

  
Director

COMPANY NUMBER 537720

THE COMPANIES ACT 1985

AND

THE COMPANIES ACT 1989

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A PRIVATE COMPANY LIMITED BY SHARES

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**NEW ARTICLES OF ASSOCIATION**

(adopted by Resolution in Writing passed on ~~6~~<sup>14</sup> February 2000)

OF

**D.A. GREEN & SONS LIMITED**

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PRELIMINARY

1. The Regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (such Table being hereinafter referred to as "Table A") shall apply to the Company save in so far as they are excluded or varied hereby: that is to say, Clauses 8 and 64 of Table A shall not apply to the Company; and in addition to the remaining Clauses of Table A, as varied hereby, the following shall be the Articles of Association of the Company.

SHARES

2.1 Unless otherwise determined by Special Resolution of the Company in General Meeting any unissued Shares in the capital of the Company from time to time shall before they are issued be offered to all the holders of Shares in the Company in proportion to the nominal value of the Shares held by them respectively (and such offer shall be at the same price and on the same terms to each such holder). Such offer shall be made by notice specifying the number



and class of Shares offered, the proportionate entitlement of the relevant Member, the price per share and limiting a period (not being less than 21 days) within which the offer, if not accepted, will be deemed to be declined and after the expiration of such period the Directors shall offer the Shares so declined to the persons who have, within the said period, accepted all the Shares offered to them in the same manner as the original offer and limited by a period of not less than 14 days. If any Shares comprised in such further offer are declined or deemed to be declined such further offer shall be withdrawn in respect of such Shares. At the expiration of the time limited by the notice(s) the Directors shall allot the Shares so offered to or amongst the Members who have notified their willingness to take all or any of such Shares in accordance with the terms of the offer. No Member shall be obliged to take more than the maximum number of Shares he has indicated his willingness to take. Section 89(1) and sub-sections (1) to (6) of Section 90 of the Act shall not apply to the Company.

- 2.2 Any Shares not accepted pursuant to Regulation 2.1 or not capable of being so offered except by way of fractions and any Shares released from the provisions of this Article by Special Resolution as therein specified shall subject to the provisions of Section 80 of the Act, be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper, provided that no Shares shall be issued at a discount and provided further that, in the case of Shares not accepted as aforesaid, such Shares shall not be disposed of on terms which are more favourable to the subscribers thereof than the terms on which they were offered to the Members.

3. The Company shall have a first and paramount lien on every Share (whether or not it is a fully paid Share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that Share and the Company shall also have a first and paramount lien on all Shares (whether fully paid or not) standing registered in the name of any person whether solely or as one of two or more joint holders for all moneys presently payable by him or his estate to the Company; but the Directors may at any time declare any Share to be wholly or in part exempt from the provisions of this Article. The Company's lien on a Share shall extend to any dividend or other amount payable in respect thereof.

### GENERAL MEETINGS

4. A notice convening a General Meeting shall in the case of special business specify the general nature of the business to be transacted; and Clause 38 of Table A shall be modified accordingly.
5. All business shall be deemed special that is transacted at an Extraordinary General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the Directors and auditors, the election of Directors in the place of

those retiring and the appointment of, and the fixing of the remuneration of, the Auditors.

6. Clause 41 of Table A shall be read and construed as if the last sentence ended with the words ", and if at the adjourned Meeting a quorum is not present within half an hour from the time appointed for the Meeting, the Meeting shall be dissolved".

### DIRECTORS

7. Unless and until the Company in General Meeting shall otherwise determine, the number of the Directors shall not be less than one nor more than five.

8. If and so long as there is a sole Director, he may exercise all the powers and authorities vested in the Directors by these Articles or Table A; and Clause 89 of Table A shall be modified accordingly.

9. The Directors may exercise all the powers of the Company to borrow money, and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and to issue Debentures, Debenture Stock and other Securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

10. A Director may vote as a Director on any resolution concerning any contract or arrangement in which he is interested or upon any matter arising thereout, and if he shall so vote his vote shall be counted and he shall be reckoned in estimating a quorum when any such contract or arrangement is under consideration; and Clause 94 of Table A shall be modified accordingly.

