

**THIS AGREEMENT** is made the                    day of ..... 2004

**BETWEEN (1)**                    of ..... and

**(2)** .....of .....

**W H E R E A S:-**

(A) The parties are shareholders and directors in the company known as .....

(B) the registered office of which is at .....

(B) The Company was incorporated and registered in England on the                    day of  
200 under Company Number                    and has an authorised share capital of  
divided into                    ordinary shares of £ 1 each of which all the said shares have  
been issued and are fully paid

(C) The said shares are beneficially owned by the parties as follows:-

... shares by ..... and

.... shares by

and the profits of the company are to be shared in proportion accordingly

(D) The Company which trades under the name of ..... carries on business of  
.....

(E) The parties desire to enter into this Agreement for the regulation of their joint  
venture

(F) The parties have agreed to make provision for pre-emption rights for the sale  
and purchase of shares inter vivos and have further agreed that on the death of  
either of them a transfer notice (as hereinafter defined) shall be deemed to  
have been served and the surviving party shall have the opportunity to  
purchase the shareholding of the deceased party in the Company on the terms  
set out below

**IT IS HEREBY AGREED AND DECLARED** as follows:-

**1. Pre-emption rights over shares**

1.1 No share in the Company's capital shall be transferred (which expression shall include any disposition of any legal or beneficial interest in any share and whether by way of gift sale mortgage or otherwise) unless and until the rights of pre-emption conferred below shall have been exhausted

1.2 Any party to this agreement proposing to transfer any shares ("the Vendor") shall give notice in writing ("Transfer Notice") to the other parties of such proposal. The Transfer Notice (which shall not be revocable except with the sanction of the directors of the Company) shall specify the number of shares the Vendor proposes to transfer and also the sum which in the Vendor's opinion constitutes the fair price of each such share and shall constitute the Company the Vendor's agent for the sale of such share or shares ("the Shares") in one or more lots at the discretion of the directors to the parties to this agreement (other than the Vendor) at that price; but if the directors do not accept that the sum specified by the Vendor constitutes the fair price of the Shares they shall instruct the auditors for the time being of the Company (who shall act as experts and not as arbitrators so that any provision of law or statute relating to arbitration shall not apply) to certify in writing ("Certificate of Value") the value in their opinion of the shares as between a willing seller and a willing buyer as at the date of the Transfer Notice and in such a case the Transfer Notice shall nevertheless constitute the Company the Vendor's agent for the sale of the Shares but at the price certified in the Certificate of Value

1.3 If the said auditors are instructed to certify the fair value the Company shall as soon as it receives the Certificate of Value furnish a copy of it to the Vendor

and the cost of obtaining the Certificate of Value shall be borne by the Company

- 1.4 On the price being fixed (whether by reference to the Vendor's opinion of the fair price or by reference to the Certificate of Value) the Company shall immediately by notice in writing ("the Offer Notice") inform each party to this agreement other than the Vendor of the number and price of the shares and shall invite each such party to apply in writing to the Company within 21 days after the date of dispatch of the Offer Notice (which date shall be specified in the notice) for such maximum number of Shares (being all or any of them) as he shall specify in such application
- 1.5 If such party shall within the period of 21 days apply for all or (except as otherwise provided in the Transfer Notice) any of the Shares the directors shall allocate the Shares (or so many of them as shall be applied for) to or amongst the applicant parties in proportion as nearly as may be to the number of shares in the Company of which they are registered or unconditionally entitled to be registered as holders as at the date of the Transfer Notice provided that no applicant party shall be obliged to take more than the maximum number of shares specified by him. If any shares shall not be capable without fraction of being allocated amongst the applicant parties in proportion to their existing holdings those shares shall be allocated to the applicant parties or some of them in such proportions or in such manner as may be determined by lots and the lots shall be drawn in such manner as the directors think fit
- 1.6 The Company shall immediately give notice in writing of each such allocation (each such notice being referred to as an "Allocation Notice") to the Vendor and to the Parties to this agreement to whom the shares have been allocated

and shall specify in each such Allocation Notice the place and time (being not earlier than 14 and not later than 28 days after the date of the dispatch of the Allocation Notice) at which the sale of the shares so allocated shall be completed

