, things, matters as may be considered necessary or required for giving effect to the aforesaid Resolution, and that he is further specifically authorised to enter into, sign and execute the IP License Agreement for and on behalf of the Company and to do all such other acts and deeds he may consider necessary and expedient in relation to the execution of the said agreement."

-: CERTIFIED TRUE COPY :-

For **Excelsoft Technologies Private Limited,**

D. Sudhanva
Managing Director



CERTIFIED THAT THE FOLLOWING IS A TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF EXCELSOFT TECHNOLOGIES PRIVATE LIMITED (HEREINAFTER REFERRED TO AS 'THE COMPANY') ON MONDAY, THE 29TH MARCH 2010 AND THAT IT HAS BEEN ENTERED IN THE USUAL COURSE OF BUSINESS IN THE MINUTES BOOK OF THE COMPANY AND SIGNED THEREIN BY THE CHAIRMAN OF THE MEETING AND IS IN ACCORDANCE WITH THE MEMORANDUM & ARTICLES OF ASSOCIATION OF THE COMPANY

AGENDA # 4 APPROVAL OF THE TRANSACTION AND EXECUTION OF DOCUMENTS

"RESOLVED THAT after having perused the draft of the share subscription and shareholders agreement ("**Agreement**") to be entered into inter alia between Excelsoft Technologies Private Limited ("**Company**") and Cyclone Haven Limited ("**Cyclone**") whereby the Company proposes to acquire 25% of the shares of Cyclone for a consideration of GBP 8,92,857 ("**Transaction**") the Board has satisfied itself that it is in the best interests of the Company to execute the Agreement and consummate the Transaction, and hereby accords its approval to the Transaction and the execution of the Agreement and such other documents in relation thereto.

RESOLVED FURTHER THAT Mr. D. Sudhanva, be and is hereby authorized on behalf of the Company to do all such other acts, deeds, things, matters as may be considered necessary or required for giving effect to the aforesaid Resolution, and that he is further specifically authorised to enter into, sign and execute the Agreement for and on behalf of the Company and to do all such other acts and deeds he may consider necessary and expedient in relation to the execution of the Agreement and the consummation of the Transaction including the execution of any related documents and the filing of any forms with any statutory authority in this regard including the Reserve Bank of India."

-: CERTIFIED TRUE COPY :-
For Excelsoft Technologies Private Limited,

D. Sudhanva
Managing Director

1-B, Hootagalli Industrial Area, Mysore - 570 018, INDIA

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Fax : +91 - 821 - 4282208

E-Mail : info@excelindia.com

Web : www.excelindia.com

NELSON THORNES LIMITED (the "Company")
MINUTES OF A MEETING OF THE BOARD OF DIRECTORS
HELD AT 10 UPPER BANK STREET, LONDON E14 5JJ
ON 19 APRIL 2010 AT 7AM

PRESENT: Alfred Grainger (chairman)
Mary O'Connor (by telephone)

IN ATTENDANCE: Ramesh Venkataraman (Bridgepoint Capital Limited)
Ian Andow (Nelson Thornes)
Jonathan Simon (Clifford Chance)
Lori Semaan (Clifford Chance)
Kirstin Black (Clifford Chance)

1. **CHAIRMAN**

IT WAS RESOLVED that Alfred Grainger be appointed chairman of the meeting.

2. **QUORUM**

The chairman declared that a quorum was present and that due notice of the meeting had been given to all directors.

3. **DISCLOSURE OF INTERESTS**

In accordance with sections 177 and 182 of the Companies Act 2006, each of the directors present declared his interests, if any, in the business of the meeting.

4. **PURPOSE OF THE MEETING**

The chairman explained that the purpose of the meeting was to consider the entry by the Company into a services agreement with Cyclonehaven Limited (registered number: 7093115) ("**Newco**") as part of the proposed joint venture arrangements (the "**Joint Venture Arrangements**") between EEH (Bidco) Limited (registered number: 06198281) having its registered address at 27 Delta Place, Bath Road, Cheltenham, GL53 7TH ("**Bidco**") and Excelsoft Technologies Private Limited (a company incorporated in India) ("**ES**") to be implemented, inter alia, by the subscription by ES and Bidco for certain shares in Newco.

5. **CONSENT TO CONTRACT WITH NEWCO**

A copy of a letter of consent addressed to the Company and Bidco from Bridgepoint Capital Limited dated 16 April 2010 (the "**Consent Letter**") was produced to the meeting. Pursuant to the Consent Letter, Bridgepoint Capital Limited (as the manager

of certain Bridgepoint funds) had consented to the entry by the Company into a services agreement with Newco in accordance with the terms of a subscription and shareholders' agreement dated 3 August 2007 (as amended).

6. SERVICES AGREEMENT

There was produced to the meeting a draft of the services agreement detailing the terms on which Newco would, using certain software assigned to it by ES, provide the Company with certain services to allow the Company to offer its customers a hosted interactive electronic books solution (the "**Services Agreement**").

7. APPROVAL OF SERVICES AGREEMENT

7.1 After due and careful consideration of the Services Agreement and the Consent Letter, IT WAS RESOLVED that:

7.1.1 the execution and delivery of the Services Agreement and the exercise by the Company of its respective rights and performance by the Company of its respective obligations thereunder, would not cause the Company to be in breach of any law or regulation applicable to it, its constitutional documents or any agreement or instrument binding on it or on its assets; and

7.1.2 the Company was acting for the purpose of carrying on its business and accordingly there were reasonable grounds for believing that the Company would benefit from executing and delivering the Services Agreement and undertaking the obligations contained therein, and from entering the transactions contemplated by it and that having considered their duties under the Companies Act 2006, the directors resolved that it would promote the success of the Company to enter into the Services Agreement.

7.2 IT WAS RESOLVED that:

7.2.1 the entering into of the Services Agreement by the Company be and is hereby approved;

7.2.2 the terms and conditions of the Services Agreement and the execution, delivery and performance by or on behalf of the Company of the Services Agreement (in such form or with such amendments thereto as the Authorised Signatory (as defined below) may in his absolute discretion consider necessary or desirable) and the exercise by the Company of its rights and the performance by the Company of its obligations thereunder be and are hereby approved; and

7.2.3 any director of the Company (each an "**Authorised Signatory**") (or, in the case of a document to be executed and delivered as a deed, any two Authorised Signatories or any one Authorised Signatory in the presence of a witness) be jointly and severally authorised to execute and, where applicable, deliver as a deed on behalf of the Company the Services Agreement in the form of the copy produced to the meeting, with any amendments that the Authorised Signatory may approve.

8. COMMITMENT LETTER IN FAVOUR OF ES

There was produced to the meeting a draft commitment letter (the "**Commitment Letter**") addressed to ES pursuant to which the Company would undertake to ensure that Bidco pays the relevant price to ES if ES exercises its put option under a subscription and shareholders' agreement to be entered into between ES and IL as part of the Joint Venture Arrangements (the "**SSA**"). The Company would provide such undertaking in consideration of the entry by ES into the SSA.

9. APPROVAL OF COMMITMENT LETTER

9.1 After due and careful consideration of the Commitment Letter, IT WAS RESOLVED that:

9.1.1 the execution and delivery of the Commitment Letter and the exercise by the Company of its respective rights and performance by the Company of its respective obligations thereunder, would not cause the Company to be in breach of any law or regulation applicable to it, its constitutional documents or any agreement or instrument binding on it or on its assets; and

9.1.2 the Company was acting for the purpose of carrying on its business and accordingly there were reasonable grounds for believing that the Company would benefit from executing and delivering the Commitment Letter and undertaking the obligations contained therein, and from entering the transactions contemplated by it and that having considered their duties under the Companies Act 2006, the directors resolved that it would promote the success of the Company to enter into the Commitment Letter.

9.2 IT WAS RESOLVED that:

9.2.1 the entering into of the Commitment Letter by the Company be and is hereby approved;

9.2.2 the terms and conditions of the Commitment Letter and the execution, delivery and performance by or on behalf of the Company of the Commitment Letter (in such form or with such amendments thereto as the Authorised Signatory (as defined below) may in his absolute discretion consider necessary or desirable) and the exercise by the Company of its rights and the performance by the Company of its obligations thereunder be and are hereby approved; and

9.2.3 an Authorised Signatory be jointly and severally authorised to execute and, where applicable, deliver as a deed on behalf of the Company the Commitment Letter in the form of the copy produced to the meeting, with any amendments that the Authorised Signatory may approve.

10. ANCILLARY ACTIONS

IT WAS RESOLVED that:

10.1.1 each Authorised Signatory be authorised on behalf of the Company to do all such acts and things and execute all such notices, certificates, letters, agreements and other documents as may be required or considered desirable in

connection with anything authorised in this board meeting or otherwise in connection with the Services Agreement or the Joint Venture Arrangements (including, without limitation, in relation to the provision of financial, administrative and/or other services to Newco as part of or otherwise in connection with the Joint Venture Arrangements); and

10.1.2 any two Authorised Signatories (or any one Authorised Signatory in the presence of a witness) be authorised on behalf of the Company to execute and deliver any agreement, power of attorney, deed or other document required to be executed and delivered as a deed in connection with the Services Agreement or the Joint Venture Arrangements.

11. **CLOSE OF MEETING**

There being no other business, the chairman declared the meeting closed.



Chairman

EEH (BIDCO) LIMITED (the "Company")
MINUTES OF A MEETING OF THE BOARD OF DIRECTORS
HELD AT 10 UPPER BANK STREET, LONDON E14 5JJ
ON 19 APRIL 2010 AT 7.20AM

PRESENT:

Alfred Grainger (chairman)
Mary O'Connor (by telephone)

IN ATTENDANCE:

Ramesh Venkataraman (Bridgepoint Capital Limited)
Ian Andow (Nelson Thornes)
Jonathan Simon (Clifford Chance)
Lori Semaan (Clifford Chance)
Kirstin Black (Clifford Chance)

1. CHAIRMAN

IT WAS RESOLVED that Alfred Grainger be appointed chairman of the meeting.

2. QUORUM

The chairman declared that a quorum was present and that due notice of the meeting had been given to all directors.

3. DISCLOSURE OF INTERESTS

In accordance with sections 177 and 182 of the Companies Act 2006, each of the directors present declared his interests, if any, in the business of the meeting.

4. PURPOSE OF THE MEETING

The chairman explained that the purpose of the meeting was to consider the proposed joint venture arrangements (the "**Joint Venture Arrangements**") between the Company and Excelsoft Technologies Private Limited (a company incorporated in India) ("**ES**") to be implemented by the subscription by ES and the Company for certain shares in Cyclonehaven Limited (registered number: 7093115) ("**Newco**") and otherwise in accordance with the provisions of a subscription and shareholders' agreement relating to the operation and management of Newco.

5. ACQUISITION OF SHARES IN NEWCO

- 5.1 A copy of a letter of consent addressed to the Company and Nelson Thornes Limited (registered number: 1083899) from Bridgepoint Capital Limited dated 16 April 2010 (the "**Consent Letter**") was produced to the meeting. Pursuant to the Consent Letter, Bridgepoint Capital Limited (as the manager of certain Bridgepoint funds) had

consented to the implementation of the Joint Venture Arrangements in accordance with the terms of a subscription and shareholders' agreement dated 3 August 2007 (as amended).

- 5.2 It was reported that the Company had acquired 750 ordinary shares of £1.00 each in the capital of Newco in connection with the proposed Joint Venture Arrangements on 31 March 2010. IT WAS RESOLVED that the acquisition of such shares in Newco be and is hereby ratified and approved.

6. SUBSCRIPTION AND SHAREHOLDERS' AGREEMENT

There was produced to the meeting a draft of the subscription and shareholders' agreement detailing the terms on which the day-to-day running of the business of Newco would be managed, which was proposed to be entered into between the Company and ES in connection with the Joint Venture Arrangements (the "SSA").

7. APPROVAL OF SUBSCRIPTION AND SHAREHOLDERS' AGREEMENT

- 7.1 After due and careful consideration of the SSA and the Consent Letter, IT WAS RESOLVED that:

7.1.1 the execution and delivery of the SSA and the exercise by the Company of its respective rights and performance by the Company of its respective obligations thereunder, would not cause the Company to be in breach of any law or regulation applicable to it, its constitutional documents or any agreement or instrument binding on it or on its assets; and

7.1.2 the Company was acting for the purpose of carrying on its business and accordingly there were reasonable grounds for believing that the Company would benefit from executing and delivering the SSA and undertaking the obligations contained therein, and from entering the transactions contemplated by it and that having considered their duties under the Companies Act 2006, the directors resolved that it would promote the success of the Company to enter into the SSA.

