

247457

THE COMPANIES ACT 1985

COMPANY LIMITED BY SHARES

NEW

ARTICLES OF ASSOCIATION

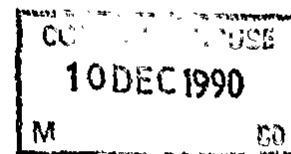
- OF -

CATHEDRAL TABLEWARE LIMITED

(Adopted by Special Resolution  
passed on 22nd November 1990)

PRELIMINARY

1. Subject as hereinafter provided, the regulations contained or incorporated 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, (hereinafter called "Table A") shall apply to the Company.
2. These Articles and the regulations incorporated herein shall take effect subject to the requirements of the Act and of every other Act for the time being in force affecting the Company (hereinafter referred to as the "Statutes").
3. (A) In these Articles, where the context so permits, words importing the singular number only shall include the plural number, and vice versa, words importing the masculine gender only shall include the feminine gender, words importing persons shall include corporations and the expression "paid up" shall include credited as paid up.  
  
(B) In these Articles:  
  
"Act" means the Companies Act 1985.  
  
"CDC" means Charterhouse Development Capital Limited (registered number 835289) whose registered office is at 7 Ludgate Broadway, London EC4V 6DX.



"Connected Person" bears the meaning ascribed thereto in Section 839 of the Income and Corporation Taxes Act 1988.

"Controlling Interest" means an Interest (other than an Interest held by Financial Institutions) carrying the right to 30 per cent. or more of the total number of votes which may be cast on a poll at a general meeting of the Company prior to Conversion.

"Conversion" means conversion of the Preferred Shares into Ordinary Shares and Deferred Shares in accordance with Article 6(C).

"Deferred Shares" means Deferred Shares of 25p each in the capital of the Company, conferring on the holders thereof the right, on a winding-up or other return of capital (except in connection with the redemption of any Preference Shares), to receive repayment in full of the capital paid up on the Deferred Shares, but no further or other right to participate in the assets or profits of the Company or to receive notice of or be present or vote at any General Meeting of the Company or by way of written resolution.

"the Directors" means the board of directors of the Company.

"Event" means Flotation or Sale, in each case occurring on or prior to 31st July, 1995.

"Financial Institution" means a bank or pension fund or insurance company (or subsidiary thereof) or any person who is an authorised person for the purposes of the Financial Services Act 1986 (or a subsidiary thereof).

"Financial Year" means financial year for the purposes of the Act.

"Flotation" means the admission of any of the Company's shares (other than Preference Shares) to the Official List of The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited or to any other recognised stock exchange or the granting of permission for any of such shares to be dealt in in the Unlisted Securities Market.

"General Offer" means a general offer made in accordance with Article 13 by a person who is proposing to acquire or increase a Controlling Interest.

"Index Fraction" means the fraction of which the basic index figure is the denominator and the current index figure is the

numerator, where the basic index figure means the figure for the General Index of Retail Prices (All Items) last published before the first day of the last previous Financial Year of the Company and the current index figure means the figure for the General Index of Retail Prices (All Items) last published before the first day of the Financial Year of the Company in question.

"Interest" means an interest in shares which would be taken into account in deciding whether a notification to the Company (which for the purpose of this definition is deemed to be a public company) would be required under Part VI of the Act (regardless of whether it is of a size which would require such notification), in response to a notice given pursuant to Section 212 of the Act.

"Investors" bears the meaning ascribed thereto in the Subscription Agreement.

"Loan Agreement" means a facilities agreement dated 1st August, 1990 between the Company and the Governor and Company of the Bank of Scotland.

"Manager" bears the meaning ascribed thereto in the Subscription Agreement.

"Market Capitalisation" means:

- (i) in the case of a Flotation, the market value of the Ordinary Shares in issue on Flotation (on the assumption that Conversion has occurred and there have been exercised in full all rights of any person (whether or not yet exercisable) to call for the allotment and issue of Ordinary Shares) determined by reference to the new issue price of any new Ordinary Shares to be issued on Flotation or, if no new issue, the price at which any such shares are to be placed for the purposes of Flotation; and
- (ii) in the case of a Sale, the aggregate cash consideration payable by the Offeror under the Investors' Offer or the General Offer (save for any consideration payable in respect of Preference Shares) plus, to the extent that consideration shall be so payable otherwise than in cash, the cash equivalent of that consideration plus, in each case, an amount equal to the value of the Ordinary Shares which will be in issue after Conversion and after the exercise of all rights (whether or not yet

exercisable) of any person to call for the allotment and issue of Ordinary Shares.

"Operating Budget" bears the meaning ascribed thereto in the Subscription Agreement.

"Relevant Market Capitalisation" means:

- (i) in the case of Flotation, Market Capitalisation less such proportion of Market Capitalisation as shall be equal to the proportion which the number of new Ordinary Shares to be issued on Flotation will, immediately following their issue, bear to the number of Ordinary Shares then in issue (on the assumption that there have been exercised in full all rights (whether or not yet exercisable) of any person to call for the allotment and issue of Ordinary Shares); and
- (ii) in the case of a Sale, Market Capitalisation.

"Sale" means the purchase by any person (an "Offeror")

- (i) pursuant to an offer to the holders of the Preference Shares and the Preferred Shares for all the Preference Shares and all the Ordinary Shares arising upon Conversion (on the assumption that Conversion occurs immediately prior to the purchase by the Offeror) (an "Investors' Offer"), or
- (ii) pursuant to a General Offer, of Ordinary Shares (including Ordinary Shares arising upon Conversion) which, when aggregated with Ordinary Shares already held by the Offeror (or with Ordinary Shares resulting from Conversion) amount in aggregate to at least 30 per cent. of the issued Ordinary Shares (on the assumption that Conversion has occurred on the day falling 28 days after the making of the relevant General Offer under the provisions of Article 6(C) and that there have been exercised in full all rights (whether or not yet exercisable) of any person to call for the allotment and issue of any Ordinary Shares).

"Subscription Agreement" means a subscription agreement dated 1st August, 1990 between the Company, G. Wareham Esq. and others, Charterhouse Development Limited and others, and CDC.

