

THE COMPANIES ACT 1985

COMPANY LIMITED BY SHARES

ARTFRESH LIMITED

At an Extraordinary General Meeting of the Company held at ~~London~~ on ~~14th~~ JUNE 1990 at ~~11.30~~ a.m./p.m. the following Resolution was passed as a Special Resolution.

SPECIAL RESOLUTION

THAT:

- (a) the authorised share capital of the Company be increased from £1000 to £8,496,667 by the creation of 59,000 "A" Ordinary Shares each ranking pari passu in all respects with the existing "A" Ordinary Shares of £1 each of the Company and 20,000 "B" Ordinary Shares, 8,230,000 Preference Shares and 160,000 "A" Preferred Ordinary Shares and 26,667 "B" Preferred Ordinary Shares each having the rights and being subject to the restrictions as described in the Articles of Association;
- (b) each of the existing Ordinary Shares of £1 each in the capital of the Company be redesignated as "A" Ordinary Shares having the rights and being subject to the restrictions as described in the Articles of Association adopted pursuant to (c) below;
- (c) the Regulations contained in the printed document produced to the Meeting and for the purpose of identification initialled by a Director of the Company, be approved and adopted as the Articles of Association of the Company, in substitution for, and to the exclusion of, all previous Articles of Association; and
- (d) the terms of the Agreement proposed to be entered into between (1) the Company and (2) Messrs Dunn and Miller for the acquisition of the entire issued share capital of Superbreak Mini-Holidays Limited, a copy of which initialled by the Chairman for the purposes of identification being produced to the meeting, be approved.

  
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CHAIRMAN



THE COMPANIES ACTS 1985 AND 1989

COMPANY LIMITED BY SHARES

NEW  
ARTICLES OF ASSOCIATION

- of -

ARTFRESH LIMITED

(Adopted by Special Resolution passed  
on 14th June 1990)

PRELIMINARY

1. (A) The headings shall not affect the construction hereof and, in the interpretation of these Articles, unless the context otherwise requires the following words and expressions shall bear the following meanings:-

"Accounts" shall have the meaning given in Article 4(A) hereof;

"Agreement" means a subscription and shareholders agreement of even date with the adoption of these Articles between the Company (1) the Managers (as therein defined) (2) the Vendors (as therein defined) (3), Spread Trustee Company Limited (4), and BID (as therein defined) (5);

"Loan Agreement" means the facilities agreement of even date with the adoption of these Articles and made between (1) the Company and (2) the Bank (as defined therein) (together with its transferees successors and assigns) as the same may be supplemented varied or amended hereafter;

"the Acts" means the Companies Act 1985 (including amendments made thereto by the Companies Act 1989) the Companies Act 1989, and in either case any statutory modification or re-enactment thereof for the time being in force;

"Table A" means 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);

"Financial Year" means a financial year or other period in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Acts;

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"BID" means Barclays Industrial Development Limited of Ebbgate House, 2 Swan Lane, London EC4R 3TS;

"Listing" means the date of admission of any part of the equity share capital of the Company to the Official List of The Stock Exchange or the grant of permission to deal in the same in the Unlisted Securities Market;

"'A' Ordinary Shares" means the 'A' Ordinary Shares of £1 each in the capital of the Company;

"'B' Ordinary Shares" means the 'B' Ordinary Shares of £1 each in the capital of the Company;

"Ordinary Shares" means the 'A' Ordinary Shares and 'B' Ordinary Shares;

"Ordinary Shareholders" means the holders for the time being of the Ordinary Shares;

"Preference Shares" means the Cumulative Redeemable Preference Shares of £1 each in the capital of the Company;

"Preference Shareholders" means the holders for the time being of the Preference Shares.

"'A' Preferred Shares" means the 'A' Convertible Cumulative Participating Preferred Ordinary Shares of £1 each in the capital of the Company.

"'B' Preferred Shares" means the 'B' Convertible Cumulative Participating Preferred Ordinary Shares of £1 each in the capital of the Company

"Preferred Ordinary Shares" means the 'A' Convertible Cumulative Participating Preferred Ordinary Shares and the 'B' Convertible Cumulative Participating Preferred Ordinary Shares.

"Preferred Ordinary Shareholders" means the holders for the time being of the Preferred Ordinary Shares;

"Deferred Shares" means the Deferred Shares of £1 each in the capital of the Company;

"Sale" means the completion of an agreement for the purchase of the entire issued equity share capital of the Company or any part thereof in circumstances which gave rise to the obligation to make an Appropriate Offer (as defined in Article 12(J));

"The Stock Exchange" means The International Stock Exchange of the United Kingdom and Republic of Ireland Limited.

(B) Words and expressions defined in or having a meaning provided by the Acts shall unless the context otherwise requires, have the same meaning when used herein.

(C) The regulations contained in Table A, save insofar as they are excluded or varied hereby, and the regulations hereinafter contained shall constitute the regulations of the Company.