### INDEMNITY

11. Subject to the provisions of the Act and in addition to such indemnity as is contained in Clause 118 of Table A, every Director, officer or official of the Company shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities incurred by him in or about the execution and discharge of the duties of his office.

### TRANSFER OF SHARES

12.1 The Directors shall, subject to Clause 24 in Table A, register the transfer or, as the case may be, transmission of any Shares:-

12.1.1 to any person or persons acting in the capacity of trustee or trustees of:-

12.1.1.1 a trust created by a Member (by deed or will) provided that there are no persons beneficially interested under the trust other than the Member and members of his family and the

voting rights conferred by any such shares are not exercisable by or subject to the consent of any person other than the trustee or trustees of the trust or the Member or members of his family and also the Directors are satisfied that the trust is and is intended to remain a trust the sole purpose of which is to benefit the Member or members of his family;

12.1.1.2 the D.A. Green & Sons Limited Share Participation Scheme; or

12.1.1.3 the D.A. Green & Sons Limited Employees Share Trust

12.1.2 upon any change of trustees of a trust to which Regulation 12.1.1 applies, to the new trustee or trustees (so that any such transfer as aforesaid shall be registered pursuant to this paragraph only if such shares are to be held upon the terms of the trust);

12.1.3 by the trustee or trustees of a trust to which Regulation 12.1.1 above applies to any person beneficially interested under the trust;

12.1.4 to the legal personal representatives of a deceased Member where under the provisions of his will or the laws as to intestacy the persons beneficially entitled to any such shares, whether immediately or contingently, are members of the family (as hereinafter defined) of the deceased Member and by the legal personal representatives of a deceased Member to a member or members of the family of the deceased Member;

12.1.5 to any other Member of the Company.

12.2 For the purpose of Regulation 12.1 but not any other Regulation:-

12.2.1 the word 'Member' shall not include a person who holds shares only in the capacity of trustee, legal personal representative or trustee in bankruptcy; and

12.2.2 the words 'a member of the family of a Member' or 'a member of the family of a deceased Member' shall mean the husband, wife, widow, widower, child and remoter issue (including a child by adoption), of the Member or deceased Member (as the case may be).

12.3 Except for a transfer or transmission of Shares which is permitted under Regulation 12 no Share shall be transferred or transmitted or any interest in any Share disposed of unless and until the rights of pre-emption hereinafter conferred have been exhausted.

- 13.1 Save as set out in Regulation 12 any person (hereinafter called "the proposing transferor") proposing to transfer any Share or dispose of any interest in any Share shall give notice in writing ("the transfer notice") to the Company that he desires to transfer such Shares ("the Transfer Shares") and specifying the price per Share which in his opinion constitutes the fair value thereof.
- 13.2 In the application of Clauses 29 to 31 (inclusive) in Table A to the Company:-
- 13.2.1 subject to the provisions of Regulation 12.1.4 any person becoming entitled to a Share in consequence of the death or bankruptcy of a Member shall give a transfer notice before he elects in respect of any Share to be registered himself or to execute a transfer;
- 13.2.2 if a person so becoming entitled has not given a transfer notice in respect of any Share within three months of the death or bankruptcy, the Directors may at any time thereafter upon resolution passed by them give notice requiring such person within 30 days of such notice to give a transfer notice in respect of all the Shares to which he has so become entitled and for which he has not previously given a transfer notice and if he does not do so he shall at the end of such thirty days be deemed to have given a transfer notice pursuant to Regulation 13.1 relating to those Shares in respect of which he has still not done so.
- 13.3 The transfer notice shall constitute the Company (by its board of Directors) the agent of the proposing transferor for the sale of all (but not some) of the Transfer Shares to any Member or Members willing to purchase the same (hereinafter called "the purchasing Member") in the order and priority set out in Regulation 14.1 and at the price specified in the transfer notice or at the fair value certified in accordance with Regulation 14.6. Where a transfer notice is given or deemed to be given under Regulation 13.2 and no price per Share is specified therein the transfer notice shall be deemed to specify the sum which shall, on the application of the Directors, be certified in writing by the Auditors in accordance with Regulation 14.6 as the fair value thereof.
- 13.4 A transfer notice shall not be revocable except with the written consent of the Directors.
- 14.1.1 Within twenty one days of the receipt of the transfer notice the Transfer Shares shall be offered firstly to the trustees of the D.A. Green & Sons Limited Employees Share Trust who shall be entitled to purchase such number of the Transfer Shares as they so decide and the provisions of Regulations 14.2 to 14.4 and 14.6, 14.7, 14.9 and 14.10 shall apply and, where applicable references to "purchasing members" in Regulation 14.3, 14.6, 14.9 and 14.10 shall be references to the trustees of the D.A. Green & Sons Limited Employees Share Trust.