#### SHARE CAPITAL

- 4. The authorised share capital of the Company at the date of the adoption of these Articles of Association is £1,906,250 divided into:

- (i) 6,500,000 Cumulative Redeemable Preference Shares of 25p each (hereinafter referred to as the "Preference Shares");
- (ii) 900,000 Convertible Cumulative Participating Preferred Ordinary Shares of 25p each (hereinafter referred to as the "Preferred Shares"); and
- (iii) 225,000 Ordinary Shares of 25p each (hereinafter referred to as the "Ordinary Shares").

5. The rights of the Preference Shares are as follows:-

(A) AS TO INCOME

The Preference Shares shall confer on the holders thereof in priority to any rights of the holders of any other shares in the capital of the Company to any payment of dividend, the right to a fixed cumulative preferential dividend at the rate of:

- (i) five per cent. (net of the associated tax credit) per annum in respect of the twelve months commencing on the date twelve months after the date of issue of the Preference Shares;
- (ii) seven and one half per cent. (net of the associated tax credit) per annum in respect of the twelve months commencing on the date twenty-four months after the date of issue of the Preference Shares; and
- (iii) ten per cent. (net of the associated tax credit) per annum after the date thirty-six months after the date of issue of the Preference Shares,

in each case, on the capital for the time being paid up thereon including any premium, to be paid (to the extent that there are profits available for distribution) on 31st July in each year in respect of the twelve months ending on that date.

(B) AS TO CAPITAL

The Preference Shares shall confer on the holders thereof the right on a winding-up or other return of capital (but not on redemption) to repayment, in priority to any payment to the holders of any other shares in the capital of the Company, of:-

- (i) the amounts paid up on the Preference Shares held by them including any premium; and

- (ii) a sum equal to any arrears or accruals of the fixed dividend on the Preference Shares held by them, whether or not declared or earned, calculated down to the date of the return of capital.

(C) AS TO REDEMPTION

The Preference Shares shall be redeemed upon, and subject to, the following terms and conditions:-

- (i) subject always to the provisions of Chapter VII of Part V of the Act, the Company shall (with the prior written consent of the Bank (as defined in the Loan Agreement)), have the right, at any time prior to 31st July, 2002 to redeem at par plus the amount of any premiums paid up on such shares the whole or any part of the Preference Shares for the time being issued and outstanding; but shall on 31st July in each of 1998, 1999 and 2000 redeem at par plus the amount of any premiums paid up on such shares one quarter of all the Preference Shares; and shall on 31st July, 2001 redeem at par plus the amount of any premiums paid up on such shares all of the Preference Shares as are outstanding at that date; and if, in accordance with Chapter VII of Part V of the Act, the Preference Shares shall not at any such date be capable of being redeemed, such redemption shall be effected as soon as possible after the Preference Shares shall have become capable of being redeemed;
- (ii) not less than one month's notice of its intention to redeem shall be given to the holders of the Preference Shares to be redeemed. The notice shall be in writing and shall fix the time and place for such redemption. At the time and place so fixed and subject to such consent, if so required as aforesaid, having been given the registered holders of the Preference Shares to be redeemed shall be bound to deliver up to the Company the certificates therefor for cancellation, and thereupon the Company shall pay to them the redemption moneys payable in respect of such Preference Shares, together with any arrears or accruals of the said fixed cumulative preferential dividend thereon (whether earned or declared or not) to be calculated down to the date fixed for redemption; and
- (iii) the fixed cumulative preferential dividend on each of the Preference Shares becoming liable to redemption under the foregoing provisions shall cease to accrue as from the due date for redemption thereof, unless upon

the holder demanding, on or after the date and at the place fixed for redemption, payment of the redemption moneys payable in respect thereof and tendering the certificate for such shares and receipt for the redemption moneys, duly signed and authenticated in such manner as the Directors may reasonably require, payment of the redemption moneys shall have been refused.

(D) AS TO FURTHER PARTICIPATION

The Preference Shares shall not entitle the holders thereof to participate in the profits or assets of the Company beyond such rights as are expressly set forth in this Article.

(E) AS TO VOTING

- (1) In this Article the following expressions shall have the following meanings: "Relevant Rights" means the right to receive notice of, and to be present and to vote, either in person or by proxy, at any General Meeting of the Company or by way of written resolution; and the expression "Preference Shares" means such of the Preference Shares in the capital of the Company at the date of the adoption of these Articles as shall not have been redeemed in accordance with the terms applicable thereto.
- (2) The Preference Shares shall not confer on the holders thereof the Relevant Rights save in accordance with this Article.
- (3) Each Preference Share shall confer on its holder the Relevant Rights:-
  - (a) during such time as the fixed cumulative preferential dividend is unpaid and shall have remained unpaid for three months after any yearly date fixed for the payment thereof, or any of the Preference Shares shall not have been redeemed by the Company on any date fixed for redemption of the same; or
  - (b) where a resolution is to be proposed at a General Meeting for the winding-up of the Company or which directly affects the rights or privileges of the holders of the Preference Shares, in which event the Preference Shares shall confer on the holders thereof the Relevant Rights in respect of that General Meeting, but restricted to the extent that

such holders may not vote upon any business dealt with at such General Meeting except the election of a Chairman any motion for adjournment and the resolution for winding-up or which directly affects the rights and privileges of the holders of the Preference Shares,

and in the circumstances referred to in paragraphs (a) and (b) above, the holders of the Preference Shares shall possess such number of votes in aggregate as is equal to three times the total number of votes in aggregate possessed by the holders of the Preferred Shares and the Ordinary Shares.

(F) AS TO FURTHER PREFERENCE SHARES

The Company shall not whilst any of the Preference Shares are outstanding create any further preference shares ranking in priority to or pari passu with the Preference Shares without the sanction of the holders of the Preference Shares.