(D) The regulations of Table A numbered 24, 73 to 77 (inclusive), 80, 96 and 118 shall not apply to the Company.

#### GENERAL MEETINGS

2. Clause 40 in Table A shall be read and construed as if the words "at the time when the Meeting proceeds to business" were added at the end of the first sentence.

3. With respect to any such resolution in writing as is referred to in regulation 53 of Table A, in the case of a corporation which holds a share, the signature of any director or the secretary thereof shall be sufficient for the purposes of regulation 53.

#### ACCOUNTS AND ANNUAL GENERAL MEETINGS

4. (A) Every Financial Year of the Company shall commence on the first Saturday in March and end on the Friday prior to the first Saturday in March in the following year provided that the first Financial Year shall end on 1st March 1991. The directors shall cause to be prepared, in accordance with the provisions of the Acts, a consolidated balance sheet of the Company and its subsidiary undertakings as at the end of each Financial Year and a consolidated profit and loss account of the Company and its subsidiary undertakings for each Financial Year (which said balance sheet and profit and loss account are hereinafter collectively referred to as "the Accounts").

(B) An Annual General Meeting of the Company shall be held not later than the last business day of the month of June in each calendar year in respect of the immediately preceding Financial Year at such time and place as the directors shall determine, and the directors shall cause to be laid before each such Annual General Meeting the Accounts for such Financial Year together with the respective reports thereon of the directors and of the auditors for the time being of the Company (hereinafter referred to as "the Auditors") such reports complying with the provisions of the Acts.

(C) At the same time as reporting on the Accounts for any Financial Year of the Company the Auditors shall certify in writing to the Directors in respect of each such Financial Year:-

- (1) the amount of the Adjusted Profit of the Company calculated in accordance with Article 4(D); and
- (2) the amount of the Preferred Dividend payable in aggregate and in respect of each Preferred Ordinary Share pursuant to Article 6(B).

In so certifying the Auditors shall be deemed to be acting as experts and not as arbitrators, and the amounts as so certified shall be conclusive and binding on the Company and upon all of its members for the purposes of these Articles in the absence of manifest error.

(D) For the purposes of these Articles the "Adjusted Profit" of the Company for any Financial Year of the Company means the profit of the Company and its subsidiary undertakings as shown by the audited consolidated

profit and loss account of the Company and its subsidiary undertakings in the Accounts for the relevant Financial Year:-

- (1) before any provision is made for the payment of any dividend on any share in the capital of the Company or any of its subsidiary undertakings (and adding back to such profits the amount of any interim dividend declared and paid by the Company or any of its subsidiary undertakings in the Financial Year to which such audited consolidated profit and loss account relates) or before the payment of any other distribution or before the transfer of any sum to capital or revenue reserve;
- (2) before there has been deducted or credited any capital losses or gains or any extraordinary or exceptional profits or losses and before writing off any intangible assets or goodwill;
- (3) before there has been deducted any corporation tax on profits or gains as adjusted by paragraphs (1) and (2) above (or any other tax levied upon or measured by profits or gains).

#### SHARE CAPITAL

5. The authorised share capital of the Company at the date of the adoption of these Articles is £8,496,667 divided into:-

- (A) 60,000 'A' Ordinary Shares of £1 each;
- (B) 20,000 'B' Ordinary Shares of £1 each;
- (C) 8,230,000 Preference Shares of £1 each;
- (D) 160,000 'A' Preferred Ordinary Shares of £1 each;
- (E) 26,667 'B' Preferred Ordinary Shares of £1 each;

Save as hereinafter provided the 'A' Ordinary Shares and the 'B' Ordinary Shares shall rank as if one uniform class of Ordinary Shares and the 'A' Preferred Ordinary Shares and 'B' Preferred Ordinary Shares shall rank as if one uniform class of Preferred Ordinary Shares.

6. The special rights and restrictions attached to and imposed on each class of share capital of the Company are as follows:-

(A) Inclusive Preference Shares

- (1) The Preference Shares shall confer upon the holders thereof as a class the right to receive in priority to any payment by way of dividend to the holders of any other shares in the capital of the Company (and the Company shall pay the Preference Shareholders) a fixed cumulative preferential dividend ("the Fixed Dividend") on each Preference Share at the rate of 9% per annum (exclusive of the imputed tax credit available to shareholders) on the nominal amount paid up thereon plus any premium on the issue thereof.
- (2) The Fixed Dividend shall accrue from day to day and shall be paid in cash as follows:-