1.7 The Vendor shall be bound (on payment of the purchase price due in respect of the shares referred to in the relevant Allocation Notice) to transfer the shares comprised in such Allocation Notice to the party to this agreement named in the notice as purchaser at the place and time specified; and if in any case the Vendor after having become so bound makes default in transferring any shares the Company may receive the purchase price on his behalf and may authorise some person to execute a transfer of such shares in favour of the purchaser. The Company shall immediately pay the purchase price into a separate bank account in the Company's name and shall hold the purchase price in trust for the Vendor

1.8 If any of the shares specified in the Transfer Notice shall not have been allocated by the directors in an Allocation Notice (whether by reason of the fact that no party to this agreement is willing to purchase those shares or for any other reason) or if a purchaser shall fail to pay the purchase price for the shares allocated to him the Vendor shall be at liberty but subject nevertheless to the provisions of paragraph 1.9 of this clause to transfer all or any of such shares which have not been so allocated to any person and at any price

1.9 The directors shall not register any transfer of any shares (whether or not it is a fully paid share) other than a transfer made pursuant to or permitted by paragraphs 1.1 to 1.8 of this clause and may in the case of a transfer of any

such share made pursuant to or permitted by paragraph 1.8 of this clause and without assigning any reasons therefore decline to register any such transfer

1.10 Upon any party to this Agreement dying or being subject to a bankruptcy petition or an application for an interim order under Part VIII of the Insolvency Act 1986 or if a Company going into liquidation either compulsorily or voluntarily (save for the purpose of reconstruction or amalgamation) or upon a receiver being appointed in respect of the whole or any parts of its assets or upon ..... making an assignment to or composition or moratorium or other arrangement with his creditors generally or threatening to do any of the things referred to in this clause or upon ..... ceasing to be a director of the Company he or it shall be deemed to have served a Transfer Notice in respect of his or its entire shareholding in the Company whereupon the directors shall immediately instruct the auditors of the Company to produce a certificate of value. Subject as aforesaid the provisions of paragraph 1.2 to 1.9 of this clause shall apply mutatis mutandis

## 2. **General**

### **Rights and obligations to pass to personal representatives**

This agreement shall be binding on and ensure to the benefit of the respective personal representatives of the individual Parties to it provided always that

2.1 where in this agreement the approval or consent of all Parties is required for any purpose the approval or consent of any deceased party shall be presumed to have been given without the need to seek the approval or consent of the personal representatives of that party; and

- 2.2 nothing in this agreement shall entitle the personal representatives of a deceased party to be registered as a member of the Company
3. This agreement shall take precedence over the Articles of Association of the Company should there be any conflict between the same and the provisions of this Agreement
4. All technology used and owned by the Company shall be included in the assets of the Company and be valued accordingly
5. Notwithstanding the provisions of the Articles of Association of the Company and unless otherwise agreed no shares may be allotted options granted or shares otherwise disposed of otherwise than by first being offered to the parties hereto in proportion as nearly as may be to the number of shares held by each of them
6. Any notice requiring to be given hereunder may be given personally or may be sent by first class post addressed to the address of the recipient as given herein (or as subsequently properly notified by one party to the other) and any notice given by post shall be deemed to have been served at the expiration of forty eight hours after the same correctly addressed and prepaid shall have been posted
7. The terms of this Agreement notwithstanding the provisions hereof may be varied by mutual written consent
- 8.1 This Agreement is governed by and construed in accordance with the law of England.
- 8.2 Each party hereby irrevocably submits to the exclusive jurisdiction of the Courts of England as regards any claim, dispute or matter arising out of or in connection with this Agreement and its implementation and effect.