6. The rights of the Preferred Shares are as follows:-

(A) AS TO INCOME

(1) The Preferred Shares shall confer on the holders thereof in priority to any rights of the holders of any other shares in the capital of the Company other than the Preference Shares to any payment of dividend, the right to a fixed cumulative preferential dividend at the rate of:

- (i) five per cent. (net of the associated tax credit) per annum in respect of the twelve months commencing on the date twelve months after the date of issue of the Preferred Shares;
- (ii) seven and one half per cent. (net of the associated tax credit) per annum in respect of the twelve months commencing on the date twenty-four months after the date of issue of the Preferred Shares; and
- (iii) ten per cent. (net of the associated tax credit) per annum after the date thirty-six months after the date of issue of the Preferred Shares,

in each case, on the capital for the time being paid up thereon including any premium, to be paid (to the extent that there are profits available for distribution) on



31st July in each year in respect of the twelve months ending on that date.

- (2) The Preferred Shares shall further confer on the holders thereof, in priority to any rights of the holders of any other shares in the capital of the Company other than the Preference Shares to any payment of dividend, the right to a cumulative preferred dividend at the rate of twenty-five per cent. (gross of the associated tax credit) of the surplus profits in respect of each Financial Year of the Company, after 31st July, 1995; and for this purpose "surplus profits" shall mean any profits before tax in respect of such Financial Year after and subject to paying, first, the fixed dividend on the Preference Shares and, second, the fixed dividend on the Preferred Shares.
- (3) The Preferred Shares shall further confer on the holders thereof the right to participate pari passu with the Ordinary Shares in proportion to the capital for the time being paid up on all such shares including any premium in any balance of surplus profits which are available for distribution in any Financial Year of the Company; and for this purpose "balance of surplus profits" shall mean any profits available for distribution in respect of such Financial Year after and subject to paying, first, the fixed dividend on the Preference Shares, second, the fixed dividend on the Preferred Shares and, third, the preferred dividend on the Preferred Shares.

(B) AS TO CAPITAL

The Preferred Shares shall confer on the holders thereof the right on a winding-up or other return of capital (but not on redemption) to repayment, in priority to any payment to the holders of any other shares in the capital of the Company other than the Preference Shares, of:-

- (i) the amounts paid up on the Preferred Shares held by them including any premium; and
- (ii) a sum equal to any arrears or accruals of the fixed dividend on the Preferred Shares held by them, whether or not declared or earned, calculated down to the date of the return of capital.

(C) AS TO CONVERSION

The Preferred Shares shall be converted into Ordinary Shares and Deferred Shares upon, and subject to, the following terms and conditions:-

- (1) Conversion shall take place immediately prior to the occurrence of an Event.
- (2) The Directors shall at least 14 days prior to the Event:
  - (i) estimate the date of the Event ("Anticipated Conversion Date");
  - (ii) procure that the calculations hereinafter set out are made;
  - (iii) procure that the auditors of the Company certify that such calculations have, in their opinion, been performed in accordance with this Article 6(C); and
  - (iv) notify the holders of the Preferred Shares of the results of such calculations. The holders of the Preferred Shares (represented by CDC if the holders of at least 75% in aggregate of the Preferred Shares so agree and without creating any liability or responsibility to them on CDC), shall use all reasonable endeavours to reach agreement within seven days after the giving of such notification as to the accuracy of such calculations and in such period to record that agreement in a certificate signed by or on behalf of the holders of at least 75% in aggregate of the Preferred Shares (or CDC if representing them) and, if they fail to do so, to procure the determination thereof by the auditors of the Company who shall issue a certificate accordingly. Any such certificate shall be final and binding on all shareholders, each of whom shall be sent a copy as soon as practicable following its issue.
- (3) (i) Such number of the Preferred Shares shall be converted into Ordinary Shares as to ensure that following Conversion the number of Ordinary Shares held by those persons who immediately prior to Conversion were the holders of the Preferred Shares to the number of Ordinary Shares held by the other holders of the Ordinary Shares is in the same ratio as "L" to "M", calculated in accordance with the following formula.

- (ii) The formula for the purposes of this Article 6(C) is:

$$(A - B) \times 1.4 \frac{C}{365} = D$$

$$D - E = F$$

$$F \times \frac{20}{80} = G$$

$$F + G = H$$

$$(I - H) \times 0.80 = J$$

$$(I - H) \times 0.20 = K$$

$$F + (J \times 0.5) = L$$

$$G + (J \times 0.5) + K = M$$

where:

A = £7,400,000;

B = the aggregate of all sums (any such sum being B<sub>1</sub> below) expressed in pounds sterling actually paid to the holders of the Preference Shares and to the holders of the Preferred Shares by the Company by way of dividend and return of capital qua holders of such shares prior to the Anticipated Conversion Date after the following adjustments have been made to each such sum:

in the case of each such dividend, to the amount of the dividend is added the associated tax credit (the resulting amount being referred to below as the "gross dividend"), and

in the case of each such receipt (including each gross dividend), the following formula is applied:

$$N : (1.4) \frac{P}{365} = B_1,$$

where:

- N - the amount of the relevant receipt, and
- P - the number of days which have elapsed from the date of the adoption of these Articles until the date of the payment of the relevant receipt;
- C - the number of days which have elapsed from the date of adoption of these Articles to the Anticipated Conversion Date;
- E - the aggregate redemption price of the Preference Shares which will be repaid to the holders thereof by the Company on a Flotation or which will be paid to the holders as a term of a Sale, plus the aggregate of all arrears and accruals of the dividends on the Preference Shares and the Preferred Shares as at the Anticipated Conversion Date which will be paid to the holders of the Preference Shares and to the holders of the Preferred Shares on a Flotation or as a term of sale; and
- I - the Relevant Market Capitalisation multiplied by  $(1 - Q)$  expressed as a number of pounds sterling, where Q is the number of Ordinary Shares issued pursuant to any employee share scheme adopted by the Company expressed as a fraction of the total number of Ordinary Shares and Preferred Shares in issue immediately prior to Conversion on the assumption that all such options have been exercised,

Provided that if, on the basis of the foregoing, "H" is greater than "I", the calculations of "J", "K", "L" and "M" in the formula shall not be made and instead "L" shall be 80 and "M" shall be 20 and Provided further that where any of the foregoing would give rise to Conversion into a number of Ordinary Shares other than a whole number such number shall be rounded up or down to the nearest whole number.