- (a) if the relevant share is issued prior to 1st September 1990 in respect of the period from the date upon which the relevant share is issued fully paid up to 1st September 1990 on 2nd September 1991;
  - (b) after 1st September 1990 or the date of issue if later until redemption, by two instalments on 1st March and 1st September of each year in respect of the six month period, or period from the date of issue, ending on the preceding 1st March and 1st September respectively the first such payment in respect of the period ending on 1st March 1991 being made on 1st March 1992.
- (3) The Fixed Dividend shall ipso facto and without any resolution of the directors or of the Company in general meeting (and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) accrue from day to day and on each such relevant 1st March and 1st September as determined in accordance with Article 6(A)(2) above become a debt due from and immediately payable by the Company to the holders of the Preference Shares pro rata according to the number of Preference Shares held by each such shareholder, to the extent that there are distributable profits and the Company is not prevented from paying the Fixed Dividend by Article 6(I).
- (4) The Preference Shares shall not confer any further right of participation in the profits of the Company.
- (B) Income: Preferred Ordinary Shares
- (1) The Preferred Ordinary Shares shall confer upon the holders thereof as a class the right in priority to any payment by way of dividend to the holders of any other shares in the capital of the Company (other than the Preference Shares) to receive a fixed cumulative preferential dividend ("the Preferred Dividend") equal to the greater of:
- (a) 9% per annum (exclusive of the imputed tax credit available to shareholders) on the nominal amount paid up thereon plus any premium on the issue thereof; and
  - (b) 9.33% of the Adjusted Profits of the Company for the relevant Financial Year (exclusive of the imputed tax credit available to shareholders).
- (2) The Preferred Dividend, which shall accrue from day to day and shall be pro-rated in respect of any period of less than a Financial Year shall be divided (exclusive of the imputed tax credit available to shareholders) among the holders of the Preferred Ordinary Shares pro rata proportionately to the number of Preferred Ordinary Shares held and shall be paid in cash within 14 days after the Annual General Meeting at which Accounts in respect of the preceding Financial Year are laid and if such a meeting is not held by a date four months after the end of the immediately preceding financial year there shall be paid on such date on account of the Preferred Dividend an amount calculated in accordance with Article 6(B)(1)(a) and the balance (if any) shall

be paid within 14 days of the said Annual General Meeting.

- (3) The Preferred Dividend as and when payable shall ipso facto and without any resolution of the directors or of the Company in general meeting (and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) accrue from day to day and on the due date under Article 6(B)(2) above shall become a debt due from and immediately payable by the Company to the holders of the Preferred Ordinary Shares pro rata according to the number of Preferred Ordinary Shares held by each such shareholder to the extent that there are distributable profits (after payment of the Fixed Dividend) and the Company is not prevented from paying the Preferred Dividend by Article 6(I).
- (C) Income: Preference Shares and Preferred Ordinary Shares
- (1) In the event that whether by reason of any principle of law or the provisions of Article 6(I) the Company is unable to pay in full on any due date for payment under Articles 6(A) and 6(B) (each of which dates is in this paragraph referred to as a "dividend date"), any instalment of the Fixed Dividend to any of the Preference Shareholders or the Preferred Dividend to the Preferred Ordinary Shareholders which would otherwise be required to be paid pursuant to Articles 6(A) or 6(B) on that dividend date (in this paragraph any such dividend being hereinafter called a "relevant dividend") then the following provisions shall apply:-
- (a) on the due dividend date the Company shall pay to such holders on account of the relevant dividend the maximum sum (if any) which can then consistently with any such principle of law or Article 6(I) be properly paid by the Company;
  - (b) on every succeeding dividend date or as otherwise required by Article 6(I)(3) the Company shall pay to such holders on account of the balance of the relevant dividend for the time being remaining outstanding, and until the relevant dividend shall have been paid in full, the maximum sum (if any) which on each such succeeding dividend date respectively can, consistently with any such principle of law or Article 6(I) be properly paid by the Company;
  - (c) subject only as aforesaid every sum which shall become payable by the Company in accordance with the foregoing provisions of this paragraph shall on that dividend date or as required by Article 6(I) ipso facto and without any resolution of the directors or of the Company in general meeting (and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) become a debt due from and immediately payable by the Company to the holders of the Preference Shares or the Preferred Ordinary Shares (as the case may be).
- (2) In the event that any part of the Fixed Dividend or the Preferred Dividend is not paid within 28 days of the due dividend date in accordance with Articles 6(A) or 6(B) as appropriate for any reason the amount payable on the overdue dividend shall be increased by way of a further cumulative dividend at the rate of

9% per annum (exclusive of the associated tax credit available to shareholders) of such overdue dividend calculated on a daily basis and compounded with rests on the Fixed or Preferred dividend payment dates (as the case may be). References in these Articles to the Fixed Dividend or Preferred Dividend shall include any further dividend calculated in accordance with this paragraph.