- 7.2 IT WAS RESOLVED that:

7.2.1 the entering into of the SSA by the Company be and is hereby approved;

7.2.2 the terms and conditions of the SSA and the execution, delivery and performance by or on behalf of the Company of the SSA (in such form or with such amendments thereto as the Authorised Signatory (as defined below) may in his absolute discretion consider necessary or desirable) and the exercise by the Company of its rights and the performance by the Company of its obligations thereunder be and are hereby approved; and

7.2.3 any director of the Company (each an "**Authorised Signatory**") (or, in the case of a document to be executed and delivered as a deed, any two Authorised Signatories or any one Authorised Signatory in the presence of a witness) be jointly and severally authorised to execute and, where applicable, deliver as a deed on behalf of the Company the SSA in the form of the copy

produced to the meeting, with any amendments that the Authorised Signatory may approve.

8. ANCILLARY ACTIONS

IT WAS RESOLVED that:

- 8.1.1 each Authorised Signatory be authorised on behalf of the Company to do all such acts and things and execute all such notices, certificates, letters, agreements and other documents as may be required or considered desirable in connection with anything authorised in this board meeting or otherwise in connection with the SSA or the Joint Venture Arrangements; and
- 8.1.2 any two Authorised Signatories (or any one Authorised Signatory in the presence of a witness) be authorised on behalf of the Company to execute and deliver any agreement, power of attorney, deed or other document required to be executed and delivered as a deed in connection with the SSA or the Joint Venture Arrangements.

9. CLOSE OF MEETING

There being no other business, the chairman declared the meeting closed.


Chairman

CYCLONEHAVEN LIMITED (the "Company")
MINUTES OF A MEETING OF THE BOARD OF DIRECTORS
HELD AT 10 UPPER BANK STREET, LONDON, E14 5JJ

ON 19 APRIL 2010 AT 7.50AM

PRESENT:

Alfred Grainger (chairman)
Ian Andow
D. Sudhanva (by telephone for part of the meeting)

IN ATTENDANCE:

Ramesh Venkataraman (Bridgepoint Capital Limited)
Simon Vere Nicoll (Clyde & Co LLP)
S. R. Arun (ALMT Legal)
Jonathan Simon (Clifford Chance)
Lori Semaan (Clifford Chance)
Kirstin Black (Clifford Chance)

1. CHAIRMAN

IT WAS RESOLVED that Alfred Grainger be appointed chairman of the meeting.

2. QUORUM

The chairman declared that a quorum was present and that due notice of the meeting had been given to all directors.

3. DISCLOSURE OF INTERESTS

In accordance with sections 177 and 182 of the Companies Act 2006, each of the directors present declared his interests, if any, in the business of the meeting.

4. PURPOSE OF THE MEETING

4.1 The chairman explained that the purpose of the meeting was:

4.1.1 to consider the proposed joint venture arrangements (the "**Joint Venture Arrangements**") between EEH (Bidco) Limited (company registration number: 06198281) ("**IL**"), the sole member of the Company, and Excelsoft Technologies Private Limited ("**ES**") to be implemented by the subscription by IL and ES for certain shares in the Company and otherwise in accordance with the provisions of a subscription and shareholders' agreement dated on or around the date of the meeting relating to the operation and management of the Company (the "**SSA**");

4.1.2 to approve certain documents relating to the Joint Venture Arrangements;

4.1.3 to approve the appointment of a new director and the appointment of the chairman of the board of directors;

- 4.1.4 to approve the re-designation, as A ordinary shares, of the existing ordinary shares issued to IL;
- 4.1.5 to approve the creation of a new class of B ordinary shares;
- 4.1.6 to approve new articles of association;
- 4.1.7 to approve the allotment and issue by the Company of certain shares to ES and IL; and
- 4.1.8 to approve, in principle, various ancillary actions to be taken as part of the implementation of the Joint Venture Arrangements.

5. DESIGNATION OF DIRECTORS AND APPOINTMENT OF CHAIRMAN

IT WAS RESOLVED that (a) Alfred Grainger and Ian Andow be designated as IL Directors (as that term is defined in the SSA) and (b) Alfred Grainger be appointed as the chairman of the board of directors, in each case with effect from the end of the meeting.

6. APPOINTMENT OF DIRECTORS

- 6.1 IT WAS RESOLVED that D Sudhanva, having consented in writing to act be appointed a director of the Company, be designated as the ES Director (as that term is defined in the SSA), with immediate effect.

7. ES AGREEMENTS

- 7.1 There were produced to the meeting (i) a draft IP assignment agreement detailing the proposed assignment by ES of all its intellectual property rights in certain software (the "**Software**") to the Company in consideration for the payment of £892,857 by the Company to ES (the "**IP Assignment Agreement**") and (ii) a draft IP licence agreement detailing the terms on which it was proposed the Company would license ES to use the Software for certain limited purposes (the "**IP Licence Agreement**"), both of which were proposed to be entered into by the Company as part of the Joint Venture Arrangements.

- 7.2 In addition, there was produced to the meeting a master agreement detailing the terms on which ES would provide maintenance, development and other services to the Company which was proposed to be entered into by the Company as part of the Joint Venture Arrangements (the "**Master Services Agreement**" and, together with the IP Assignment Agreement and the IP Licence Agreement, the "**ES Agreements**").

8. APPROVAL OF ES AGREEMENTS

- 8.1 After due and careful consideration of the ES Agreements, IT WAS RESOLVED that:
 - 8.1.1 the execution and delivery of the ES Agreements and the exercise by the Company of its respective rights and performance by the Company of its respective obligations thereunder, would not cause the Company to be in

breach of any law or regulation applicable to it, its constitutional documents or any agreement or instrument binding on it or on its assets; and

- 8.1.2 the Company was acting for the purpose of carrying on its business and accordingly there were reasonable grounds for believing that the Company would benefit from executing and delivering the ES Agreements and undertaking the obligations contained therein, and from entering the transactions contemplated by them and that having considered their duties under the Companies Act 2006, the directors resolved that it would promote the success of the Company to enter into the ES Agreements.

8.2 IT WAS RESOLVED that:

- 8.2.1 the entering into of the ES Agreements by the Company be and is hereby approved;
- 8.2.2 the terms and conditions of the ES Agreements and the execution, delivery and performance by or on behalf of the Company of the ES Agreements (in such form or with such amendments thereto as the Authorised Signatory (as defined below) may in his absolute discretion consider necessary or desirable) and the exercise by the Company of its rights and the performance by the Company of its obligations thereunder be and are hereby approved; and
- 8.2.3 any director of the Company (each an "**Authorised Signatory**") (or, in the case of a document to be executed and delivered as a deed, any two Authorised Signatories or any one Authorised Signatory in the presence of a witness) be jointly and severally authorised to execute and, where applicable, deliver as a deed on behalf of the Company the ES Agreements in the form of the copy produced to the meeting, with any amendments that the Authorised Signatory may approve.

9. SERVICES AGREEMENT

There was produced to the meeting a draft services agreement detailing the terms on which the Company would, using the Software, provide Nelson Thornes Limited with certain services to allow Nelson Thornes Limited to offer its customers a hosted interactive electronic books solution (the "**Services Agreement**"), which was proposed to be entered into by the Company as part of the Joint Venture Arrangements.

10. APPROVAL OF SERVICES AGREEMENT

- 10.1 After due and careful consideration of the Services Agreement, IT WAS RESOLVED that:
 - 10.1.1 the execution and delivery of the Services Agreement and the exercise by the Company of its respective rights and performance by the Company of its respective obligations thereunder, would not cause the Company to be in breach of any law or regulation applicable to it, its constitutional documents or any agreement or instrument binding on it or on its assets; and

10.1.2 the Company was acting for the purpose of carrying on its business and accordingly there were reasonable grounds for believing that the Company would benefit from executing and delivering the Services Agreement and undertaking the obligations contained therein, and from entering the transactions contemplated by it and that having considered their duties under the Companies Act 2006, the directors resolved that it would promote the success of the Company to enter into the Services Agreement.

10.2 IT WAS RESOLVED that:

10.2.1 the entering into of the Services Agreement by the Company be and is hereby approved;

10.2.2 the terms and conditions of the Services Agreement and the execution, delivery and performance by or on behalf of the Company of the Services Agreement (in such form or with such amendments thereto as any Authorised Signatory may in his absolute discretion consider necessary or desirable) and the exercise by the Company of its rights and the performance by the Company of its obligations thereunder be and are hereby approved; and

10.2.3 any Authorised Signatory (or, in the case of a document to be executed and delivered as a deed, any two Authorised Signatories or any one Authorised Signatory in the presence of a witness) be jointly and severally authorised to execute and, where applicable, deliver as a deed on behalf of the Company the Services Agreement in the form of the copy produced to the meeting, with any amendments that the Authorised Signatory may approve.

11. **NEW ARTICLES AND SHAREHOLDER RESOLUTION**

11.1 There were produced to the meeting:

11.1.1 a draft of proposed new articles of association of the Company (the "**New Articles**");

11.1.2 a form of written resolution (to be passed as a special resolution) to be submitted to the sole member of the Company which (if passed) would be effective to (a) create a new class of "B Ordinary Shares" with the rights attaching thereto as set out in the New Articles (b) re-designate the 750 existing issued ordinary shares of £1.00 each in the capital of the Company as "A Ordinary Shares" with the rights attaching thereto as set out in the New Articles and (c) adopt the New Articles in substitution for the Company's existing articles of association (the "**Shareholder Resolution**").

11.2 IT WAS RESOLVED that the Shareholder Resolution be and is hereby approved and be submitted to IL (being the sole member of the Company) for consideration and, if appropriate, agreement.

12. **ADJOURNMENT**

The meeting was then adjourned for consideration of the Shareholder Resolution by IL. On resumption it was reported that the resolution had been passed and that the New Articles would take effect from the end of the meeting.

13. **A ORDINARY SHARES**

- 13.1 It was noted that, pursuant to the SSA, ES had agreed to subscribe for 250 A Ordinary Shares (the "**ES Shares**") for cash consideration of £892,857 (such that the aggregate price paid by ES for each ES Share would be £3,751.43, comprising £1.00 of nominal value and £3,750.43 of premium).
- 13.2 IT WAS RESOLVED to allot the ES Shares and (subject to receipt by the Company of payment of £892,857 in cash by ES) issue the ES Shares to ES.

14. **B ORDINARY SHARES**

- 14.1 It was noted that, pursuant to the SSA, IL had agreed to subscribe for 892,857 B Ordinary Shares (as that term is defined in the New Articles) (the "**First IL Shares**") for cash consideration of £892,857 (such that the aggregate price paid by IL for each First IL Share would be £1.00 (being its nominal value)).
- 14.2 IT WAS RESOLVED to allot and (subject to the receipt by the Company of payment of £892,857 in cash by IL) issue the First IL Shares to IL.
- 14.3 It was further noted that, pursuant to the SSA, the Company was to pay to IL a sum of £258,050 in consideration for certain costs and expenditure incurred by IL for the benefit of the Company prior to the date of the SSA (as set out in the statement of expenditure tabled at the meeting). After consideration of the statement of expenditure, IT WAS RESOLVED to pay such amount to IL.
- 14.4 It was further noted that, pursuant to the SSA, IL had agreed, upon receipt of the sum of £258,050 from the Company, to subscribe for 258,050 B Ordinary Shares (the "**Second IL Shares**") for cash consideration of £258,050 (such that the aggregate price paid by IL for each Second IL Share would be £1.00 (being its nominal value)).
- 14.5 IT WAS RESOLVED to allot and (subject to the receipt by the Company of payment of £258,050 in cash by IL) issue the Second IL Shares to IL.

15. **REGISTER OF MEMBERS AND SHARE CERTIFICATES**

IT WAS RESOLVED that, subject to satisfaction of the consideration referred to in paragraphs 13 and 14 of these minutes, the holders of such shares in the Company be duly entered in the register of members as the holders of the shares allotted to them and that share certificates be issued in favour of each of them as applicable.

16. **ADOPTION OF THE BUSINESS PLAN**

- 16.1 The initial business plan of the Company (in the form annexed to the SSA) (the "**Initial Business Plan**") was produced to the meeting.
- 16.2 IT WAS RESOLVED that the Initial Business Plan be approved and adopted.

17. **COMPANIES HOUSE FILING**

IT WAS RESOLVED that the secretary be instructed to file the following documents with the registrar of companies:

- 17.1.1 an original of the Shareholder Resolution, together with the New Articles;
- 17.1.2 Form AP01 in respect of the appointment of D Sudhanva as a director; and
- 17.1.3 (subject to receipt by the Company of payment of the consideration referred to in paragraphs 13 and 14 of these minutes) Form SH01 in respect of the allotment and issue of the shares referred to in paragraphs 13 and 14 of these minutes.