- (iii) The balance of any Preferred shares outstanding following the application of the formula set out above shall be converted into Deferred Shares on the basis of one Deferred Share for each Preferred Share so converted.
- (4) Immediately prior to the occurrence of the Event (provided it occurs not more than 30 days after the Anticipated Conversion Date, and, if it is later, the procedures set out in this Article 6(C) shall be repeated so that the calculations reflect the delay) the Preferred Shares shall automatically be converted into the appropriate numbers of Ordinary Shares and Deferred Shares determined by the calculations set out in Article 6(C)(3) above. Forthwith upon Conversion and immediately prior to the occurrence of the Event, the names of the former holders of the Preferred Shares shall be entered in the Register of Members of the Company as the holders of such appropriate numbers of Ordinary Shares and Deferred Shares.
- (5)
  - (i) Forthwith upon Conversion, the Company shall give written notice to the former holders of the Preferred Shares of the numbers of Ordinary Shares and Deferred Shares of which they are individually the holders.
  - (ii) Forthwith upon receipt of such notices, the holders shall deliver to the Company at its registered office for the time being the share certificates in respect of the Preferred Shares of which they were, prior to Conversion, the holders, and the Company shall, on receipt of such certificates, deliver to the relevant holders new certificates in respect of the Ordinary Shares and Deferred Shares arising from Conversion to which they are entitled.
- (6) The Directors shall deal in such manner as they think fit with fractional entitlements to Ordinary Shares and Deferred Shares arising on Conversion of the Preferred Shares.
- (7) Upon Conversion the rights attaching to the Preferred Shares under these Articles shall lapse.

(D) AS TO FURTHER PARTICIPATION

The Preferred Shares shall not entitle the holders thereof to participate in the profits or assets of the Company beyond such rights as are expressly set forth in this Article.

(E) AS TO VOTING

The Preferred Shares shall confer on the holders thereof the right to receive notice of, and to be present and to vote, either in person or by proxy, at any General Meeting of the Company or by way of written resolution, pari passu with such rights conferred on the holders of the Ordinary Shares.

(F) AS TO FURTHER PREFERRED SHARES

The Company shall not whilst any of the Preferred Shares are outstanding create any further preferred shares ranking in priority to or pari passu with the Preferred Shares without the sanction of the holders of the Preferred Shares.

## 7. (A) Unless otherwise determined by Special Resolution of the Company:-

- (i) any equity securities (as defined in Section 94 of the Act) hereafter to be issued shall before issue be offered for subscription in the first instance to such persons as at the date of the offer are registered as the respective holders of the Ordinary Shares and the Preferred Shares in the capital of the Company and shall be allotted (in the case of competition) to the applicants in proportion (as nearly as may be and without allotting to any applicant a greater number of shares than applied for) to the numbers of Ordinary Shares and Preferred Shares then held by them respectively;
- (ii) any such offer as aforesaid shall be made by notice in writing specifying the number or amount of equity securities being offered, the price at which the same are offered ("the offer price") and any other terms of the offer and shall remain open for such period (being not less than 21 days) as shall be specified in such notice. Any such offer not accepted within the period specified will be deemed to be declined; and
- (iii) subject as aforesaid, the Directors may at any time up to three months after the expiration of such offer dispose of any equity securities not taken up pursuant thereto at such price (not being less than the offer price), on such terms (not being less favourable to the

Company than the terms of the relevant offer specified in paragraph (ii) above) and in such manner and to such persons as the Directors may think.

- (B) The Directors are generally and unconditionally authorised for the purposes of Section 80 of the Act, at any time or times during the period of five years from the date of the adoption of these Articles, to allot, or to grant any right to subscribe for or to convert any security into, all or any of the unissued shares in the authorised share capital of the Company at such date.
- (C) At the expiry of such period of five years, the authority contained in paragraph (B) shall expire but such authority shall allow the Company to make an offer or agreement before the expiry of such authority which would or might require shares to be allotted, or rights to subscribe for or to convert any security into shares to be granted, after the expiry of such authority and shall allow the Directors to allot shares and grant rights pursuant to any such offer or agreement as if such authority had not expired.
- (D) Section 89(1) of the Act (which regulates the power to allot equity securities, as defined in Section 94 of the Act) is excluded.
- (E) The Company may, from time to time:-
  - (i) purchase its own shares (including any redeemable shares) or make a payment in respect of the redemption or purchase of its own shares otherwise than out of distributable profits or the proceeds of a fresh issue of shares; and
  - (ii) by Special Resolution reduce its share capital and any capital redemption reserve or share premium account,

and the same shall be done in any manner provided and subject to any conditions imposed by the Statutes, so far as they shall be applicable, and, so far as they shall not be applicable, in accordance with the terms of the Resolution authorising the same, and, so far as such Resolution shall not be applicable, in such manner as the Directors deem most expedient.

#### LIEN AND CALLS ON SHARES

- 8. In Regulation 8 of Table A the words and brackets "(not being a fully paid share)" shall be deemed to be deleted.

TRANSFER OF SHARES

9. (A) (i) Subject to the provisions of Article 12 any member and any person entitled to shares by transmission shall be entitled at any time to transfer any of his shares to his spouse, children or remoter issue or to trustees to be held upon Family Trusts provided that:-
- (a) where shares have been transferred to trustees as aforesaid they may on any change of trustees be transferred to the new trustees of the Family Trusts concerned;
  - (b) this paragraph (A) of this Article shall be deemed to permit transfers by such trustees of the shares held by them to any member or to the spouse, children or remoter issue of the member or former member who held such shares and such trustees shall not be permitted by virtue of this paragraph (A) to transfer any of such shares to any of their spouses, children or remoter issue who are not members;
  - (c) if and whenever any of such shares come to be held otherwise than upon Family Trusts (otherwise than in connection with a transfer by the trustees authorised under this Article) it shall be the duty of the trustees to notify the Company that such event has occurred and to give a Transfer Notice in respect of such shares and, in the event of the failure of the trustees to give such Transfer Notice, they shall be deemed to have served the Company with a Transfer Notice in respect of such shares and the Specified Price shall be ascertained pursuant to Article 10(B)(ii) and the provisions of paragraphs (B) to (H) of this Article shall thereupon apply to the shares and such Transfer Notice shall be deemed to have been received by the Company on the date on which the Directors shall receive actual notice of such shares being held otherwise than upon Family Trusts and the Directors shall be obliged to give notice pursuant to paragraph (D) of this Article forthwith after the Specified Price shall have been ascertained;
  - (d) the expression "Family Trusts" means trusts (whether arising under a settlement or testamentary disposition or on an intestacy) under



which no immediate beneficial interest in the shares in question is for the time being vested in any person other than a member or the spouse, children or remoter issue of a member or former member; and