(D) Income: Ordinary Shares and Preferred Ordinary Shares

- (1) Without the prior written consent of the holders of the Preference Shares no dividends shall be declared or paid on the Ordinary Shares or any further dividends on the Preferred Ordinary Shares in respect of any Financial Year of the Company unless and until all of the Preference Shares have been redeemed in accordance with Article 7.
- (2) After the payment of all arrears and accruals of the Fixed Dividend and the Preferred Dividend in accordance with Articles 6(A) to 6(C) (inclusive), and subject to the payment of a dividend on each Ordinary Share equal to the amount of Preferred Dividend paid on each Preferred Ordinary Share for that Financial Year, any further dividend declared by the Company in respect of that Financial Year shall be paid on the Ordinary Shares and Preferred Ordinary Shares *pari passu* as if they were all shares of the same class.

(E) Capital: General

In the event of a winding up of the Company or other return of capital (but excluding the redemption of the Preference Shares in accordance with these Articles) any debts which have become due in accordance with Articles 6(A), 6(B) or 6(C) shall only be paid in accordance with the provisions of this Article 6(E) and the assets of the Company remaining after payment of all other debts and liabilities of the Company and of the costs charges and expenses of such winding up, shall be applied in the following manner and order of priority:-

- (1) First, in paying to the holders of the Preference Shares (in proportion to the numbers of Preference Shares held by them) all unpaid arrears and accruals of any Fixed Dividend such arrears and accruals to be calculated down to and including the date of the repayment to be payable irrespective of what profits (and of whether any profits) have been made or earned by the Company and irrespective of whether or not such unpaid arrears and accruals have become due and payable in accordance with any of the provisions of Articles 6(A) or 6(C);
- (2) Secondly, in paying to the holders of the Preference Shares (in proportion to the numbers of Preference Shares held by them) the nominal amount and any premium paid up or credited as paid on such shares;
- (3) Thirdly, in paying to the holders of the Preferred Ordinary Shares (pro rata in proportion to the numbers of Preferred Ordinary Shares held by them) all unpaid arrears and accruals



of any Preferred Dividend such arrears and accruals to be calculated down to and including the date of repayment to be payable irrespective of what profits (and of whether any profits) have been made or earned by the Company and irrespective of whether or not such unpaid arrears and accruals have become due and payable in accordance with any of the provisions of Articles 6(B) or 6(C);

- (4) Fourthly, in paying to the holders of the Preferred Ordinary Shares (in proportion to the numbers of Preferred Ordinary Shares held by them) the nominal amount and any premium paid up or credited as paid on such shares;
- (5) Fifthly, in paying to the holders of Ordinary Shares (in proportion to the numbers of Ordinary Shares held by them) the nominal amount and any premium paid up or credited as paid up on such shares; and
- (6) Lastly, in distributing the balance amongst the holders of the Preferred Ordinary Shares and the Ordinary Shares pari passu as if they were all shares of the same class provided that after the distribution of the first £100,000,000 (one hundred million pounds) of such balance, the Deferred Shares (if any) having the rights subject to the restrictions set out in Article 6(H) shall be entitled to receive an amount equal to the nominal value of such Deferred Shares.

(F) Redemption Rights

- (1) On the earlier of a Listing or Sale or the seventh anniversary of the date of the adoption of these Articles or as soon thereafter as the Acts shall permit, the Preference Shares shall subject to the provisions of the Acts and these Articles be redeemed in full at par together with any premium paid up or credited as paid up on such shares PROVIDED THAT on the year end for the Financial Year 1995/1996 the Company shall redeem not less than 4,000,000 Preference Shares.
- (2) (a) Where the Preference Shares are to be redeemed on a Listing the Company shall give to the holders of the Preference Shares not less than 28 nor more than 35 days notice in writing of the expected date for redemption of the Preference Shares and in such event each holder of Preference Shares may elect by notice in writing to be given to the Company not less than 14 days prior to the expected date of redemption to have all or some of his Preference Shares redeemed at par together with any premium paid up or credited as paid up on such shares out of the proceeds of a new issue of ordinary shares to be subscribed by him. An election in respect of some only of his Preference Shares shall be without prejudice to the obligation of the Company to redeem the balance pursuant to Article 6(F)(1) above.
- (b) The giving of such notice shall confer the right on the relevant holder of Preference Shares to subscribe on a Listing for such number of ordinary shares at a price per ordinary share equal to, in the case of an offer for sale,

the underwritten price or, as the case may be, the striking price per ordinary share and in the case of a placing, at the placing price per ordinary share, as will have an aggregate subscription value equal to the par value and premium paid up or credited as paid up on the Preference Shares to be redeemed pursuant to this Article 6(F)(2)(b). The Company shall apply the proceeds of such subscription in the redemption on a Listing of the aforesaid Preference Shares.

- (3) (a) Subject to the provisions of the Acts the Company shall have the right to redeem all or any of the Preference Shares for the time being outstanding and fully paid up on giving to the holders of such of the Preference Shares as are to be redeemed not less than three months notice in writing of its intention in that behalf.

- (b) The Preference Shares to be redeemed shall be selected as nearly as may be to ensure that the number of Preference Shares of each holder thereof is thereby reduced in the same proportion.