18. ANCILLARY ACTIONS

IT WAS RESOLVED that:

- 18.1.1 each Authorised Signatory be authorised on behalf of the Company to do all such acts and things and execute all such notices, certificates, letters and other documents as may be required or considered desirable in connection with anything authorised in this board meeting or otherwise in connection with the Joint Venture Arrangements; and
- 18.1.2 any two Authorised Signatories (or any one Authorised Signatory in the presence of a witness) be authorised on behalf of the Company to execute and deliver any agreement, power of attorney, deed or other document required to be executed and delivered as a deed in connection with the Joint Venture Arrangements.

19. CLOSE OF MEETING

There being no other business, the chairman declared the meeting closed.


Chairman

Company No. 7093115

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

RESOLUTION IN WRITING

of

CYCLONEHAVEN LIMITED
(the "Company")

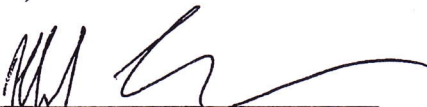
EEH (Bidco) Limited, being the sole member of the Company who at the circulation date of this resolution would have been entitled to vote on the resolution, RESOLVES, in accordance with Chapter 2, Part 13 of the Companies Act 2006 to pass the following resolution which has been proposed as a special resolution:

SPECIAL RESOLUTION

1. THAT:

- 1.1 a new class of B ordinary shares of £1.00 each in the capital of the Company (the "**B Ordinary Shares**") be created with such rights, entitlements and restrictions attaching thereto as are provided in the New Articles (as defined below);
- 1.2 the 750 existing ordinary shares of £1.00 each in the capital of the Company held by EEH (Bidco) Limited be re-designated as 750 "A Ordinary Shares" with such rights, entitlements and restrictions attaching thereto as are provided in the New Articles; and
- 1.3 the new articles of association, in the form of the annexed draft, be adopted in substitution for the Company's existing articles of association (the "**New Articles**").

SIGNATURE:


for and on behalf of EEH (Bidco) Limited

DATE:

19 April 2010

Notes:

1. The circulation date of this resolution is 19 April 2010. This resolution has been sent to eligible members who would have been entitled to vote on the resolution on this date. Only such eligible members (or persons duly authorised on their behalf) should sign this resolution.
2. An eligible member can signify its agreement to the resolution by signing the resolution and by delivering a copy of the signed resolution to an officer of the Company.
3. This resolution must be passed by 16 May 2010. If the resolution is not passed by such date it will lapse. The agreement of a member to this resolution is ineffective if signified after this date.

AP01

Appointment of director



You can use the WebFiling service to file this form online.
Please go to www.companieshouse.gov.uk

What this form is for
You may use this form to appoint
an individual as a director.

What this form is NOT for
You cannot use the form to appoint
a corporate director. To do this,
please use form AP02 'Appointment
of corporate director'.

For further information, please
refer to our guidance at
www.companieshouse.gov.uk

1 Company details

Company number 0 7 0 9 3 1 1 5

Company name in full Cyclonehaven Limited

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

2 Date of director's appointment

Date of appointment 1 9 0 4 2 0 1 0

3 New director's details

Title * Mr

Full forename(s) Sudhanva

Surname Dhananjaya

Former name(s) ●

Country/State of residence ● India

Nationality Indian

Date of birth d3 d1 m1 m2 y1 y9 y6 y2

Business occupation
(if any) ●

● **Former name(s)**
Please provide any previous names
which have been used for business
purposes in the past 20 years.
Married women do not need to give
former names unless previously used
for business purposes.
Continue in section 6 if required.

● **Country/State of residence**
This is in respect of your usual
residential address as stated in
Section 4a.

● **Business occupation**
If you have a business occupation,
please enter here. If you do not,
please leave blank.

4 New director's service address ●

Please complete your service address below. You must also complete your usual
residential address in Section 4a.

Building name/number Delta Place

Street 27 Bath Road

Post town Cheltenham

County/Region Gloucestershire

Postcode G L 5 3 7 T H

Country United Kingdom

● **Service address**
This is the address that will appear
on the public record. This does not
have to be your usual residential
address.
Please state 'The Company's
Registered Office' if your service
address is recorded in the company's
register of directors as the
company's registered office.
If you provide your residential
address here it will appear on the
public record.

AP01

Appointment of director



This page is not shown on the public record



Do not cover this barcode

4a New director's usual residential address

Please complete your usual residential address below.

Building name/number	82, Encon Yagnalaya
Street	1st Floor, 6th Main, Jayalakshnipuram
Post town	Mysore
County/Region	
Postcode	5 7 0 0 1 2
Country	India

New director's usual residential address
 Please state 'Same as service address' in this section if your usual residential address is recorded in the company's register of directors' residential addresses as 'Same as service address'.
 You cannot state 'Same as service address' if your service address has been stated in Section 4 as 'The Company's Registered Office'. You will need to complete the address in full.
 This address cannot be a PO Box, DX or LP (Legal Post in Scotland) number.

Section 243 of Companies Act 2006

Section 243 exemption

Only tick the box below if you are in the process of applying for, or have been granted, exemption by the Registrar from disclosing your usual residential address to credit reference agencies under section 243 of the Companies Act 2006.

Different postal address:

If you are applying for, or have been granted, a section 243 exemption, please post this whole form to the different postal address below:
 The Registrar of Companies, PO Box 4082, Cardiff, CF14 3WE.

Where you are applying for a section 243 exemption with this notice, the application and this form must be posted together.

If you are currently in the process of applying for, or have been granted, a section 243 exemption, you may wish to check you have not entered your usual residential address in Section 4 as this will appear on the public record.



AP01
Appointment of director

5

Signatures

I consent to act as director of the above named company.

New director's
signature

Signature

X



X

Authorising signature

Signature

X



X

This form may be signed and authorised by:
Director ●, Secretary, Person authorised ●, Administrator, Administrative
Receiver, Receiver, Receiver manager, Charity commission receiver and manager,
CIC manager, Judicial factor.

- **Societas Europaea**
If the form is being filed on behalf of a Societas Europaea (SE) please delete 'director' and insert details of which organ of the SE the person signing has membership.
- **Person authorised**
Under either section 270 or 274 of the Companies Act 2006.

6

Additional former names (continued from Section 3)

Former names ●

- **Additional former names**
Use this space to enter any additional names.

AP01

Appointment of director

 **Presenter information**

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

Contact name Simon Veré Nicoll (Ref1003376)

Company name Clyde & Co LLP

Address 51 Eastcheap

Post town London

County/Region London

Postcode E C 3 M 1 J P

Country United Kingdom

DX 1071 London/City

Telephone 020 7623 1244

 **Checklist**

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- The company name and number match the information held on the public Register.
- You have provided a business occupation if you have one.
- You have provided a correct date of birth.
- You have completed the date of appointment.
- You have completed the nationality box in Section 3.
- You have provided both the service address and the usual residential address.
- Addresses must be a physical location. They cannot be a PO Box number (unless part of a full service address), DX or LP (Legal Post in Scotland) number.
- You have included all former names used for business purposes over the last 20 years.
- You have enclosed a relevant section 243 application if applying for this at the same time as completing this form.
- The new director has signed the form.
- You have provided an authorising signature.

 **Important information**

Please note that all information on this form will appear on the public record, apart from information relating to usual residential addresses.

 **Where to send**

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

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

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

For companies registered in Northern Ireland:
The Registrar of Companies, Companies House, First Floor, Waterfront Plaza, 8 Laganbank Road, Belfast, Northern Ireland, BT1 3BS.
DX 481 N.R. Belfast 1.

Section 243 exemption

If you are applying for, or have been granted a section 243 exemption, please post this whole form to the different postal address below.
The Registrar of Companies, PO Box 4082, Cardiff, CF14 3WE.

 **Further information**

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

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

Company No. 7093115

INCORPORATED UNDER THE COMPANIES ACT 2006

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

CYCLONEHAVEN LIMITED

Incorporated on 2 December 2009

Adopted by special resolution passed on 19 April 2010

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INCORPORATED UNDER THE COMPANIES ACT 2006

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

CYCLONEHAVEN LIMITED

1. **INTERPRETATION**

1.1 In the articles, unless the context otherwise requires:

"**Act**" means the Companies Act 2006;

"**adoption date**" means 19 April 2010;

"**alternate director**" has the meaning given to it in article 29.1;

"**A Ordinary Shares**" means the A ordinary shares of £1.00 each in the capital of the Company, having the rights set out in the articles;

"**A Ordinary Shareholder**" means a holder for the time being of an A Ordinary Share;

"**appointor**" has the meaning given to it in article 29.1;

"**articles**" means the Company's articles of association;

"**Asset Sale**" the disposal (whether through a single transaction or a series of transactions) by the Company or any of its subsidiary undertakings from time to time of all, or substantially all, of the Company's business, assets and undertaking;

"**B Ordinary Shares**" means the B ordinary shares of £1.00 each in the capital of the Company, having the rights set out in the articles;

"**B Ordinary Shareholder**" means a holder for the time being of a B Ordinary Share;

"**bankruptcy**" includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

"**capitalised sum**" has the meaning given to it in article 45.1;

"**certificate**" means a paper certificate evidencing a person's title to specified shares or other securities;

"**chairman**" has the meaning given to it in article 16.2;

"**chairman of the meeting**" has the meaning given to it in article 53.3;

"**clear days**" means, in relation to a period of notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

"**Company**" means Cyclonehaven Limited, a company incorporated in England and Wales (registered number 7093115), whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH;

"**corporate representative**" has the meaning given to it in article 64;

"**distribution recipient**" has the meaning given to it in article 40.2;

"**document**" includes, unless otherwise specified, any document sent or supplied in electronic form;

"**fully paid**" means, in relation to a share, that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company;

"**group company**" means a subsidiary undertaking or parent undertaking of the Company, or a subsidiary undertaking of any parent undertaking of the Company;

"**holder**" means, in relation to a share, the person whose name is entered in the register of members of the Company as the holder of that share;

"**instrument**" means a document in hard copy form;

"**in writing**" means the representation of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise;

"Listing" the admission of any shares in the capital of the Company (or any new holding company of it formed for such purposes) to the Official List of the Financial Services Authority, and to trading on the London Stock Exchange's market for listed securities, or to trading on the Alternative Investment Market of the London Stock Exchange, or on any other recognised investment exchange;

"Member" means each of the A Ordinary Shareholders from time to time (and **"Members"** shall mean all of them collectively);

"Model Articles" means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2009/3229) as amended prior to the date on which the Company was incorporated;

"paid" means paid or credited as paid;

"participate", in relation to a directors' meeting, has the meaning given to it in article 14.1;

"persons entitled" has the meaning given to it in article 45.1;

"proxy notice" has the meaning given to it in article 62.1;

"proxy notification address" has the meaning given to it in article 63.1;

"qualifying person" means an individual who is a Member of the Company, a person authorised under section 323 of the Act to act as the corporate representative of a Member of the Company in relation to the relevant meeting or a person appointed as a proxy of a Member of the Company in relation to the relevant meeting;

"recognised investment exchange" shall be construed in accordance with section 285 of the Financial Services and Markets Act 2000;

"senior holder" has the meaning given to it in article 40.2.2;

"shares" means shares in the Company (including, without limitation, the A Ordinary Shares and the B Ordinary Shares);

"Share Sale" the sale (whether through a single transaction or series of transactions) of the entire issued share capital of the Company, except where the holders of the shares and the proportion of shares held by each of them following completion of the sale are the same as the holders and their shareholdings in the Company immediately prior to the sale;

"transmittee" means a person entitled to a share by reason of the death or bankruptcy of a member or otherwise by operation of law; and

"United Kingdom" means Great Britain and Northern Ireland.

- 1.2 Unless the context otherwise requires, words or expressions contained in the articles bear the same meaning as in the Act as in force on the adoption date.

- 1.3 Where an ordinary resolution of the Members is expressed to be required for any purpose, a special resolution of the Members is also effective for that purpose.
- 1.4 References to any statutory provision or statute include all modifications thereto and all re-enactments (with or without modification) thereof and all subordinate legislation made thereunder in each case for the time being in force, unless expressly stated otherwise. This article 1.4 does not affect the interpretation of article 1.2.
- 1.5 A Member is "present" at a meeting if the Member (being an individual) attends (otherwise than by his duly appointed proxy) or if the Member (being a corporation) attends by its duly authorised corporate representative or if the Member attends by his duly appointed proxy.
- 1.6 The *ejusdem generis* principle of construction shall not apply. Accordingly, general words shall not be given a restrictive meaning by reason of their being preceded or followed by words indicating a particular class of acts, matters or things or by examples falling within the general words.
- 1.7 The headings in the articles do not affect their interpretation or construction.
- 1.8 In the articles, words importing one gender shall include each gender and a reference to a "spouse" shall include a reference to a civil partner under the Civil Partnership Act 2004.
- 1.9 No regulations or model articles contained in any statute or subordinate legislation, including those contained in the Model Articles, apply as the articles of association of the Company.