- (ii) Shares may also be transferred by a corporate member to its holding company or to any company which is a wholly-owned subsidiary of its holding company or to any wholly-owned subsidiary of such member provided that, subject to paragraph (v) below, in the event of any such transferee ceasing to be a wholly-owned subsidiary of the original member or of the holding company of such original member it shall be deemed to have received a Transfer Notice in respect of such shares and the Specified Price shall be ascertained pursuant to Article 10(B)(ii) and the provisions of paragraphs (B) to (H) of this Article shall apply to the shares and such Transfer Notice shall be deemed to have been received by the Company on the date on which the Directors shall receive actual notice of such change in the relationship between the said companies and the Directors shall be obliged to give notice pursuant to paragraph (D) of this Article forthwith after the Specified Price shall have been ascertained.
- (iii) Shares may be transferred without restriction by a member to a person to hold such shares as his nominee but any transfers by such nominee shall be subject to the same restrictions as though they were transfers by the member himself.
- (iv) Shares may be transferred without restriction by a nominee or trustee to the beneficial owner thereof or to another nominee or trustee of the same beneficial owner.
- (v) Shares may be transferred at the Specified Price without restriction by any Leaver (as defined in Article 12) to any nominee or trustee that is to hold, and whilst in such capacity holds, shares for the benefit of continuing or prospective employees of the Company or any of its subsidiaries and such nominee or trustee may transfer such shares to any such employees at the direction of the Directors.
- (vi) Preference Shares and Preferred Shares may be transferred without restriction to any Financial Institution with the prior consent of the A Director or, failing him, CDC or the holders for the time being of a majority of the Preference Shares and a majority of the Preferred Shares.

(vii) Shares may be transferred without restriction pursuant to any Investors' Offer or any General Offer.

- (B) Save as aforesaid, no member or person entitled by transmission shall be entitled to dispose of any interest in his shares in the Company without first offering the same for transfer to the holders for the time being of the other shares in the Company whether or not of the same class. Such offer may be in respect of all or part only of the shares held by the proposing transferor and shall be made by the proposing transferor by notice in writing to the Company (hereinafter called "a Transfer Notice").
- (C) The Transfer Notice shall specify the shares offered (hereinafter called "the said shares") and the price at which they are offered (hereinafter called "the Specified Price") which, in the case of any Preference Shares, shall be the amount paid up thereon including any premium and a sum equal to any arrears or accruals of the fixed dividend on the Preference Shares, whether or not declared or earned, calculated down to the date of sale, and the Transfer Notice shall constitute the Directors as the agent of the proposing transferor for the sale of the said shares to other holders of shares in the Company at a price not less than the Specified Price.
- (D) Upon receipt by the Company of the Transfer Notice the Directors shall forthwith give notice to all the holders of shares in the Company (other than the proposing transferor) of the number and description of the said shares and the Specified Price inviting each of such holders to state by notice in writing to the Company within sixty days whether he is willing to purchase any and, if so, what maximum number of the said shares, and shall also forthwith give a copy of such notice to the proposing transferor.
- (E) At the expiration of the said period of sixty days the Directors shall allocate the said shares:
- (i) first, to or amongst such of the holders of shares of the same class as the said shares as shall have expressed their willingness to purchase; and
  - (ii) second, to or amongst such of the holders of other classes of shares,

and in each case such allocation shall be made so far as practicable pro rata according to the nominal amount of the share capital held by each such holder but, in the case of each holder, shall not exceed the number of the said shares which such holder shall have expressed his willingness to purchase.

- (F) Upon such allocation being made, the holders to or amongst whom such allocation shall have been made shall be bound to pay the purchase price for, and to accept a transfer of, the shares so allocated to them respectively and the proposing transferor shall be bound upon payment of the purchase price to transfer such shares to the respective purchasers.
- (G) If in any case the proposing transferor, after having become bound to transfer shares as aforesaid, makes default in so doing the Company may receive the purchase price and the Directors may appoint some person to execute instruments of transfer of such shares in favour of the purchasers and shall thereupon cause the names of the purchasers to be entered in the Register of Members of the Company as the holders of the shares and shall hold the purchase price in trust for the proposing transferor. The receipt of the Company therefor shall be a good discharge to the purchasers and after their names shall have been entered in the Register of Members of the Company in exercise of the aforesaid power the validity of the transactions shall not be questioned by any person.
- (H) If, at the expiration of the period of sixty days referred to in paragraph (D) of this Article, any of the said shares shall not have been sold in accordance with the provisions of this Article, the proposing transferor may (subject to the provisions of Article 11) at any time within a period of ninety days after the expiration of the said period of sixty days referred to in paragraph (D) of this Article transfer the shares not so sold to any person and at any price not being less than the Specified Price Provided that:-
- (i) if the Transfer Notice shall state that the intending transferor is not willing to transfer part only of the shares concerned he shall not be entitled hereunder to transfer any of such shares unless in aggregate the whole of such shares are so transferred;
  - (ii) the Directors may require to be satisfied that such shares are being transferred in pursuance of a bona fide sale for the consideration stated in the transfer without any deduction, rebate or allowance whatsoever to the purchaser and if not so satisfied may refuse to register the instrument of transfer.
- (I) If a member or other person entitled to transfer a share at any time attempts to deal with or dispose of the share or any interest therein otherwise than in accordance with the foregoing provisions of this Article, he shall be deemed immediately prior to such attempt to have served the Company with a Transfer Notice in respect of such share and the Specified Price shall be ascertained pursuant to Article 10(B)(ii) hereof and the provisions of this Article shall thereupon apply to the share and such Transfer Notice shall be

deemed to have been received by the Company on the date on which the Directors shall receive actual notice of such attempt and the Directors shall be obliged to give notice pursuant to paragraph (D) of this Article forthwith after the Specified Price shall have been ascertained.