- (4) The Company shall upon the redemption of any of the Preference Shares pay to the holders of the Preference Shares so redeemed all unpaid arrears and accruals of the Fixed Dividend payable thereon to be calculated down to and including the date of redemption whether or not such Fixed Dividend has become due and payable in accordance with any of the provisions of Articles 6(A) or 6(C).

- (5) Where the Preference Shares are to be redeemed in accordance with Article 6(F)(2), the holders of the Preferred Ordinary Shares and the Ordinary Shares shall use the powers vested in them as shareholders and the directors shall take all reasonable steps necessary to enable such Preference Shares to be redeemed. Such steps shall include, but without prejudice to generality of the foregoing, in the case of a shareholder the voting at any meeting of the Company to increase the share capital of the Company, authorising the directors to allot such ordinary shares as may be necessary and in the case of the directors the convening of all such necessary meetings of the directors and of the members and voting at all such directors' meetings and allotting such ordinary shares so as to effect such redemption.

- (6) Without prejudice to the provisions of Regulation 35 of Table A (which shall apply to the Company) the Company may subject to the provisions of the Acts redeem or purchase its shares out of capital.

(G) Conversion of the Preferred Ordinary Shares

- (1) Upon a Listing or Sale the Ordinary Shares and the Preferred Ordinary Shares shall automatically convert in accordance with the provisions of this Article.

- (2) Upon a Listing or Sale ("a Conversion Date") the 'A' Preferred Ordinary Shares shall convert into such number of fully paid ordinary shares such that immediately following conversion and on the assumption that the 'B' Preferred Ordinary Shares and Ordinary

Shares shall have converted in accordance with Article 6(G)(3) and (4) below the former holders of the 'A' Preferred Ordinary Shares shall hold (in respect of such 'A' Preferred Ordinary Shares) NX (or as near thereto as shall avoid the creation of a fraction of an ordinary share) of the equity share capital in issue immediately following conversion which for the purpose of this Article 6(G) shall be deemed to exclude any equity share capital issued before the Conversion Date other than equity share capital issued pro rata to the holders from time to time of (and in respect of their holding of) Ordinary Shares and Preferred Ordinary Shares issued as referred to or pursuant to the Agreement and any equity share capital issued on a Conversion Date in order to raise new money for the Company whether for the purpose of redeeming the Preference Shares (pursuant to Article 6(F)(2) or otherwise) or in order to repay sums due under the Loan Agreement or for any other purpose.

- (i) Where the Conversion Date is between 1.10.92 and 30.9.93 (inclusive) NX shall be:-

(a) 60% if the Net Market Capitalisation is £11,000,000 or less;

(b) determined by reference to the following formula if the Net Market Capitalisation is more than £11,000,000:-

$$\frac{\frac{60}{100} \text{ £11,000,000} + \frac{40}{100} (\text{Net Market Capitalisation} - \text{£11,000,000})}{\text{Net Market Capitalisation}} \times 100$$

- (ii) Where the Conversion Date is between 1.10.93 and 30.9.94 (inclusive) NX shall be determined in accordance with (i) above save that the figure of £15,500,000 shall be substituted for the figure of £11,000,000 wherever it appears;

- (iii) Where the Conversion Date is between 1.10.94 and 30.9.95 (inclusive) NX shall be determined in accordance with (i) above save that the figure of £20,000,000 shall be substituted for the figure of £11,000,000 wherever it appears and the figure 45 shall be substituted for the figure 40;

- (iv) Where the Conversion Date is between 1.10.95 and 30.9.96 (inclusive) NX shall be determined in accordance with (i) above save that the figure of £24,500,000 shall be substituted for the figure of £11,000,000 wherever it appears and the figure of 50 shall be substituted for the figure of 40;

- (v) Where the Conversion Date is between 1.10.96 and 30.9.97 (inclusive) NX shall be determined in accordance with (i) above save that the figure of £29,000,000 shall be substituted for the figure of £11,000,000 wherever it appears and the figure of 55 shall be substituted for the figure of 40;

- (vi) Where the Conversion Date is after 30.9.97, NX shall be 60%.

- (3) Upon a Conversion Date and on the assumption that the 'A' Preferred Ordinary Shares in accordance with Article 6(G)(2) and

the Ordinary Shares shall have converted in accordance with Article 6(G)(4), the 'B' Preferred Ordinary Shares shall convert into fully paid ordinary shares (of the same class and ranking pari passu with the ordinary shares into which the 'A' Preferred Ordinary Shares are to convert) such that immediately following conversion the former holders of the 'B' Preferred Ordinary Shares and the 'B' Ordinary Shares shall hold, in the aggregate, that same percentage of the equity share capital in issue immediately following conversion as determined in accordance with Article 6(G)(2)) as the 'B' Preferred Ordinary Shares and 'B' Ordinary Shares represented of the issued equity share capital immediately prior to the Conversion Date (determined as aforesaid).