- 14.1.2 To the extent that the trustees of the D.A. Green & Sons Employees Share Trust do not accept all (or only accept some of) the Transfer Shares so offered the number of the Transfer Shares not so accepted by them shall be offered within twenty-one days of the trustees refusal or partial acceptance to the trustees of the D.A. Green & Sons Limited Share Participation Scheme who shall be entitled to purchase such number of the Transfer Shares offered to them as they decide and the provisions of Regulations 14.2 to 14.4 and 14.6, 14.7, 14.9 and 14.10 shall apply and, where applicable references to "purchasing members" in Regulation 14.3, 14.6, 14.9 and 14.10 shall be references to the trustees of the D.A. Green & Sons Limited Share Participation Scheme.
- 14.1.3 to the extent that there are any Transfers Shares still not accepted following the procedure in Regulations 14.1.1 and 14.1.2 the Transfer Shares (or the balance not so accepted) shall be offered to the Members (other than the trustees of the D.A. Green & Sons Employees Share Trust, the trustees of the D.A. Green & Sons Limited Share Participation Scheme and the proposing transferor) as nearly as may be in proportion to the number of Shares held by them respectively and the provisions of Regulations 14.2 to 14.10 shall apply as if the expression "the purchasing Members" referred to the Members to whom the Shares had been offered.
- 14.2 Such an offer notice as is specified in Regulation 14.1 ("the offer notice") shall be in writing.
- 14.3 The offer notice shall state the price per Transfer Share specified in the transfer notice and the period during which the offer may be accepted, being not less than thirty days nor more than ninety days after the date of the offer notice (provided that if a certificate of fair value is requested under Regulation 14.6 the offer shall remain open for acceptance for a period of forty days after the date on which notice of the fair value certified in accordance with that Regulation has been given by the Company to the purchasing Members or until the expiry of the period specified in the offer notice whichever is the later).
- 14.4 For the purpose of this Regulation an offer shall be deemed to be accepted on the day on which the acceptance is received by the Company.
- 14.5 If there is more than one purchasing Member the offer notice shall invite each purchasing Member to state in his reply the number of additional Transfer Shares (if any) in excess of his proportion which he desires to purchase and if all the purchasing Members do not accept the offer in respect of their respective proportions in full the Transfer Shares not so accepted shall be used to satisfy the claims for additional Transfer Shares as nearly as may be in proportion to the number of Shares already held by them respectively, provided that no

purchasing Member shall be obliged to take more Transfer Shares than he has applied for. If any Transfer Shares are not capable without fractions of being offered to the purchasing Members in proportion to their existing holdings, the same shall be offered to the purchasing Members, or some of them, in such proportions or in such manner as may be determined by lots drawn in regard thereto, and the lots shall be drawn in such manner as the Directors may think fit.