- (J) The restrictions on transfer contained in this Article shall apply to all transfers or transmissions operating by law or otherwise.
  - (K) The provisions of this Article may be waived in any particular case if all the members give their consent in writing.
10. (A) Where a shareholder, being an individual (hereinafter called "the deceased shareholder"), dies and his shares in the Company are not transferred (whether to his personal representatives or otherwise pursuant to Regulation 30 of Table A) in accordance with the provisions of Article 9 hereof before the expiry of the Relevant Period (as hereinafter defined), the Directors on the application of any other shareholder shall, by notice in writing served on the deceased shareholder at his registered address, require that the shares in the Company held by the deceased shareholder be offered to the other shareholders at a price to be ascertained in accordance with the provisions of this Article. The personal representatives of the deceased shareholder may also at any time offer such shares to the other shareholders at such price.
- (B) The price for the transfer of such shares shall be either:-
- (i) such price as shall be agreed for such purpose between the personal representatives of the deceased shareholder and the Directors or
  - (ii) in default of such agreement within a period of thirty days from the date of service of notice by the Directors under paragraph (A) hereof (or such longer period as the said personal representatives, if any, and the Directors shall agree or, if there are no personal representatives, as the Directors shall determine), such price as the auditors of the Company for the time being shall certify in writing to be in their opinion the fair value thereof on a sale as between a willing vendor and a willing purchaser (ignoring the fact, if such be the case, that the relevant shares do or do not carry control of the Company) and, if the Company is then carrying on business as a going concern, on the

assumption that it will continue to do so; and in so certifying the said Auditors (whose charges shall be borne by the Company) shall be considered to be acting as experts and not as arbitrators and accordingly the Arbitration Acts 1950 to 1979 and any statutory modification or re-enactment thereof for the time being in force shall not apply.

- (C) Upon the price for the said shares being ascertained as aforesaid, the deceased shareholder shall be deemed to have served a Transfer Notice for the purpose of Article 9 hereof, the price so ascertained shall be deemed to be "the Specified Price" for the purposes of such Article and the provisions of paragraphs (D) to (G) of such Article shall apply accordingly.
  - (D) None of the shares of a deceased shareholder shall be transferred (whether to his personal representatives or otherwise pursuant to Regulation 30 of Table A) after the expiry of the Relevant Period unless the said shares shall have been offered to other shareholders (whether following a notice by a Directors or at the instigation of the personal representatives of the deceased shareholder) in accordance with the provisions of paragraph (C) of this Article.
  - (E) For the Purposes of this Article "the Relevant Period" shall mean the period of twelve months from the death of the deceased shareholder except that if probate shall not have been granted in respect of the deceased shareholder's estate before the expiry of six months after his death, the Relevant Period shall mean the period from his death until the expiry of six months from the date of such grant of probate or, if shorter, the period from his death until the expiry of fifteen months from the date thereof.
11. (A) The Directors shall refuse to register a proposed transfer not made pursuant to or permitted by Article 9.
- (B) Except in the case of a transfer of any share made in accordance with the provisions of Article 9 above, the Directors may, in their absolute and uncontrolled discretion and without assigning any reason therefor, refuse to register any proposed transfer of a share whether or not it is a fully paid share.
  - (C) A person executing an instrument of transfer of a share shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof.
  - (D) Regulation 24 of Table A shall not apply.

12. Subject to the provisions of Article 10, if any person (a "Leaver" ) who at the date of adoption of these Articles or at any time thereafter is a director or employee of the Company or any of its subsidiaries shall cease for any reason whatsoever to be such a director or employee of any of them and such person (which for the avoidance of doubt shall include the personal representatives of a Leaver who has died and as such have acquired an Interest in the shares of the Company or any of its subsidiaries) has an Interest in any shares or is a member of the Company, then the Leaver shall (if he has not already done so) thereupon be deemed either to have authorised the Directors to transfer his shares pursuant to Article 9(A)(v) or to have served a Transfer Notice, one of these alternatives to be adopted by the Directors within seven days of the relevant cessation of employment, as provided in Article 9(B) in respect of the whole of those shares and to have fixed the Specified Price for such shares at such price as the auditors for the time being of the Company certify to be in their opinion the fair value thereof applying for the purposes of this Article the provisions as to certification in Article 10(B)(ii). An authorisation of the Directors or a Transfer Notice deemed to be served pursuant to this Article shall not be revocable in any circumstances whatsoever.

#### CHANGE IN CONTROL

13. (A) Notwithstanding anything in these Articles, no sale or transfer of, or of any interest in, any shares (the "Specified Shares") conferring a right to vote at general meetings of the Company to any person whomsoever, which would result, if made and registered, in a person whether or not then a member of the Company obtaining or increasing a Controlling Interest in the Company, shall be made or registered without the previous written consent of the holders of not less than three quarters by nominal amount of the Preference Shares and not less than three quarters by nominal amount of the Preferred Shares (or if such consent cannot be obtained within 7 days of the receipt by the Company of the terms upon which such person proposes to offer to all shareholders as herein referred to, with the prior approval of the Directors which must include the A Director approving) (excluding the holders of the Specified Shares) who shall only give such consent or approval if an offer is made in writing, on terms approved by them alike ("General Offer") to all shareholders (unless in the case of any particular shareholder he agrees in writing to less favourable terms) and in such a way that the Controlling Interest is only obtained or increased if such General Offer becomes wholly unconditional.
- (B) A General Offer must be made in writing (stipulated to be open for acceptance for at least twenty-eight days) to all holders of shares and shall include an undertaking by the person making the General Offer that neither he nor his Connected Persons have entered into more favourable terms or have agreed more favourable terms with any other shareholder for the purchase of shares.