- (4) Upon a Conversion Date and on the assumption that the Preferred Ordinary Shares shall have converted in accordance with Article 6(G)(2) and (3) above, each unconverted Ordinary Share shall convert into a fully paid ordinary share of the same class and ranking pari passu with the ordinary shares into which the Preferred Ordinary Shares shall have converted.
- (5) (i) For the purposes of this Article 6(G) Net Market Capitalisation shall be:-
  - (a) in the case of a Listing the price per share (expressed in £ and pence) at which equity shares in the Company are proposed to be sold in connection with the Listing (in the case of an offer for sale, being the underwritten price (or as the case may be the striking price), and in the case of a placing being the placing price) in each case multiplied by the number of equity shares in the Company but excluding any such equity shares issued on a Conversion Date in order to raise new money for the Company whether for the purpose of redeeming the Preference Shares (pursuant to Article 6(F)(2) or otherwise) or in order to repay sums due under the Loan Agreement or for any other purpose and the value determined in accordance with the foregoing provisions and to be attributed to any equity share capital issued before the Conversion Date other than equity shares issued as referred to in or pursuant to the Agreement and equity share capital issued pro rata to the holders from time to time of (and in respect of their holding of) Ordinary Shares and Preferred Ordinary Shares issued as referred to in or pursuant to the Agreement; or
  - (b) in the case of a Sale the aggregate consideration expressed as a cash price (whether that consideration is to be satisfied in cash, shares, loan stock or a combination thereof) to be paid pursuant to and on the completion of an agreement to acquire the whole of the issued equity share capital of the Company or in the case of a Sale comprising part of the issued equity share capital of the Company the amount which would have been payable if the Sale had comprised the whole of such equity share capital at the same price per share as the price per share received for the shares actually comprised in the Sale but in each case deducting therefrom that proportion of the consideration as the nominal value of any equity share capital issued prior to

the Sale (other than equity shares issued as referred to in or pursuant to the Agreement and equity share capital issued pro rata to the holders from time to time of (and in respect of their holding of) Ordinary Shares and Preferred Ordinary Shares issued as referred to in or pursuant to the Agreement) bears to the total nominal value of the issued equity share capital at the time of the Sale.)

- (ii)(a) Where in respect of a Sale of the whole of the issued equity share capital of the Company any element of deferred consideration is received (a "Relevant Instalment") the amount of the Relevant Instalment shall be aggregated with the consideration previously received and that amount of the Relevant Instalment which is equal to the excess of such aggregate over the Threshold (as determined in accordance with the provisions of this clause) (such amount being referred to as the "Top Slice") and the remainder of the Relevant Instalment (the "Bottom Slice") shall be distributed among the persons who were holders of the 'A' Preferred Ordinary, 'B' Preferred Ordinary, 'A' Ordinary and 'B' Ordinary Shareholders immediately prior to the Sale (in proportion to the number of shares of each such class held by them immediately prior to the Sale) in the proportions determined as follows:-

- (i) if the date upon which the Relevant Instalment is received (the "Payment Date") is between 1.10.92 and 30.9.93 the Threshold shall be £11,000,000 and Relevant Instalment shall be distributed as follows:-

<u>Shares</u>	<u>Top Slice</u>	<u>Bottom Slice</u>
	%	%
'A' Preferred Ordinary	40.0	60.0
'B' Preferred Ordinary	10.0	10.0
'A' Ordinary	42.5	22.5
'B' Ordinary	7.5	7.5

- (ii) if the Payment Date is between 1.10.93 and 30.9.94 the Relevant Instalment shall be distributed in accordance with (i) above save that the Threshold shall be £15,500,000;
- (iii) if the Payment Date is between 1.10.94 and 30.9.95 the Threshold shall be £20,000,000 and the Relevant Instalment shall be distributed as follows:-

<u>Shares</u>	<u>Top Slice</u>	<u>Bottom Slice</u>
	%	%
'A' Preferred Ordinary	45.0	60.0
'B' Preferred Ordinary	10.0	10.0
'A' Ordinary	37.5	22.5
'B' Ordinary	7.5	7.5

- (iv) if the Payment Date is between 1.10.95 and 30.9.96 the Threshold shall be £24,500,000 and the Relevant Instalment shall be distributed as follows:-

<u>Shares</u>	<u>Top Slice</u>	<u>Bottom Slice</u>
	%	%
'A' Preferred Ordinary	50.0	60.0
'B' Preferred Ordinary	10.0	10.0
'A' Ordinary	32.5	22.5
'B' Ordinary	7.5	7.5

- (v) if the Payment Date is between 1.10.96 and 30.9.97 the Threshold shall be £29,000,000 and the Relevant Instalment shall be distributed as follows:-