2. PRIVATE COMPANY STATUS AND LIABILITY OF MEMBERS

- 2.1 The Company is a private company limited by shares and accordingly any offer to the public to subscribe for any shares or debentures of the Company is prohibited.
- 2.2 The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

3. SHARE CAPITAL

- 3.1 The share capital of the Company at the date of adoption of these articles is divided into:
- 3.1.1 A Ordinary Shares; and
- 3.1.2 B Ordinary Shares.

4. EXCLUSION OF PRE-EMPTION RIGHTS AND DIRECTORS' AUTHORITY TO ALLOT SHARES

- 4.1 Pursuant to section 567 of the Act, the pre-emption provisions of section 561 and 562 of the Act do not apply to an allotment of the Company's equity securities.

4.2 Subject to the articles, the directors are generally and unconditionally authorised for the purposes of section 551 of the Act and otherwise to exercise the powers of the Company to allot and issue:

4.2.1 10,000,000 A Ordinary Shares; and

4.2.2 3,571,428 B Ordinary Shares at a subscription price of £1.00 per B Ordinary Share.

4.3 The authority conferred on the directors by this article 4 shall remain in force until the fifth anniversary of the date of adoption of these articles unless previously renewed, renewed, revoked or varied by the Company in accordance with the Act.

4.4 The Company may pursuant to the authorisation conferred by this article 4 make offers or agreements which would or might require the allotment, grant of options, rights of subscription or conversion over or other disposal of shares after its expiry and the directors may, after the authorisation has expired, allot, grant options, rights of subscription or conversion over or otherwise dispose of shares in pursuance of any such offer or agreement made before the authorisation expired.

5. RIGHTS ATTACHING TO SHARES

General

5.1 The A Ordinary Shares and the B Ordinary Shares shall constitute separate classes of shares for the purposes of the Act and the articles but, except as provided in these articles, shall rank *pari passu* in all respects.

5.2 The rights and restrictions attaching to the A Ordinary Shares and the B Ordinary Shares in respect of, *inter alia*, voting, distribution and return of capital are as set out in the articles.

Voting

5.3 The A Ordinary Shares shall carry the right to receive notice of, attend, speak and vote at general meetings of the Company and on written resolutions of Members.

5.4 The B Ordinary Shares shall not carry the right to receive notice of or to attend, speak or vote at any general meeting of the Company nor to vote on any written resolution of Members.

Distributions - general

5.5 The A Ordinary Shares shall be entitled to receive all distributions of profit and capital payable by the Company, save as provided for in articles 5.6 to 5.10 (inclusive). Save as provided for in articles 5.6 to 5.10 (inclusive), the B Ordinary Shares shall not be entitled to any receive any distributions of (a) profit, including any allotment to members of unissued shares of the Company (whether or not fully paid) as a result of the capitalisation of any sum standing to the credit of share premium account or of any reserve (whether or not available for distribution) of the Company or (b) of capital whether on a liquidation, reduction of capital, share buy-back or otherwise.

Liquidation preference

- 5.6 On a return of capital on a liquidation, dissolution or winding up of the Company, the surplus assets of the Company remaining after the satisfaction of its then outstanding liabilities shall (to the extent that the Company is lawfully able to do so) be applied in the following order of priority:
- 5.6.1 first, in paying on each B Ordinary Share an aggregate amount of £1.00 inclusive of any amounts previously paid on such share by operation of articles 5.7 to 5.10 inclusive and article 5.12 (and, if there is a shortfall of assets remaining to satisfy the entitlements on each B Ordinary Share in full, the surplus assets shall be applied pro rata on each B Ordinary Share); and
 - 5.6.2 second, in paying the balance of any funds pro rata on each A Ordinary Share.

Asset Sale

- 5.7 On an Asset Sale, the surplus assets of the Company remaining after the satisfaction of its then outstanding liabilities shall be distributed to the Members by way of dividend, distribution, capital payment, share buyback, or other return of capital or by any other lawful means (to the extent that the Company is lawfully able to do so) in the following order of priority:
- 5.7.1 first, in paying on each B Ordinary Share an amount of £1.00 (and, if there is a shortfall of assets remaining to satisfy the entitlements on each B Ordinary Share in full, the surplus assets shall be applied pro rata on each B Ordinary Share);
 - 5.7.2 second, in paying the balance of any funds pro rata on each A Ordinary Share, and the Members and the Company shall procure (so far as reasonably practicable) that on an Asset Sale by any subsidiary undertaking of the Company, the surplus assets of such subsidiary undertaking shall (to the extent legally permissible) be distributed to the Company (whether directly or indirectly) so as to enable such assets to be distributed as set out in articles 5.7.1 and 5.7.2.

Share Sale

- 5.8 Any proceeds arising as a result of or in connection with a Share Sale shall be applied in the following order of priority:
- 5.8.1 first, in paying on each B Ordinary Share an amount of £1.00 (and, if there are insufficient proceeds to satisfy the entitlements on each B Ordinary Share in full, such proceeds shall be applied pro rata on each B Ordinary Share); and
 - 5.8.2 second, in paying the balance of any funds pro rata on each A Ordinary Share.
- 5.9 The directors may refuse to register any transfer of shares if the proceeds of such Share Sale are not applied in the manner referred to in article 5.8.

Listing

- 5.10 Any proceeds arising as a result of or in connection with a Listing shall be applied in the following order of priority:
- 5.10.1 first, in paying on each B Ordinary Share an amount of £1.00 (and, if there are insufficient proceeds to satisfy the entitlements on each B Ordinary Share in full, such proceeds shall be applied pro rata on each B Ordinary Share); and
 - 5.10.2 second, (unless otherwise determined by the directors) in paying the balance of any funds pro rata on each A Ordinary Share.

Obligations on the Company, the Members and others

- 5.11 The Company and each Member shall take all steps and procure (to the extent it is able to) that the subsidiary undertakings of the Company take all steps reasonably required by the B Ordinary Shareholders (acting by a majority) in order to enable full payment on the B Ordinary Shares in accordance with articles 5.6 to 5.10 including (but not limited to) any actions that may be necessary to create (where possible) any distributable reserves required for the purposes of any distribution or to put the Company and/or its subsidiary undertakings (as the case may be) into voluntary liquidation (where a distribution cannot be lawfully made under article 5.7)).
- 5.12 Any person receiving an amount which should be applied on a B Ordinary Share in accordance with articles 5.6 to 5.10 above shall be deemed to have received such amount on trust for each B Ordinary Shareholder, and shall pay on such B Ordinary Shareholder's demand, the amount to which such B Ordinary Shareholder would be entitled in respect of its holding of B Ordinary Shares in accordance with articles 5.6 to 5.10.

Variation of Rights

- 5.13 The rights attaching to the A Ordinary Shares shall only be varied with the consent in writing of all of the Members. The rights attaching to the B Ordinary Shares shall only be varied with the consent in writing of all of the B Ordinary Shareholders.

6. ALL SHARES TO BE FULLY PAID

- 6.1 No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the Company in consideration for its issue.
- 6.2 This does not apply to shares taken on the formation of the Company by the subscribers to the Company's memorandum.

7. POWER TO ISSUE DIFFERENT CLASSES OF SHARE

- 7.1 Subject to the Act and the articles, but without prejudice to the rights attached to any existing share, the Company may issue a further class or classes of shares with such rights or restrictions as may be determined by ordinary resolution of the Members.
- 7.2 Subject to the Act, the Company may with the consent in writing of all of the Members issue shares which are to be redeemed, or are liable to be redeemed at the

option of the Company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

- 7.3 If rights and restrictions attaching to shares are determined pursuant to this article 7, those rights and restrictions shall apply in place of any rights or restrictions that would otherwise apply by virtue of the Act in the absence of any provisions in the articles, as if those rights and restrictions were set out in the articles.

8. DIRECTORS' GENERAL AUTHORITY

Subject to the Act and the articles, the directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

9. MEMBERS' RESERVE POWER AND EFFECT OF ALTERING ARTICLES

- 9.1 The Members may, by special resolution of the Members, direct the directors to take, or refrain from taking, specified action.
- 9.2 No such special resolution of the Members invalidates anything which the directors have done before the passing of the resolution.
- 9.3 No alteration of the articles invalidates anything which the directors have done prior to the alteration.

10. DIRECTORS MAY DELEGATE

- 10.1 Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles:
- 10.1.1 to such person or committee;
 - 10.1.2 by such means (including by power of attorney or otherwise);
 - 10.1.3 to such an extent;
 - 10.1.4 in relation to such matters or territories; and
 - 10.1.5 on such terms and conditions,
as they think fit.
- 10.2 If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.
- 10.3 Where a provision in the articles refers to the exercise of a power, authority or discretion by the directors and that power, authority or discretion has been delegated by the directors to a committee or a member of a committee, the provision shall be construed as permitting the exercise of the power, authority or discretion by the committee or a member of a committee.

10.4 The directors may revoke any delegation in whole or part, or alter its terms and conditions.

11. COMMITTEES

11.1 Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

11.2 The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

12. DIRECTORS TO TAKE DECISIONS COLLECTIVELY

12.1 Subject to article 12.2, decisions of the directors must be taken:

12.1.1 at a directors' meeting; or

12.1.2 in the form of a directors' written resolution in accordance with article 20.

12.2 If:

12.2.1 the Company has only one director for the time being; and

12.2.2 the provisions of article 24 do not require it to have more than one director,

the director may (for so long as he remains the sole director) exercise all the powers conferred on the directors by the articles by any means permitted under the Act. For the purpose of article 15, the quorum for the transaction of business by a sole director is one, and all other provisions of the articles apply with any necessary modification (unless a provision expressly provides otherwise).

13. CALLING A DIRECTORS' MEETING

13.1 Subject to the provisions of any agreement entered into between the Members, any director may call a directors' meeting by giving 7 clear days' notice of the meeting (subject to article 13.5) to the directors or by authorising the company secretary (if any) to give such notice.

13.2 Notice of any directors' meeting must indicate:

13.2.1 its proposed date and time;

13.2.2 where it is to take place; and

13.2.3 if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

13.3 Notice of a directors' meeting must be given to each director and may (but need not) be in writing.

- 13.4 Notice of a directors' meeting need not be given to a director who waives his entitlement to receive notice of that meeting by giving notice to that effect to the Company at any time prior to or after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.
- 13.5 Subject to (and in addition to) the provisions of any agreement entered into between the Members, directors' meetings may be convened by giving not less than 72 hours' notice if:
- 13.5.1 the interests of the Company would in the opinion of the director convening the meeting be likely to be adversely affected to a material extent if the business to be transacted at such board meeting were not dealt with as a matter of urgency; or
 - 13.5.2 in such circumstances as may be agreed by all Members; or
 - 13.5.3 all of the directors otherwise agree in writing.

14. PARTICIPATION IN DIRECTORS' MEETINGS

- 14.1 Subject to the articles, directors "**participate**" in a directors' meeting, or part of a directors' meeting, when:
- 14.1.1 the meeting has been called and takes place in accordance with the articles; and
 - 14.1.2 each director can communicate to the others any information or opinions he has on any particular item of the business of the meeting.
- 14.2 In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how the directors communicate with each other.
- 14.3 If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever the chairman is physically present.

15. QUORUM FOR DIRECTORS' MEETINGS

- 15.1 Subject to article 15.3, at a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 15.2 Subject always to article 12.2 and article 21.2.3 and the provisions of any agreement entered into between the Members, the quorum for the transaction of business at a directors' meeting may be fixed from time to time by a decision of the directors and unless otherwise fixed it is two.
- 15.3 Subject always to article 12.2, if the total number of directors for the time being in office is less than the quorum required for directors' meetings, the directors must not take any decision other than a decision:
- 15.3.1 to appoint further directors; or

15.3.2 to call a general meeting so as to enable the Members to appoint further directors.

16. CHAIRING DIRECTORS' MEETINGS

16.1 Subject to the provisions of any agreement entered into between the Members, the directors may appoint a director to chair their meetings.

16.2 The person so appointed for the time being is known as the "chairman".

16.3 Subject to the provisions of any agreement entered into between the Members, the directors may terminate the chairman's appointment at any time.

17. VOTING BY DIRECTORS

17.1 Subject to the articles, a decision is taken at a directors' meeting by a majority of votes of participating directors.

17.2 Subject to the articles, each director participating at a directors' meeting has one vote.

17.3 Without prejudice to the obligation of a director to disclose his interest in accordance with article 21, a director may vote at any directors' meeting or meeting of a committee of directors on any resolution concerning a matter in relation to which he has, directly or indirectly, an interest or duty, subject always to article 21 and the terms on which such authorisation is given. Subject to the foregoing, the relevant director shall be counted in the quorum present at a meeting when any such resolution is under consideration and if he votes his vote shall be counted.