- (C) A General Offer shall be accepted or rejected in writing within the time period stipulated and shall be deemed to have been rejected by a holder of shares if he does not respond within such time period.

#### CLASS CONSENTS AND VARIATION OF RIGHTS

14. No resolution shall be passed (or deemed passed) to:-

- (a) alter these Articles;
- (b) change the accounting reference date of the Company;
- (c) wind up or dissolve the Company;
- (d) apply to the court for an administration order under the Insolvency Act 1986;
- (e) approve any proposed voluntary arrangement (as such term is defined in the Insolvency Act 1986); or
- (f) distribute or return any of the Company's capital,

without the sanction of the holders of a majority of the Preference Shares and a majority of the Preferred Shares.

15. No resolution shall be passed (or deemed passed) to:

- (a) alter Articles 5, 6, 7 or 9 to 12 inclusive of these Articles;
- (b) alter Article 22 of these Articles in such a way as to deprive the holders of the Ordinary Shares of their right to appoint eight B Directors; or
- (c) alter this Article 15,

without the sanction of the holders of a majority of the Ordinary Shares.

#### GENERAL MEETINGS

16. On the requisition of members pursuant to the provisions of the Act, the Directors shall forthwith proceed to convene an extraordinary general meeting for a date not later than twenty-two clear days after receipt of the requisition (if the meeting is requisitioned for the passing of a special resolution) or fifteen days after receipt of the requisition (if otherwise). Regulation 37 of Table A shall be deemed to be modified accordingly.
17. A poll may be demanded at any general meeting by the Chairman or by any member present in person or by proxy and entitled to vote. Regulation 46 of Table A shall be deemed to be modified accordingly.
18. The Chairman at any general meeting shall not be entitled to a second or casting vote. Regulation 50 of Table A shall not apply.

19. A resolution in writing signed by all the members of the Company entitled to receive notice of and attend and vote at a meeting of the Company or of any class of members of the Company (which resolution may consist of several documents in the like form each signed by one or more of the said members) or a resolution to which every such member has signified his approval by either telex, facsimile transmission or cable shall be as valid and effectual as if it had been passed at a meeting of the Company or of such class of members of the Company (as the case may be) duly called and constituted. In the case of a corporation the resolution may be signed or approved on its behalf by a Director or the Secretary thereof or by its duly appointed attorney or duly authorised representative. Regulation 53 of Table A shall not apply.

#### VOTES OF MEMBERS

20. (A) No Ordinary Share shall confer any right to vote upon a Resolution for the removal from office of any Director of the Company other than a B Director.
- (B) Subject to paragraph (A) above, any proxy appointed by a member of the Company in accordance with Section 372 of the Act shall be entitled to vote on a show of hands as well as on a poll, provided that no person present shall be entitled to more than one vote on a show of hands save as provided in Regulation 50 of Table A. Regulation 54 of Table A shall be deemed to be modified accordingly.

#### DIRECTORS

21. The Directors shall, unless otherwise determined by a Special Resolution of the Company, be not less than two in number, of whom one or two shall be A Directors and the others shall be B Directors. Regulation 64 of Table A shall not apply.
22. (A) (i) For so long as CDC and/or its holding company and/or any company which is a wholly-owned subsidiary of its holding company and/or any of its wholly-owned subsidiaries is a member or are members of the Company holding not less than five per cent. by nominal amount of the equity share capital, CDC may at any time appoint any two persons as Directors (each an "A Director"), one of whom shall (at the election of CDC) be appointed as a non-executive Chairman of the Company, and if no such person is such a member of the Company the holders of a majority of the Preference Shares and a majority of the Preferred Shares may at any time appoint two A Directors; and
- (ii) the holders of a majority of the Ordinary Shares who are employed by the Company or any of its subsidiaries may



at any time appoint any eight persons as Directors (each a "B Director").

Such persons as aforesaid may also respectively at any time remove from office any A or B Director appointed by them

- (B) Every appointment or removal under paragraph (A) of this Article shall be made in writing under the hands of the persons in whom the power is vested (a corporation holding any such shares acting by resolution of its Directors evidenced by the signature of one of its Directors or its Secretary) and shall take effect on and from the date on which the same is lodged at the registered office of the Company.
  - (C) A person entitled to Preference Shares, Preferred Shares or Ordinary Shares by transmission may appoint or remove or concur in the appointment or removal of Directors under this Article until such time as some other person or persons shall become the registered holder or holders thereof.
- 23. A Director need not be a shareholder but shall be entitled to receive notice of and attend all General Meetings.
  - 24. (A) The quorum for a meeting of the Directors shall be an A Director and a B Director present throughout the meeting, Provided that if a meeting of the Directors shall be adjourned for lack of a quorum and re-convened on not less than seven days' notice the quorum for such a meeting shall be any two Directors. Regulation 89 of Table A shall be deemed to be modified accordingly.
  - (B) In the case of an equality of votes at any meeting of the Directors, the Chairman of the meeting will have no second or casting vote. Regulation 88 of Table A shall be deemed to be modified accordingly.
  - 25. The Directors shall not be subject to retirement by rotation and Regulations 73 to 80 (inclusive) and the last sentence of Regulation 84 of Table A shall not apply.
  - 26. No Director shall vacate his office or be ineligible for re-appointment as a Director, nor shall any person be ineligible for appointment as a Director by reason only of his having attained any particular age nor shall special notice be required of any resolution appointing or approving the appointment of such a Director or any notice be required to state the age of the person to whom such resolution relates.

### ALTERNATE DIRECTORS

27. Any such person appointed as an alternate Director shall vacate his office as an alternate Director:-
- (i) if and when the Director by whom he has been appointed vacates office as a Director;
  - (ii) if the Director by whom he has been appointed removes him by written notice to the Company; or
  - (iii) in the event of any circumstances which, if he were a Director, would cause him to vacate his office as such.