<u>Shares</u>	<u>Top Slice</u>	<u>Bottom Slice</u>
	%	%
'A' Preferred Ordinary	55.0	60.0
'B' Preferred	10.0	10.0
'A' Ordinary	27.5	22.5
'B' Ordinary	7.5	7.5

- (vi) if the Payment Date is after 30.9.97 the Relevant Instalment shall be distributed as follows:-

<u>Shares</u>	<u>Relevant Instalment</u>
	%
'A' Preferred Ordinary	60.0
'B' Preferred Ordinary	10.0
'A' Ordinary	22.5
'B' Ordinary	7.5

- (b) Where in respect of a Sale not comprising the whole of the issued equity capital of the Company any deferred consideration is received, the monetary entitlement of each of the former holders of 'A' Preferred Ordinary, 'B' Preferred Ordinary, 'A' Ordinary and 'B' Ordinary Shares shall be calculated in accordance with (a) above as if the Sale had comprised the whole of the issued equity capital of the Company (and, accordingly, the sums in respect of previous consideration and deferred consideration used in determining the Relevant Instalment, the Top Slice and the Bottom Slice shall be increased to the sums which would have been received in respect thereof had the whole of the issued equity share capital of the Company been sold for the same price per share as those shares actually comprised in the Sale) and the deferred consideration received shall be distributed among the persons who sold such shares pursuant to the Sale in accordance with such monetary entitlements.
- (6) Any conversion pursuant to the rights granted by this Article 6(G) shall be made on the following terms:-
- (i) Conversion shall take effect immediately on a Conversion Date and the shares to be converted shall be apportioned rateably (or as near thereto as may be practicable to avoid the apportionment of a fraction of a share) among the holders of shares of that class;
- (ii) On a Conversion Date the Preferred Ordinary Shares and Ordinary Shares shall be converted at no cost to the holders thereof. The Preferred Ordinary Shares shall be converted in such manner as the directors may determine and as the law may allow and in particular but without prejudice to the generality of the foregoing may be effected in accordance with any one of (a), (b) or (c) below:-
- (a) To enable conversion to be effected the directors determine that the Preferred Ordinary Shares should be converted into ordinary shares in accordance with this sub-paragraph (a) the following provisions shall apply. On the Conversion Date such number of Preferred Ordinary Shares shall convert into the same number of ordinary shares as may be determined in accordance with Article 6(G)(2) or (as the case may be) Article 6(G)(3) and the balance of the Preferred Ordinary Shares shall convert

into the same number of Deferred Shares;

- (b) To enable conversion to be effected the directors may determine to redeem the Preferred Ordinary Shares at par on the Conversion Date out of profits of the Company which would otherwise be available for distribution. The Preferred Ordinary Shares confer upon their holders the right and obligation in the event that the directors determine to redeem the same out of such profits of the Company, to subscribe in accordance with this sub-paragraph (b) for the appropriate number of ordinary shares determined in accordance with Article 6(G)(2) or (as the case may be) Article 6(G)(3) above at such premium (if any) as shall represent the amount by which the redemption moneys in respect of the Preferred Ordinary Shares exceed the total nominal amount of the ordinary shares to which they are so entitled; in any such case, the holders of Preferred Ordinary Shares shall be deemed irrevocably to have authorised and instructed the directors to apply the redemption moneys payable to them in subscribing for such ordinary shares at such premium (if any) as aforesaid;
- (c) To enable conversion to be effected the directors may determine to redeem the Preferred Ordinary Shares on the Conversion Date in accordance with the provisions of this sub-paragraph (c) at par out of the proceeds of a new issue of shares to the holders of the Preferred Ordinary Shares. The Preferred Ordinary Shares confer upon their holders the right and obligation, in the event that the directors determine to redeem the same in accordance with this sub-paragraph (c) to subscribe in accordance with this sub-paragraph (c) for the appropriate number of ordinary shares as determined pursuant to Article 6(G)(2) or (as the case may be) Article 6(G)(3) above at such premium (if any) as shall represent the amount by which the redemption moneys in respect of the Preferred Ordinary Shares exceed the total nominal amount of the ordinary shares to which they are entitled; in any such case each holder of Preferred Ordinary Shares shall be deemed irrevocably,-
  - (1) to have appointed any person selected by the directors as such holder's agent with authority to apply out of the agent's own funds an amount equal to the redemption moneys in respect of his Preferred Ordinary Shares in subscribing and paying on his behalf for the number of ordinary shares into which Preferred Ordinary Shares are required to be converted as determined pursuant to Article 6(G)(2) or (as the case may be) Article 6(G)(3) above; and
  - (2) to have authorised and instructed the directors to register the allotment of such ordinary shares in the name of the holder of Preferred Ordinary Shares following the allotment of such ordinary shares and



to pay the said redemption moneys to such agent who shall be entitled to retain the same for his own benefit without being accountable therefor to such holder.