17.4 Subject to article 17.5, if a question arises at a directors' meeting or meeting of a committee of directors as to the right of any director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.

17.5 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or part of the meeting) for voting or quorum purposes.

18. CHAIRMAN'S CASTING VOTE AT DIRECTORS' MEETINGS

18.1 If the numbers of votes at a directors' meeting for and against a proposal are equal (ignoring any votes which are to be discounted in accordance with the articles, section 175(6) of the Act or pursuant to the terms of any authorisation given under section 175 of the Act), the chairman has a casting vote.

18.2 Article 18.1 shall not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the articles, the chairman is not to be counted as participating in the decision-making process for quorum or voting purposes.

19. **PROPOSING A DIRECTORS' WRITTEN RESOLUTION**

- 19.1 Any director may propose a directors' written resolution.
- 19.2 The company secretary (if any) must propose a directors' written resolution if a director so requests.
- 19.3 A directors' written resolution is proposed by giving notice of the resolution to the directors.
- 19.4 Notice of a proposed directors' written resolution must include:
 - 19.4.1 the proposed resolution;
 - 19.4.2 the time by which it is proposed that the directors should adopt it provided that unless all the Members otherwise agree, such time period must not be less than the time that would be required to call a meeting of the Board to discuss the matters that are the subject of the proposed directors' written resolution; and
 - 19.4.3 the manner in which directors can indicate their agreement in writing to it, for the purposes of article 20.
- 19.5 Notice of a proposed directors' written resolution must be given in writing to each director.

20. **ADOPTION OF DIRECTORS' WRITTEN RESOLUTIONS**

- 20.1 A proposed directors' written resolution is adopted when all the directors who would have been entitled to vote on the resolution at a directors' meeting have signed one or more copies of it, provided that those directors would have formed a quorum at such a meeting.
- 20.2 A written resolution signed by an alternate director (or to which an alternate director otherwise indicates his agreement in writing) need not also be signed by his appointor and, if it is signed by his appointor (or his appointor otherwise indicates his agreement to it in writing), it need not be signed by the alternate director in that capacity.
- 20.3 A director may sign or otherwise indicate his agreement to the written resolution before or after the time by which the notice proposed that it should be adopted.
- 20.4 Once a directors' written resolution has been adopted, it must be treated as if it had been a decision taken at a directors' meeting in accordance with the articles.

21. **DIRECTORS' INTERESTS**

21.1 **Group companies**

A director shall be authorised for the purposes of section 175 of the Act to act or continue to act as a director of the Company notwithstanding that at the time of his appointment or subsequently he also:

- 21.1.1 holds office as a director of any other group company;

- 21.1.2 holds any other office or employment with any other group company;
- 21.1.3 participates in any scheme, transaction or arrangement for the benefit of the employees or former employees of the Company or any other group company (including any pension fund or retirement, death or disability scheme or other bonus or employee benefit scheme); or
- 21.1.4 is interested directly or indirectly in any shares or debentures (or any rights to acquire shares or debentures) in the Company or any other group company.

21.2 Directors' interests other than in relation to transactions or arrangements with the Company - authorisation under section 175 of the Act

- 21.2.1 Subject to the provisions of any agreement entered into between the Members, the directors may authorise any matter proposed to them which would, if not so authorised, involve a breach of duty by a director under section 175 of the Act.
- 21.2.2 Any authorisation under article 21.2.1 will be effective only if:
 - (a) any requirement as to the quorum at the meeting at which the matter is considered is met without counting the director in question or any other director interested in the matter under consideration; and
 - (b) the matter was agreed to without such directors voting or would have been agreed to if such directors' votes had not been counted.
- 21.2.3 If, at a meeting at which the relevant matter is considered, there are insufficient directors to form a quorum pursuant to article 21.2.2(a), one director entitled to vote on the matter under consideration shall constitute a quorum for that purpose.
- 21.2.4 Subject to the provisions of any agreement entered into between the Members, the directors may give any authorisation under article 21.2.1 upon such terms as they think fit.
- 21.2.5 For the purposes of this article 21, a conflict of interest includes a conflict of interest and duty and a conflict of duties, and interest includes both direct and indirect interests.

21.3 Confidential information and attendance at directors' meetings

- 21.3.1 A director shall be under no duty to the Company with respect to any information which he obtains or has obtained otherwise than as a director of the Company and in respect of which he owes a duty of confidentiality to another person. In particular the director shall not be in breach of the general duties he owes to the Company by virtue of sections 171 to 177 of the Act if he:
 - (a) fails to disclose any such information to the directors or to any director or other officer or employee of, or consultant to, the Company; or

- (b) does not use or apply any such information in performing his duties as a director of the Company.

However, to the extent that his relationship with that other person gives rise to a conflict of interest or possible conflict of interest, this article 21.3.1 applies only if the existence of that relationship has been authorised pursuant to article 21.1, authorised by the directors pursuant to article 21.2 or authorised by the Members (subject, in any such case, to any terms upon which such authorisation was given).

21.3.2 Where the existence of a director's relationship with another person has been authorised pursuant to article 21.1, authorised by the directors pursuant to article 21.2 or authorised by the Members and his relationship with that person gives rise to a conflict of interest or possible conflict of interest, the director shall not be in breach of the general duties he owes to the Company by virtue of sections 171 to 177 of the Act.

21.3.3 The provisions of articles 21.3.1 and 21.3.2 are without prejudice to any equitable principle or rule of law which may excuse the director from:

- (a) disclosing information, in circumstances where disclosure would otherwise be required under the articles; or
- (b) attending meetings or discussions or receiving documents and information as referred to in article 21.3.2, in circumstances where such attendance or receiving such documents and information would otherwise be required under the articles.

21.4 Declaration of interests in proposed or existing transactions or arrangements with the Company

21.4.1 A director who is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the Company shall declare the nature and extent of his interest to the other directors before the Company enters into the transaction or arrangement.

21.4.2 A director who is in any way, directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company shall declare the nature and extent of his interest to the other directors as soon as is reasonably practicable, unless the interest has already been declared under article 21.4.1.

21.4.3 Any declaration required by article 21.4.1 may (but need not) be made:

- (a) at a directors' meeting;
- (b) by notice in writing in accordance with section 184 of the Act; or
- (c) by general notice in accordance with section 185 of the Act.

21.4.4 Any declaration required by article 21.4.2 must be made:

- (a) at a directors' meeting;

- (b) by notice in writing in accordance with section 184 of the Act; or
- (c) by general notice in accordance with section 185 of the Act.

21.4.5 If a declaration made under article 21.4.1 or 21.4.2 proves to be, or becomes, inaccurate or incomplete, a further declaration must be made under article 21.4.1 or 21.4.2 as appropriate.

21.4.6 A director need not declare an interest under this article 21:

- (a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- (b) if, or to the extent that, the other directors are already aware of it (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware);
- (c) if, or to the extent that, it concerns terms of his service contract that have been or are to be considered by a directors' meeting or by a committee of the directors appointed for the purpose under the articles; or
- (d) if the director is not aware of his interest or is not aware of the transaction or arrangement in question (and for this purpose a director is treated as being aware of matters of which he ought reasonably to be aware).

21.5 **Ability to enter into transactions and arrangements with the Company notwithstanding interest**

21.5.1 Subject to the provisions of the Act and provided that he has declared the nature and extent of any direct or indirect interest of his in accordance with this article 21 or where article 21.4.6 applies and no declaration of interest is required or where article 21.1 applies, a director notwithstanding his office:

- (a) may be a party to, or otherwise be interested in, any transaction or arrangement with the Company or in which the Company is directly or indirectly interested;
- (b) may act by himself or through his firm in a professional capacity for the Company (otherwise than as auditor), and in any such case on such terms as to remuneration and otherwise as the directors may decide; or
- (c) may be a director or other officer of, or employed or engaged by, or a party to any transaction or arrangement with, or otherwise be interested in, any body corporate in which the Company is directly or indirectly interested.

21.6 **Remuneration and benefits**

A director shall not, by reason of his office, be accountable to the Company for any remuneration or other benefit which he derives from any office or employment or

engagement or from any transaction or arrangement or from any interest in any body corporate:

21.6.1 the acceptance, entry into or existence of which has been authorised pursuant to article 21.1, authorised by the directors pursuant to article 21.2 or authorised by the Members pursuant to article 21.5.1 (subject, in any such case, to any terms upon which such authorisation was given); or

21.6.2 which he is permitted to hold or enter into pursuant to article 21.5.1 or otherwise pursuant to the articles,

nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act. No transaction or arrangement authorised or permitted pursuant to article 21.1, 21.2, or 21.5.1 or otherwise pursuant to the articles shall be liable to be avoided on the ground of any such interest or benefit.

22. INTERESTS OF ALTERNATE DIRECTORS

For the purposes of articles 17 and 21, in relation to an alternate director, the interest of his appointor is treated as the interest of the alternate director in addition to any interest which the alternate director otherwise has. Articles 17 and 21 apply to an alternate director as if he were a director of the Company.

23. DIRECTORS' DISCRETION TO MAKE FURTHER RULES

Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

24. NUMBER OF DIRECTORS

Subject to the provisions of any agreement entered into between the Members, the number of directors (other than alternate directors) is not subject to a maximum and the minimum number is two.

25. METHODS OF APPOINTING DIRECTORS

25.1 Subject to (and in addition to) the provisions of any agreement entered into between the Members, any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:

25.1.1 by ordinary resolution of the Members;

25.1.2 by a decision of the directors.

26. TERMINATION OF DIRECTOR'S APPOINTMENT

26.1 A person ceases to be a director as soon as:

26.1.1 he ceases to be a director by virtue of any provision of the Act or is prohibited from being a director by law;

- 26.1.2 a bankruptcy order is made against him;
- 26.1.3 a composition is made with his creditors generally in satisfaction of his debts;
- 26.1.4 a registered medical practitioner gives a written opinion to the Company stating that he has become physically or mentally incapable of acting as a director and may remain so for more than 3 months;
- 26.1.5 by reason of his mental health, a court makes an order which wholly or partly prevents him from personally exercising any powers or rights which he would otherwise have;
- 26.1.6 he is removed from office in accordance with the provisions of any agreement entered into between the Members; or
- 26.1.7 notification is received by the Company from the director that he is resigning from office as a director, and such resignation has taken effect in accordance with its terms.

27. DIRECTORS' REMUNERATION

- 27.1 Directors may undertake any services for the Company that the directors decide.
- 27.2 Save as provided in article 27.3 or the provisions of any agreement entered into between the Members, the directors shall not be entitled to any remuneration:
 - 27.2.1 for their services to the Company as directors; and
 - 27.2.2 for any other service which they undertake for the Company.
- 27.3 Subject to the Act, the directors may appoint one or more of their number to the office of managing director or to any other executive office of the Company and may enter into an agreement or arrangement with any director for his employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the directors determine and they may remunerate any such directors for his services as they think fit. Any appointment of a director to an executive office shall determine if he ceases to be a director but without prejudice to any claim for damages he may have for breach of the contract of service between the director and the Company.

28. EXPENSES OF DIRECTORS, ALTERNATE DIRECTORS AND THE COMPANY SECRETARY

The Company may pay any reasonable out-of-pocket expenses which the directors (including alternate directors) and the company secretary (if any) properly incur in connection with their attendance at:

- 28.1.1 meetings of directors or committees of directors;
- 28.1.2 general meetings; or

28.1.3 separate meetings of the holders of any class of shares or of debentures of the Company,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

29. APPOINTMENT AND REMOVAL OF ALTERNATE DIRECTORS

29.1 Any director (other than an alternate director) (the "**appointor**") may appoint any person willing to act, whether or not he is a director of the Company and without the approval of the directors, to:

29.1.1 exercise that director's powers; and

29.1.2 carry out that director's responsibilities,

in relation to the taking of decisions by the directors in the absence of his appointor (such person to be known as an "**alternate director**").

29.2 Any appointment or removal of an alternate director must be effected by notice in writing to the Company signed by the appointor, which shall take effect immediately upon receipt of the notice by the Company in accordance with article 68, or in any other manner approved by the directors.

29.3 The notice must:

29.3.1 identify the proposed alternate director; and

29.3.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate director that he is willing to act as the alternate of the director giving the notice.

29.4 Any person appointed as an alternate director under this article 29 may act as an alternate director for more than one director.

30. RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS

30.1 An alternate director has the same rights as his appointor, in relation to any directors' meeting or directors' written resolution.