- 14.6 Any purchasing Member in receipt of an offer letter may, not later than fourteen days after the date of the offer notice, serve on the Company a notice in writing requesting that the Auditor for the time being of the Company (or at the discretion of the Auditor, a person nominated by the President for the time being of the Institute of Chartered Accountants) certify in writing the sum which in his opinion represents the fair value of the Transfer Shares comprised in the transfer notice as at the date of the transfer notice and for the purpose of this Regulation reference to the Auditor shall include any person so nominated. Upon receipt of such notice the Company shall instruct the Auditor to certify the fair value as aforesaid and the costs of such valuation shall be apportioned among the proposing transferor and the purchasing Members or borne by any one or more of them as the Auditor in his absolute discretion shall decide. In certifying the fair value as aforesaid the Auditor shall be considered to be acting as an expert and not as an arbitrator and accordingly any provisions of law or statute relating to arbitration shall not apply.
- 14.7 The Company will use its best endeavours to procure that the Auditor determines and certifies the fair value within thirty days of being requested so to do.
- 14.8 Upon receipt of the certificate of the Auditor, the Company shall by notice in writing inform all Members of the fair value of each Transfer Share and of the price per Transfer Share (being the lower of the price specified in the transfer notice and the fair value of each Transfer Share) at which the Transfer Shares are offered for sale.
- 14.9 If purchasing Members are found for all the Transfer Shares comprised in the transfer notice within the appropriate period specified in Regulation 14.3 above, the Company shall not later than fourteen days after the expiry of such appropriate period give notice in writing (hereinafter called "the sale notice") to the proposing transferor specifying the purchasing Members and the proposing transferor shall be bound upon payment of the price due in respect of all the Transfer Shares to transfer the Transfer Shares to the purchasing Members.
- 14.10 If in any case the proposing transferor after having become bound as aforesaid makes default in transferring any Transfer Shares the Company may receive the purchase money on his behalf, and may authorise some person who is hereby irrevocably and unconditionally appointed as the attorney of the proposing

transferor to execute a transfer of such Transfer Shares in favour of the purchasing Member who shall be entered in the Register of Members in respect of such Transfer Shares and after his name has been entered in the Register of Members the validity of the proceedings shall not be questioned by any person. The receipt of the Company for the purchase money shall be a good discharge to the purchasing Member. The Company shall pay the purchase money into a separate bank account and shall not be bound to earn or pay interest on such money and shall not pay such money to the proposing transferor until he has delivered his Share certificates (or an appropriate indemnity in respect of any lost certificates) to the Company.

- 14.11 If after all the offers set out in Regulation 14.1 have been made no purchasing Members are found or purchasing Members are found for some only of the Shares comprised in the transfer notice within the appropriate period specified in Regulation 14.3 above the Company shall forthwith give notice in writing of that fact to the proposing transferor and the proposing transferor may during the period of six months from the date of receipt of the Company's notice in writing sell or transfer the Transfer Shares to any person and at any price.
- 14.12 The Directors shall be obliged to register any transfer or, as the case may be, transmission of any Shares effected pursuant to Regulation 12.1 or Regulations 14.9, 14.10 or 14.11 but the Directors may, without assigning any reason therefor, decline to register any other transfer or, as the case may be, transmission of Shares and Clause 24 in Table A shall, for these purposes, be modified accordingly.

#### ASSOCIATE DIRECTORS

- 15.1 The Directors shall have power to appoint any person as an Associate Director of the Company or to attach such title to any existing employment with the Company and may terminate such appointment or the use of the title.
- 15.2 The title 'Associate Director' does not imply that the employee is a Director of the Company and the employee is not as a result of the use of the word 'director' in his title empowered in any respect to act as a Director of the Company or be deemed to be a Director of the Company for any purposes under these Articles and in particular but without prejudice to the generality of the foregoing an Associate Director shall not exercise any power of the Company to borrow money or to mortgage or charge the undertaking, property or uncalled capital of the Company or any part thereof.
- 15.3 At the invitation of the Directors an Associate Director may attend meetings of the Board of Directors but he shall not be entitled to vote thereat.