Regulation 67 of Table A shall not apply.

### BORROWING POWERS

28. Subject as hereinafter provided the Directors may exercise all the powers of the Company to borrow money, and to mortgage or charge the whole or any part of its undertaking, property and assets (both present and future) and uncalled capital and to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

### POWERS OF DIRECTORS

29. (A) The powers of the Directors mentioned in Regulation 87 of Table A shall be exercisable as if the word "executive" (which appears before the word "office") were deleted.
- (B) Without prejudice to any other of their powers, the Directors may exercise any of the powers conferred by Section 719 of the Act to make, for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries, provision in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the Company or that subsidiary, notwithstanding that the exercise of any of such powers may not be in the best interests of the Company.

### PROCEEDINGS OF DIRECTORS

30. A Director who is in any way directly or indirectly interested in any contract, transaction or arrangement or proposed contract, transaction or arrangement with the Company shall declare the nature of his interest at a meeting of the Directors in accordance with Section 317 of the Act. Subject to such disclosure, a Director may vote as a Director on any resolution concerning any matter in which he has, directly or indirectly, an interest or duty and, if he shall so vote, his vote shall be counted and he shall be reckoned in

estimating a quorum when any such resolution or matter is under consideration; and Regulations 94 to 96 of Table A shall not apply.

31. Notices of meetings of the Directors shall be given to all Directors and to any alternate Directors appointed by them. Regulations 66 and 88 of Table A shall be deemed to be amended accordingly.
32. Regulation 93 of Table A (written resolutions of Directors) shall apply as if the word "signed" included "approved by letter, telex, facsimile transmission or cable".
33. So long as any of the Investors and/or CDC and/or their respective holding companies and/or any company which is a wholly-owned subsidiary of their respective holding companies and/or any of their respective wholly-owned subsidiaries is a member or are members of the Company holding not less than five per cent. by nominal amount of the equity share capital, the matters set out below all require to be authorised by the holders of a majority of the Preference Shares and a majority of the Preferred Shares, and in the absence of such authority, the Company shall have no power to effect the same:
  - (1) any amendment to the Memoranda of Association of the Company and its subsidiaries or alteration of these Articles or the Articles of Association of the Company's subsidiaries;
  - (2) any alteration of the accounting reference dates of the Company or its subsidiaries;
  - (3) any variation in the authorised or issued share capital or the creation of any options or other rights to subscribe for shares in the Company or its subsidiaries or to convert into such shares or the purchase or redemption of any shares in the capital of the Company or its subsidiaries (other than as contemplated by Articles 5 and 6);
  - (4) the declaration or distribution of any dividend or other payment out of the distributable profits of the Company or its subsidiaries (other than the fixed dividends on the Preference Shares and the Preferred Shares and the preferred participating dividend on the Preferred Shares);
  - (5) the sale, transfer, leasing, licensing or disposal by the Company or its subsidiaries otherwise than in the ordinary course of business of all or a substantial part of its business, undertaking or assets whether by a

single transaction or series of transactions, related or not;

- (6) any substantial alteration (including cessation) to the general nature of the business of the Company or its subsidiaries;
- (7) the variation and the termination of any contract (including terms as to remuneration, other than non-discretionary increases of remuneration provided by the terms of any such contract) with any Manager; and
- (8) the entry by the Company or any of its subsidiaries into any contract which is outside the ordinary and proper course of business of the Company or the relevant subsidiary.-

#### EXECUTIVE DIRECTORS

34. (A) The Directors may from time to time appoint one or more of their body to hold any executive office in the Company, including, inter alia, the offices of Chairman (subject to the provisions of Article 22), Vice Chairman and Managing Director, for such period and on such terms as they think fit, and (without prejudice to any claim for damages for breach of any agreement between any such person and the Company) may revoke such appointment.
- (B) Any Director holding executive office in the Company shall receive such remuneration whether by way of salary, commission or participation in profits (or partly in one way and partly in another) as the Directors may determine.
- (C) The Directors may entrust to and confer upon any Director holding executive office in the Company any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers.
- (D) Regulation 84 of Table A shall not apply.

#### ASSOCIATE, SPECIAL AND LOCAL DIRECTORS

35. The Directors may from time to time appoint one or more persons to the office of Associate, Special or Local Director as they may decide. The tenure of office, scope of duties and remuneration of an Associate, Special or Local Director shall be determined from

time to time by the Directors. The Directors may also from time to time (without prejudice to any claim for damages for breach of any agreement between any Associate, Special or Local Director and the Company) remove from office and, if thought fit, appoint another in his place. An Associate, Special or Local Director shall not be deemed to be a Director of the Company and no Associate, Special or Local Director shall be entitled to be present at any meeting of the Directors unless the Directors shall require his presence and he shall not accordingly be counted in the quorum therefor or be entitled to vote thereat.

#### SEAL

36. The Directors shall provide for the safe custody of the Seal and of any official Seal for use abroad pursuant to the Statutes, and such Seals shall only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors in that behalf, and every instrument to which the Seal shall be affixed shall be signed by a Director and shall be countersigned by the Secretary or by a second Director or by some other person appointed by the Directors for the purpose. Regulation 101 of Table A shall not apply.

#### NOTICES

37. Regulation 112 of Table A shall apply as if the last sentence thereof were deleted (and Regulation 116 shall apply as if the words "within the United Kingdom" did not appear therein).
38. Proof that:
- (a) an envelope containing a notice was properly addressed, prepaid and posted (by first class post, where available); or
  - (b) a telex or facsimile transmission setting out the terms of the notice was properly despatched

shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 24 hours after the envelope containing it was so posted or, in the case of telex or facsimile transmission, when so despatched. Regulation 115 of Table A shall not apply.

#### INDEMNITY

39. Subject to the provisions of the Statutes, every Director or other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all costs, losses and liabilities which he may sustain or incur in or about the execution of the

duties of his office or otherwise in relation thereto, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. Regulation 118 of Table A shall not apply.

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NAMES, ADDRESSES AND DESCRIPTIONS OF SUBSCRIBERS

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