30.2 Except as the articles specify otherwise, an alternate director is:

30.2.1 deemed for all purposes to be a director of the Company;

30.2.2 liable for his own acts and omissions;

30.2.3 subject to the same restrictions as his appointor; and

30.2.4 not deemed to be an agent of or for his appointor.

30.3 Subject to the articles, a person who is an alternate director and also a director of the Company:

30.3.1 may be counted as participating for the purposes of determining whether a quorum is participating both on his own account and on behalf of his appointor (but only if his appointor is not participating); and

30.3.2 may vote on a resolution proposed at a directors' meeting or sign or otherwise indicate his agreement to a written resolution both on his own account and on behalf of his appointor (but only if his appointor has not voted on or signed or otherwise indicated his agreement to such resolution in circumstances where he would have been entitled to do so).

30.4 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director except such part of his appointor's remuneration as his appointor may direct by notice in writing made to the Company.

31. **TERMINATION OF ALTERNATE DIRECTORSHIP**

31.1 An alternate director's appointment as such terminates:

31.1.1 when his appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;

31.1.2 on the occurrence of any event in relation to him which, were he a director of the Company, would result in the termination of his appointment as a director of the Company;

31.1.3 on the death of his appointor; or

31.1.4 when the appointor's appointment as a director of the Company terminates.

32. **SHARE CERTIFICATES**

32.1 Except where otherwise specified in the articles, the Company must issue free of charge to each holder of shares, one or more certificates in respect of the shares which that person holds.

32.2 Every certificate must specify:

32.2.1 in respect of how many shares, of what class, it is issued;

32.2.2 the nominal value of those shares;

32.2.3 that those shares are fully paid; and

32.2.4 any distinguishing numbers assigned to them.

32.3 No certificate may be issued in respect of shares of more than one class.

32.4 If more than one person holds a share, only one certificate may be issued in respect of it and delivery of a certificate to the senior holder shall constitute delivery to all of them.

32.5 Every certificate must:

32.5.1 be executed in accordance with the Act; or

32.5.2 be issued in such other manner as the directors may approve.

33. **CONSOLIDATED AND SEPARATE SHARE CERTIFICATES**

33.1 When a person's holding of shares of a particular class increases, the Company may issue that person with:

33.1.1 a single, consolidated certificate in respect of all the shares of a particular class which that person holds; or

33.1.2 a separate certificate in respect of only those shares by which that person's holding has increased.

33.2 When a person's holding of shares of a particular class is reduced, the Company must ensure that such person is issued with one or more certificates in respect of the number of shares held by such person after the reduction. However, the Company need not (in the absence of a request from such person) issue any new certificate if:

33.2.1 all the shares which such person no longer holds as a result of the reduction; and

33.2.2 none of the shares which such person retains following the reduction, were, immediately before the reduction, represented by the same certificate.

33.3 Any holder of shares may request the Company, in writing, to replace:

33.3.1 his separate certificates with a consolidated certificate; or

33.3.2 his consolidated certificate with two or more separate certificates representing such proportion of the shares as such holder may specify.

33.4 When the Company complies with such a request it may charge such reasonable fee as the directors may decide for doing so.

33.5 A consolidated certificate or separate certificates must not be issued unless any certificates which they are to replace have first been returned to the Company for cancellation or the holder has complied with such reasonable conditions as to evidence and indemnity as the directors decide.

34. **REPLACEMENT SHARE CERTIFICATES**

34.1 If a certificate issued in respect of any person's shares is:

34.1.1 damaged or defaced; or

34.1.2 said to be lost, stolen or destroyed,

that person is, subject to having first complied with the obligations in articles 34.2.2 and 34.2.3, entitled to be issued with a replacement certificate in respect of the same shares.

34.2 Any holder of shares exercising the right to be issued with such a replacement certificate:

34.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;

34.2.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and

34.2.3 must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

35. SHARE TRANSFERS

Subject to the provisions of any agreement entered into between the Members:

35.1.1 shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.

35.1.2 no fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.

35.1.3 the Company may retain any instrument of transfer which is registered.

35.1.4 the transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.

35.1.5 the directors may refuse to register the transfer of a share which is not fully paid to a person of whom they do not approve and they may refuse to register the transfer of a share on which the Company has a lien and in the circumstances referred to in article 5.11. They may also refuse to register a transfer unless:

(a) it is lodged at the office or at such other place as the directors may appoint and is accompanied by the certificate for the shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer;

(b) it is in respect of only one class of shares; and

(c) it is in favour of not more than four transferees,

and, if the directors refuse to register a transfer of a share, they shall within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.

36. TRANSMISSION OF SHARES

- 36.1 If title to a share passes to a transmittee, the Company may only recognise the transmittee as having any title to that share.
- 36.2 Subject to article 36.3, a transmittee who produces such evidence of entitlement to shares as the directors may properly require:
- 36.2.1 may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person; and
 - 36.2.2 subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder from whom the transmittee derived such entitlement had.
- 36.3 Transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the event which gave rise to the transmission, unless they become the holders of those shares.

37. EXERCISE OF TRANSMITTEES' RIGHTS

- 37.1 Transmittees who wish to become the holders of shares to which they have become entitled must notify the Company in writing of that wish.
- 37.2 If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- 37.3 Any transfer made or executed under this article 37 is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

38. TRANSMITTEES BOUND BY PRIOR NOTICES

If a notice is given to a member in respect of shares and a transmittee (or any person nominated by the transmittee under article 36.2) is entitled to those shares, the transmittee (and any person nominated by the transmittee under article 36.2) is bound by the notice if it was given to the member before the transmittee's name, or the name of any person nominated under article 36.2, has been entered in the register of members.

39. PROCEDURE FOR DECLARING DIVIDENDS

- 39.1 Subject to the Act and the provisions of any agreement entered into between the Members, the Company may by ordinary resolution of the Members declare dividends, and the directors may decide to pay interim dividends.
- 39.2 A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.

- 39.3 No dividend may be declared or paid unless it is in accordance with the respective rights of the shares.
- 39.4 Unless the terms on which shares are issued specify otherwise, dividends must be paid by reference to each person's holding of shares in the class in respect of which the dividend is paid on the date of the resolution or decision to declare or pay such dividend.
- 39.5 Subject to the Act and the provisions of any agreement entered into between the Members, the directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

40. PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS

- 40.1 Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means:
- 40.1.1 transfer to a bank or building society account specified by the distribution recipient in writing;
- 40.1.2 sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient in writing;
- 40.1.3 sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified in writing; or
- 40.1.4 any other means of payment as the directors agree with the distribution recipient in writing.
- 40.2 In the articles, the "**distribution recipient**" means, in respect of a share in respect of which a dividend or other sum is payable:
- 40.2.1 the holder of the share;
- 40.2.2 if the share has two or more joint holders, whichever of them is named first in the register of members (the "**senior holder**"); or
- 40.2.3 if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

41. NO INTEREST ON DISTRIBUTIONS

- 41.1 The Company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by:
- 41.1.1 the terms on which the share was issued; or
- 41.1.2 the provisions of another agreement between the holder of that share and the Company.

42. **UNCLAIMED DISTRIBUTIONS**

42.1 All dividends or other sums which are:

42.1.1 payable in respect of shares; and

42.1.2 unclaimed after having been declared or become payable,

may be invested or otherwise made use of by the directors for the benefit of the Company until claimed.

42.2 The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it.

42.3 If:

42.3.1 twelve years have passed from the date on which a dividend or other sum became due for payment; and

42.3.2 the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company.

43. **NON-CASH DISTRIBUTIONS**

43.1 Subject to the terms of issue of the share in question, the Company may, by ordinary resolution of the Members on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including shares or other securities in any company).

43.2 For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:

43.2.1 fixing the value of any assets;

43.2.2 paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and

43.2.3 vesting any assets in trustees.

44. **WAIVER OF DISTRIBUTIONS**

44.1 A distribution recipient may waive his entitlement to a dividend or other distribution payable in respect of a share by giving the Company notice in writing to that effect, but if:

44.1.1 the share has more than one holder; or

44.1.2 more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

45. **AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS**

45.1 Subject to the articles and the Act, the directors may, if they are so authorised by an ordinary resolution of the Members:

45.1.1 decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and

45.1.2 appropriate any sum which they so decide to capitalise (a "**capitalised sum**") to the persons who would have been entitled to it if it were distributed by way of dividend (the "**persons entitled**") and in the same proportions.

45.2 Capitalised sums must be applied:

45.2.1 on behalf of the persons entitled; and

45.2.2 in the same proportions as a dividend would have been distributed to them.

45.3 Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.

45.4 A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.

45.5 Subject to the articles, the directors may:

45.5.1 apply capitalised sums in accordance with articles 45.3 and 45.4 partly in one way and partly in another;

45.5.2 make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article 45 (including the issuing of fractional certificates or the making of cash payments); and

45.5.3 authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article 45.

46. **CONVENING OF GENERAL MEETINGS**

The directors may call general meetings and, on the requirement of Members pursuant to the Act, shall call a general meeting (i) within 21 days from the date on which the directors become subject to the requirement, and (ii) to be held on a date not more than 28 days after the date of the notice convening the meeting.

47. **LENGTH OF NOTICE**

A general meeting (other than an adjourned meeting) shall be called by notice of at least 19 clear days. A general meeting may be called by shorter notice if it is so agreed by a majority in number of the Members having a right to attend, speak and vote at the meeting, being a majority who together hold not less than 90 per cent. in nominal value of the A Ordinary Shares.

48. **FORM OF NOTICE**

The notice shall specify the time, date and place of the meeting and the general nature of the business to be dealt with at the meeting. If the meeting is convened to consider a special resolution of the Members, the text of the resolution and the intention to propose the resolution as a special resolution of the Members shall also be specified. The notice of meeting shall also specify, with reasonable prominence, the Members' rights to appoint one or more proxies under section 324 of the Act.

49. **ENTITLEMENT TO RECEIVE NOTICE**

49.1 Subject to the articles and to any restrictions imposed on any shares, the notice shall be given to all the Members, to all transmittees (and any person nominated by a transmittee under article 36.2) if the Company has been notified of their entitlement to a share, and to the directors and auditors.

49.2 Every person who becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the register of members, has duly been given to the person from whom he derives his title.

50. **OMISSION TO SEND NOTICE**

The accidental omission to give notice of a general meeting or to send, supply or make available any document or information relating to a meeting to, or the non receipt of any such notice, document or information by, a person entitled to receive any such notice, document or information shall not invalidate the proceedings at that meeting.

51. **ATTENDANCE, SPEAKING AND VOTING AT GENERAL MEETINGS**

51.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

51.2 A person is able to exercise the right to vote at a general meeting when:

51.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and

51.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

- 51.3 The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- 51.4 In determining attendance at a general meeting, it is immaterial whether any two or more Members present at the meeting are in the same place as each other.
- 51.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

52. QUORUM FOR GENERAL MEETINGS

52.1 No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the Members present at the meeting do not constitute a quorum. If the Company has only one Member entitled to attend and vote at the meeting, one qualifying person present at the meeting and entitled to vote is a quorum. Subject to the Act, article 52.2 and (in respect of adjourned meetings) article 55, in all other cases a quorum shall consist of at least two Members holding in aggregate in excess of fifty per cent of the A Ordinary Shares then in issue.

52.2 Where the Company has more than one Member entitled to attend and vote at a meeting, one qualifying person present at the meeting and entitled to vote as:

52.2.1 the duly authorised corporate representative of two or more corporations, each of which is a Member entitled to attend and vote upon the business to be transacted at the meeting; or

52.2.2 a proxy duly appointed by two or more Members entitled to attend and vote upon the business to be transacted at the meeting,

is a quorum, provided that such corporate representative or proxy (as the case may be) is appointed in respect of Members holding in aggregate in excess of 50 per cent of the A Ordinary Shares then in issue..

53. CHAIRING GENERAL MEETINGS

53.1 If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.

53.2 If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:

53.2.1 the directors present; or

53.2.2 (if no directors are present), the meeting,

may appoint a director or Member present to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

53.3 The person chairing a meeting in accordance with this article 53 is referred to as the "**chairman of the meeting**".

54. **ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-MEMBERS**

54.1 Directors may attend and speak at general meetings, whether or not they are Members.

54.2 The chairman of the meeting may permit other persons who are not:

54.2.1 Members of the Company; or

54.2.2 otherwise entitled to exercise the rights of Members in relation to general meetings,

to attend and speak at a general meeting.

55. **ADJOURNMENT**

55.1 If a quorum is not present within half an hour of the time at which the meeting was due to start, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.

55.2 The chairman of the meeting may adjourn a general meeting at which a quorum is present if:

55.2.1 the meeting consents to an adjournment; or

55.2.2 it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.

55.3 The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.

55.4 When adjourning a general meeting, the chairman of the meeting must:

55.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors; and

55.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.

55.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it:

55.5.1 to the same persons to whom notice of the Company's general meetings is required to be given; and

55.5.2 containing the same information which such notice is required to contain.

55.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

55.7 If, at any adjourned meeting, there is present within half an hour of the time at which the meeting was due to start a qualifying person (or qualifying persons) representing a Member (or Members) holding in aggregate in excess of fifty per cent of the A

Ordinary Shares then in issue, those present shall constitute a quorum but otherwise the meeting shall be dissolved.

56. VOTING

56.1 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the articles.

56.2 Subject to any rights or restrictions attached to any shares, whether or not such rights or restrictions are set out in the articles, on a vote on a resolution:

56.2.1 on a show of hands at a meeting:

(a) every Member present (but not being present by proxy) and entitled to vote on the resolution has one vote; and

(b) every proxy present who has been duly appointed by a Member entitled to vote on the resolution has one vote, except where:

(i) that proxy has been duly appointed by more than one Member entitled to vote on the resolution; and

(ii) the proxy has been instructed:

(A) by one or more of those Members to vote for the resolution and by one or more of those Members to vote against the resolution; or

(B) by one or more of those Members to vote in the same way on the resolution (whether for or against) and one or more of those Members has given the proxy discretion as to how to vote,

in which case, the proxy has one vote for and one vote against the resolution; and

56.2.2 on a poll taken at a meeting, every Member present and entitled to vote on the resolution has one vote in respect of each share held by the relevant Member or Members.

56.3 In the case of joint holders of a share, only the vote of the senior holder who votes (and any proxy or corporate representative duly authorised by the relevant Member) may be counted by the Company.

56.4 In the case of an equality of votes on a show of hands or a poll, the chairman of the meeting shall not be entitled to a casting vote.

56.5 The Company is not obliged to verify that a proxy or corporate representative of a Member has acted in accordance with the terms of his appointment and any failure to so act shall not affect the validity of any proceedings at a meeting of the Company.

57. ERRORS AND DISPUTES

- 57.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 57.2 Any such objection must be referred to the chairman of the meeting, whose decision is final.

58. CHAIRMAN'S DECLARATION

Unless a poll is duly demanded, a declaration by the chairman of the meeting that a resolution has or has not been passed or has or has not been passed by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. An entry in respect of such a declaration in minutes of the meeting recorded in accordance with section 355 of the Act is also conclusive evidence of that fact without such proof.

59. DEMANDING A POLL

- 59.1 A poll on a resolution may be demanded:
- 59.1.1 in advance of the general meeting where it is to be put to the vote; or
 - 59.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 59.2 Subject to the Act, a poll may be demanded at any general meeting by:
- 59.2.1 the chairman of the meeting; or
 - 59.2.2 any Member present and entitled to vote on the resolution.
- 59.3 A demand for a poll may be withdrawn if:
- 59.3.1 the poll has not yet been taken; and
 - 59.3.2 the chairman of the meeting consents to the withdrawal.

A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.

60. PROCEDURE ON A POLL

- 60.1 Subject to the articles, polls at general meetings must be taken when, where and in such manner as the chairman of the meeting directs.
- 60.2 The chairman of the meeting may appoint scrutineers (who need not be Members) and decide how and when the result of the poll is to be declared.
- 60.3 The result of a poll shall be the decision of the meeting in respect of the resolution on which the poll was demanded.

60.4 A poll on:

60.4.1 the election of the chairman of the meeting; or

60.4.2 a question of adjournment,

must be taken immediately.

60.5 A poll on any other question must be taken within 30 days of the poll being demanded.

60.6 A demand for a poll does not prevent a general meeting from continuing, except as regards the question on which the poll was demanded.

60.7 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.

60.8 In any other case, at least 7 clear days' notice must be given specifying the time, date and place at which the poll is to be taken.

61. APPOINTMENT OF PROXY

A Member may appoint another person as his proxy to exercise all or any of his rights to attend and to speak and to vote (both on a show of hands and on a poll) on a resolution or amendment of a resolution, or on other business arising, at a meeting or meetings of the Company. A Member may appoint more than one proxy in relation to a meeting, provided that each proxy is appointed to exercise the rights attached to a different share or shares held by the Member.

62. CONTENT OF PROXY NOTICES

62.1 Proxies may only validly be appointed by a notice in writing (a "**proxy notice**") which:

62.1.1 states the name and address of the Member appointing the proxy;

62.1.2 identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;

62.1.3 is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the directors may determine; and

62.1.4 is delivered to the Company in accordance with the articles and any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate.

62.2 The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

62.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

62.4 Unless a proxy notice indicates otherwise, it must be treated as:

- 62.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
- 62.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

63. DELIVERY OF PROXY NOTICES

- 63.1 Any notice of a general meeting must specify the address or addresses ("**proxy notification address**") at which the Company or its agents will receive proxy notices relating to that meeting, or any adjournment of it, delivered in hard copy or electronic form.
- 63.2 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.
- 63.3 Subject to articles 63.4 and 63.5, a proxy notice must be delivered to a proxy notification address at any time before the start of the general meeting or adjourned meeting to which it relates.
- 63.4 In the case of a poll taken more than 48 hours after it is demanded, the notice must be delivered to a proxy notification address at any time before the time appointed for the taking of the poll.
- 63.5 In the case of a poll not taken during the meeting but taken not more than 48 hours after it was demanded, the proxy notice must be delivered:
 - 63.5.1 to a proxy notification address at any time before the time appointed for the taking of the poll to which it relates; or
 - 63.5.2 at the meeting at which the poll was demanded, to the chairman of the meeting, the company secretary (if any) or any director.
- 63.6 A proxy notice which is not delivered in accordance with this article 63 shall be invalid.
- 63.7 The directors may require the production of any evidence which they consider necessary to determine the validity of any proxy notice.

64. CORPORATE REPRESENTATIVES

In accordance with the Act, a corporation which is a Member of the Company may, by resolution of its directors or other governing body, authorise a person or persons to act as its representative or representatives at any meeting of the Company (a "**corporate representative**"). A director, the company secretary (if any) or other person authorised for the purpose by the company secretary (if any) may require a corporate representative to produce a certified copy of the resolution of authorisation before permitting him to exercise his powers.

65. TERMINATION OF AUTHORITY

The termination of the authority of a person to act as proxy or as the duly authorised corporate representative of a Member does not affect whether he counts in deciding whether there is a quorum at a meeting, the validity of anything he does as chairman of a meeting, the validity of a poll demanded by him at a meeting, or the validity of a vote given by that person unless notice of the termination is given in writing by or on behalf of the Member by whom or on whose behalf the corporate representative was appointed or the proxy notice was given and is received by the Company at the office or, in the case of a proxy, the proxy notification address:

- 65.1.1 at any time before the start of the general meeting or adjourned meeting to which it relates;
- 65.1.2 (in the case of a poll not taken during the meeting but taken not more than 48 hours after it was demanded) at any time before the start of the general meeting or adjourned meeting to which it relates, or at the meeting at which the poll was demanded; or
- 65.1.3 (in the case of a poll taken more than 48 hours after it is demanded) at any time before the time appointed for taking the poll.

66. AMENDMENTS TO RESOLUTIONS

- 66.1 An ordinary resolution of the Members to be proposed at a general meeting may be amended by ordinary resolution of the Members if:
 - 66.1.1 notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine); and
 - 66.1.2 the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- 66.2 A special resolution of the Members to be proposed at a general meeting may be amended by ordinary resolution of the Members, if:
 - 66.2.1 the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
 - 66.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 66.3 If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman of the meeting's error does not invalidate the vote on that resolution.

67. RESOLUTIONS IN WRITING

A resolution of the Members and a resolution of the B Ordinary Shareholders may be passed as a written resolution in accordance with the Act.

68. **COMMUNICATIONS BY AND TO THE COMPANY**

- 68.1 Save where the articles expressly require otherwise, any notice, document or information to be sent or supplied by or to the Company pursuant to the Act, the articles or otherwise may be sent or supplied in accordance with the Act. Nothing in this article 68 affects any provision of the Act or any other legislation or any other provision of the articles requiring notices, documents or information to be delivered in a particular way.
- 68.2 A notice, document or information sent by post from an address within the United Kingdom to another address within the United Kingdom is deemed to have been given to, and received by, the intended recipient:
- 68.2.1 24 hours after posting, if pre-paid as first class post; and
- 68.2.2 48 hours after posting, if pre-paid as second class post.
- 68.3 A notice, document or information sent by post between different countries is deemed to have been given to, and received by, the intended recipient 72 hours after posting, if pre-paid as airmail.
- 68.4 A notice, document or information not sent by post but delivered by hand (which shall, for the avoidance of doubt, include delivery by courier) to the intended recipient's registered address or address for service is deemed to have been given to, and received by, the intended recipient on the day it is left.
- 68.5 A notice, document or information sent by electronic means to an email address or a fax number specified for the purpose by the intended recipient is deemed to have been given to, and received by, the intended recipient 24 hours after it was sent.
- 68.6 A notice, document or information sent, served or delivered by any other means authorised in writing by the recipient is deemed to have been sent when the sender has taken the action it has been authorised to take for that purpose.
- 68.7 Proof that an envelope containing the notice, document or information was properly addressed, pre-paid and posted or delivered is conclusive evidence that the notice, document or information was so sent or supplied. Proof that a notice, document or information sent or supplied by electronic means was properly addressed and sent is conclusive evidence that the notice, document or information was so sent or supplied.
- 68.8 In the case of joint holders of a share, a notice, document or information shall be validly sent or supplied to all joint holders if sent or supplied to the senior holder. Anything to be agreed or specified in relation to a notice, document or information to be sent or supplied to joint holders, may be agreed or specified by the senior holder in respect of the joint holding.
- 68.9 A holder of any share present at a meeting of the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 68.10 A notice may be given by the Company to the transmittee of any holder of any share by sending or delivering it, in any manner authorised by the articles for the giving of

notice to a member, addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt or by any like description, at the address, if any, supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

69. **COMPANY SECRETARY**

Subject to the Act and the provisions of any agreement entered into between the Members, the company secretary (if any) shall be appointed by the directors for such term at such remuneration and upon such conditions as they may think fit, and any company secretary so appointed may be removed by the directors.

70. **RECORDS OF DECISIONS TO BE KEPT**

70.1 The directors or the company secretary (if any) must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision:

70.1.1 of all appointments of officers made by the directors;

70.1.2 of every decision taken by the directors, including by written resolution, and any committee of the directors; and

70.1.3 of all proceedings of general meetings of the Company and of the holders of any class of shares in the Company.

70.2 The Company shall also keep records comprising copies of all resolutions of the holders of any shares passed otherwise than at general meetings and of details provided to the Company of decisions taken by a sole Member or other sole holder of a class of shares. All such records must be kept for at least 10 years from the date of the meeting or resolution or decision (as appropriate).

71. **NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**

Except as provided by law or any agreement entered into between the Members or an ordinary resolution of the Members or as authorised by the directors, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a member.

72. **PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS**

The directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that subsidiary.

73. **WINDING UP OF THE COMPANY**

Subject to the provisions of the articles, if the Company is wound up, the liquidator may, with the sanction of a special resolution of the Members and any other sanction required by the Act, divide among the holders of any shares in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and

determine how the division shall be carried out as between such persons. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the holders of any shares as he with the like sanction determines, but no holder of any shares shall be compelled to accept any assets upon which there is a liability.

74. INDEMNITY OF OFFICERS AND FUNDING DIRECTORS' DEFENCE COSTS

74.1 To the extent permitted by the Act and without prejudice to any indemnity to which he may otherwise be entitled, every person who is or was a director or other officer of the Company (other than any person (whether or not an officer of the Company) engaged by the Company as auditor) shall be and shall be kept indemnified out of the assets of the Company against all costs, charges, losses and liabilities incurred by him (whether in connection with any negligence, default, breach of duty or breach of trust by him or otherwise as a director or such other officer of the Company) in relation to the Company or its affairs provided that such indemnity shall not apply in respect of any liability incurred by him:

74.1.1 to the Company or to any associated company;

74.1.2 to pay a fine imposed in criminal proceedings;

74.1.3 to pay a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (howsoever arising);

74.1.4 in defending any criminal proceedings in which he is convicted;

74.1.5 in defending any civil proceedings brought by the Company, or an associated company, in which judgment is given against him; or

74.1.6 in connection with any application under any of the following provisions in which the court refuses to grant him relief, namely:

(a) section 661(3) or (4) of the Act (acquisition of shares by innocent nominee); or

(b) section 1157 of the Act (general power to grant relief in case of honest and reasonable conduct).

74.2 In article 74.1.4, 74.1.5, or 74.1.6 the reference to a conviction, judgment or refusal of relief is a reference to one that has become final. A conviction, judgment or refusal of relief becomes final:

74.2.1 if not appealed against, at the end of the period for bringing an appeal; or

74.2.2 if appealed against, at the time when the appeal (or any further appeal) is disposed of.

An appeal is disposed of if:

- (a) it is determined and the period for bringing any further appeal has ended; or
- (b) it is abandoned or otherwise ceases to have effect.

74.3 To the extent permitted by the Act and without prejudice to any indemnity to which he may otherwise be entitled, every person who is or was a director of the Company acting in its capacity as a trustee of an occupational pension scheme shall be and shall be kept indemnified out of the assets of the Company against all costs, charges, losses and liabilities incurred by him in connection with the Company's activities as trustee of the scheme provided that such indemnity shall not apply in respect of any liability incurred by him:

74.3.1 to pay a fine imposed in criminal proceedings; or

74.3.2 to pay a sum payable to a regulatory authority by way of a penalty in respect of non compliance with any requirement of a regulatory nature (howsoever arising); or

74.3.3 in defending criminal proceedings in which he is convicted.

For the purposes of this article 74.3, a reference to a conviction is to the final decision in the proceedings' The provisions of article 74.2 shall apply in determining when a conviction becomes final.

74.4 Without prejudice to article 74.1 or to any indemnity to which a director may otherwise be entitled, and to the extent permitted by the Act and otherwise upon such terms and subject to such conditions as the directors may in their absolute discretion think fit, the directors shall have the power to make arrangements to provide a director with funds to meet expenditure incurred or to be incurred by him in defending any criminal or civil proceedings or in connection with an application under section 661(3) or (4) of the Act (acquisition of shares by innocent nominee) or section 1157 of the Act (general power to grant relief in case of honest and reasonable conduct) or in defending himself in an investigation by a regulatory authority or against action proposed to be taken by a regulatory authority or to enable a director to avoid incurring any such expenditure.

75. **POWER TO PURCHASE INSURANCE**

To the extent permitted by the Act, the directors may exercise all the powers of the Company to purchase and maintain insurance for the benefit of a person who is or was:

75.1.1 a director, alternate director or a secretary (if any) of the Company or of a company which is or was a subsidiary undertaking of the Company or in which the Company has or had an interest (whether direct or indirect); or

75.1.2 trustee of a retirement benefits scheme or other trust in which a person referred to in article 75.1.1 is or has been interested,

indemnifying him and keeping him indemnified against liability for negligence, default, breach of duty or breach of trust or other liability which may lawfully be insured against by the Company.

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Return of allotment of shares



You can use the WebFiling service to file this form online.
Please go to www.companieshouse.gov.uk

What this form is for
You may use this form to give notice of shares allotted following incorporation.

What this form is NOT for
You cannot use this form to give notice of shares taken by subscribers on formation of the company or for an allotment of a new class of shares by an unlimited company.

For further information, please refer to our guidance at www.companieshouse.gov.uk

Company details

Company number

Company name in full

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

2 Allotment dates

From Date

To Date

1 **Allotment date**
If all shares were allotted on the same day enter that date in the 'from date' box. If shares were allotted over a period of time, complete both 'from date' and 'to date' boxes.

3 Shares allotted

Please give details of the shares allotted, including bonus shares.

2 **Currency**
If currency details are not completed we will assume currency is in pound sterling.

Class of shares (E.g. Ordinary/Preference etc.)	Currency 2	Number of shares allotted	Nominal value of each share	Amount paid (including share premium)	Amount (if any) unpaid (including share premium)
A ORDINARY	STERLING	250	1.00	892,857.00	0.00
B ORDINARY	STERLING	1,150,907	1.00	1,150,907.00	0.00

If the allotted shares are fully or partly paid up otherwise than in cash, please state the consideration for which the shares were allotted.

Details of non-cash consideration.

If a PLC, please attach valuation report (if appropriate)

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Return of allotment of shares

Statement of capital

Section 4 (also **Section 5** and **Section 6**, if appropriate) should reflect the company's issued capital at the date of this return.

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

Please complete the table below to show each class of shares held in pound sterling. If all your issued capital is in sterling, only complete **Section 4** and then go to **Section 7**.

Class of shares (E.g. Ordinary/Preference etc.)	Amount paid up on each share ①	Amount (if any) unpaid on each share ①	Number of shares ②	Aggregate nominal value ④
A ORDINARY	£3,571.43	£0.00	250	£ 2,571.43
A ORDINARY	£1.00	£0.00	750	£ 750.00
B ORDINARY	£1.00	£0.00	1150907	£ 1,150,907.00
				£
Totals			1151907	£ 1,151,907.00

5 Statement of capital (Share capital in other currencies)

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

Currency

Class of shares (E.g. Ordinary / Preference etc.)	Amount paid up on each share ①	Amount (if any) unpaid on each share ①	Number of shares ②	Aggregate nominal value ④
Totals				

Currency

Class of shares (E.g. Ordinary/Preference etc.)	Amount paid up on each share ①	Amount (if any) unpaid on each share ①	Number of shares ②	Aggregate nominal value ④
Totals				

6 Statement of capital (Totals)

Please give the total number of shares and total aggregate nominal value of issued share capital.

Total number of shares	1,151,907
Total aggregate nominal value ④	£1,151,907.00

④ Total aggregate nominal value
Please list total aggregate values in different currencies separately. For example: £100 + €100 + \$10 etc.

① Including both the nominal value and any share premium.

③ E.g. Number of shares issued multiplied by nominal value of each share.

Continuation Pages
Please use a Statement of Capital continuation page if necessary.

② Total number of issued shares in this class.

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Return of allotment of shares

7 Statement of capital (Prescribed particulars of rights attached to shares)

Please give the prescribed particulars of rights attached to shares for each class of share shown in the statement of capital share tables in **Section 4** and **Section 5**.

Class of share A ORDINARY

Prescribed particulars (Please see continuation form)

Class of share B ORDINARY

Prescribed particulars (Please see continuation form)

Class of share

Prescribed particulars

1 Prescribed particulars of rights attached to shares

The particulars are:

- a particulars of any voting rights, including rights that arise only in certain circumstances;
- b particulars of any rights, as respects dividends, to participate in a distribution;
- c particulars of any rights, as respects capital, to participate in a distribution (including on winding up); and
- d whether the shares are to be redeemed or are liable to be redeemed at the option of the company or the shareholder and any terms or conditions relating to redemption of these shares.

A separate table must be used for each class of share.

Continuation page

Please use a Statement of Capital continuation page if necessary.

8 Signature

I am signing this form on behalf of the company.

Signature

Signature

X  X

This form may be signed by:
Director **2**, Secretary, Person authorised **3**, Administrator, Administrative receiver, Receiver, Receiver manager, CIC manager.

2 Societas Europaea

If the form is being filed on behalf of a Societas Europaea (SE) please delete 'director' and insert details of which organ of the SE the person signing has membership.

3 Person authorised

Under either section 270 or 274 of the Companies Act 2006.

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Return of allotment of shares



Presenter information

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

Contact name CHIOMA BENJAMIN

Company name Clifford Chance LLP

Address 10 UPPER BANK STREET

Post town LONDON

County/Region

Postcode E 1 4 5 J J

Country

DX 149120 Canary Wharf 3

Telephone 020 7006 1000



Checklist

We may return the forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- The company name and number match the information held on the public Register.
- You have shown the date(s) of allotment in section 2.
- You have completed all appropriate share details in section 3.
- You have completed the appropriate sections of the Statement of Capital.
- You have signed the form.



Important information

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



Where to send

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

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

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

For companies registered in Northern Ireland:
The Registrar of Companies, Companies House,
First Floor, Waterfront Plaza, 8 Laganbank Road,
Belfast, Northern Ireland, BT1 3BS.
DX 481 N.R. Belfast 1.



Further information

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

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

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Return of allotment of shares

7

Statement of capital (Prescribed particulars of rights attached to shares)

Class of share	A Ordinary Shares and B Ordinary Shares
Prescribed particulars	<p data-bbox="272 366 330 389">Voting</p> <p data-bbox="272 419 867 495">The A Ordinary Shares carry the right to receive notice of, attend, speak and vote at general meetings of the Company and on written resolutions of members of the Company ("Members").</p> <p data-bbox="272 525 884 601">The B Ordinary Shares do not carry the right to receive notice of or to attend, speak or vote at any general meeting of the Company nor to vote on any written resolution of Members.</p> <p data-bbox="272 631 469 654">Distributions - general</p> <p data-bbox="272 684 884 730">Save as set out below, the A Ordinary Shares shall be entitled to receive all distributions of profit and capital payable by the Company.</p> <p data-bbox="272 760 893 941">Save as set out below, the B Ordinary Shares shall not be entitled to receive any distributions of (a) profit, including any allotment to members of unissued shares of the Company (whether or not fully paid) as a result of the capitalisation of any sum standing to the credit of share premium account or of any reserve (whether or not available for distribution) of the Company or (b) of capital whether on a liquidation, reduction of capital, share buy-back or otherwise.</p> <p data-bbox="272 971 469 994">Liquidation preference</p> <p data-bbox="272 1024 893 1153">On a return of capital on a liquidation, dissolution or winding up of the Company, the surplus assets of the Company remaining after the satisfaction of its then outstanding liabilities shall (to the extent that the Company is lawfully able to do so) be applied in the following order of priority:</p> <p data-bbox="272 1183 893 1365">(a) first, in paying on each B Ordinary Share an aggregate amount of £1.00 inclusive of any amounts previously paid on such share by operation of the provisions described in "Asset Sale", "Share Sale" and/or "Listing" below (and, if there is a shortfall of assets remaining to satisfy the entitlements on each B Ordinary Share in full, the surplus assets shall be applied pro rata on each B Ordinary Share); and</p> <p data-bbox="272 1395 867 1441">(b) second, in paying the balance of any funds pro rata on each A Ordinary Share.</p>

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Return of allotment of shares

7

Statement of capital (Prescribed particulars of rights attached to shares)

Class of share	A Ordinary Shares and B Ordinary Shares
Prescribed particulars	<p>Asset Sale</p> <p>On the disposal (whether through a single transaction or a series of transactions) by the Company or any of its subsidiary undertakings from time to time of all, or substantially all, of the Company's business, assets and undertaking (an "Asset Sale"), the surplus assets of the Company remaining after the satisfaction of its then outstanding liabilities shall be distributed to the Members by way of dividend, distribution, capital payment, share buyback, or other return of capital or by any other lawful means (to the extent that the Company is lawfully able to do so) in the following order of priority:</p> <p>(a) first, in paying on each B Ordinary Share an amount of £1.00 (and, if there is a shortfall of assets remaining to satisfy the entitlements on each B Ordinary Share in full, the surplus assets shall be applied pro rata on each B Ordinary Share); and</p> <p>(b) second, in paying the balance of any funds pro rata on each A Ordinary Share, and the Members and the Company shall procure (so far as reasonably practicable) that on an Asset Sale by any subsidiary undertaking of the Company, the surplus assets of such subsidiary undertaking shall (to the extent legally permissible) be distributed to the Company (whether directly or indirectly) so as to enable such assets to be distributed as set out in (a) and (b) above.</p> <p>Share Sale</p> <p>Any proceeds arising as a result of or in connection with the sale (whether through a single transaction or series of transactions) of the entire issued share capital of the Company (except where the holders of the shares and the proportion of shares held by each of them following completion of the sale are the same as the holders and their shareholdings in the Company immediately prior to the sale) shall be applied in the following order of priority:</p> <p>(a) first, in paying on each B Ordinary Share an amount of £1.00 (and, if there are insufficient proceeds to satisfy the entitlements on each B Ordinary Share in full, such proceeds shall be applied pro rata on each B Ordinary Share); and</p> <p>(b) second, in paying the balance of any funds pro rata on each A Ordinary Share.</p>

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Return of allotment of shares

7

Statement of capital (Prescribed particulars of rights attached to shares)

Class of share	A Ordinary Shares and B Ordinary Shares	
Prescribed particulars	<p>Listing</p> <p>Any proceeds arising as a result of or in connection with the admission of any shares in the capital of the Company (or any new holding company of it formed for such purposes) to the Official List of the Financial Services Authority, and to trading on the London Stock Exchange's market for listed securities, or to trading on the Alternative Investment Market of the London Stock Exchange, or on any other recognised investment exchange (a "Listing") shall be applied in the following order of priority:</p> <p>(a) first, in paying on each B Ordinary Share an amount of £1.00 (and, if there are insufficient proceeds to satisfy the entitlements on each B Ordinary Share in full, such proceeds shall be applied pro rata on each B Ordinary Share); and</p> <p>(b) second, (unless otherwise determined by the directors) in paying the balance of any funds pro rata on each A Ordinary Share.</p>	