- (iii) Forthwith after the Conversion Date the Company shall issue to the persons entitled thereto certificates for the ordinary shares and the Deferred Shares (as the case may be) resulting from the conversion and the certificates for the shares falling to be converted shall be deemed invalid for all purposes;
- (iv) Any conversion of Preferred Ordinary Shares shall be without prejudice to the right of the holders of those shares immediately before conversion to be entitled to claim and pursue any unpaid arrears of dividend which may have become due and payable prior to conversion in accordance with Article 6(B) to 6(D) (inclusive) as appropriate or any accruals of dividend whether or not the same shall have become due and payable as aforesaid;
- (v) Notwithstanding any such conversion of Preferred Ordinary Shares the Company shall in accordance with the provisions of Article 6(B)(2) pay to the former holders of the converted Preferred Ordinary Shares such sum (if any) by way of Preferred Dividend as would otherwise have been paid to them in respect of the period prior to conversion in so far as the same shall not already have been paid.
- (7) The holders of the Preferred Ordinary Shares and the Ordinary Shares shall use the powers vested in them as shareholders and the directors shall take all reasonable steps necessary to enable the conversion of the Preferred Ordinary Shares and Ordinary Shares to take place.

(H) Deferred Shares

The rights attaching to the Deferred Shares shall be as follows:-

(1) Income and Capital

- (i) The Deferred Shares shall not entitle the holders thereof to any dividends.
- (ii) Save as provided in Article 6(E) the holders of the Deferred Shares shall not be entitled to any participation in the profits or the assets of the Company.

(2) Voting

The Deferred Shares shall not entitle the holders thereof to receive notice of or to attend or vote at any general meeting of the Company by virtue or in respect of their holding of such Deferred Shares.

(I) Relationship to Loan Agreement

- (1) The other provisions of this Article 6 are subject to the following provisions of this Article 6(I).
- (2) The rights of any member (i) to be paid dividends in respect of their shares (including without prejudice to the generality of the foregoing, Fixed Dividends, Preferred Dividends, any dividend payable under Article 6(C) or 6(D) or otherwise howsoever) or (ii) to be paid any amount to redeem their shares ("a redemption payment") are subordinated and postponed to all sums, liabilities and obligations payable or owing by the Company (whether actual or contingent, joint or several or otherwise howsoever) under the Loan Agreement and accordingly for so long as such sums, liabilities or obligations are outstanding, the payment of any such dividends or the making of any redemption payment is conditional upon:-
  - (i) in the case of a dividend:
    - (a) on the Ordinary Shares, to the consent of the Bank; and
    - (b) on the Preference Shares and Preferred Ordinary Shares to there having occurred no Event of Default or Potential Event of Default (such expressions being as defined in the Loan Agreement) which is continuing on the due date for payment of the relevant dividend, or which would be likely to occur as a result of the payment of such dividend, in which event the consent of the Bank shall be required;
  - (ii) in the case of a redemption payment, to the consent of the Bank and in each such case the Company shall take all reasonable steps to obtain the timely consent of the Bank;
- (3) Where any dividend or redemption payment is not made because of the provisions of Article 6(I) (2) such dividend shall be paid or redemption payment made upon the necessary consent being obtained or the bar thereon ceasing to apply.

(J) Sale of whole of issued share capital of the Company

In the event of there being a sale of the whole of the issued share capital of the Company then notwithstanding anything to the contrary in the terms of such sale and purchase (unless all the members immediately prior to the Sale have agreed to the contrary for the purposes of this provision) the members immediately prior to such sale shall procure that the purchase consideration whenever received shall be paid into a designated trustee account and shall be distributed amongst such members in the following order of priority:-

- (a) First, in paying to the holders of the Preference Shares immediately prior to the Sale other than Preference Shares redeemed by the Company on or before the Sale (in proportion to the numbers of Preference Shares held by them) all unpaid arrears and accruals of any Fixed Dividend such arrears and accruals to be calculated down to and including the date of the sale to be payable irrespective of what profits (and of whether any profits) have been made or earned by the Company and irrespective of whether or not such unpaid arrears and accruals have become due and payable in accordance with any of the provisions of Articles 6(A) or 6(C);
- (b) Secondly, in paying to the holders of the Preference Shares as above (in proportion to the numbers of Preference Shares held by them) the nominal amount and any premium paid up or credited as paid on such shares;
- (c) Thirdly, in paying to the holders of the Preferred Ordinary Shares immediately prior to the Sale (pro rata in proportion to the numbers of Preferred Ordinary Shares held by them) all unpaid arrears and accruals of any Preferred Dividend such arrears and accruals to be calculated down to and including the date of the sale to be payable irrespective of what profits (and of whether any profits) have been made or earned by the Company and irrespective of whether or not such unpaid arrears and accruals have become due and payable in accordance with any of the provisions of Articles 6(B) or 6(C); and
- (d) Fourthly, in paying to the holders of the Preferred Ordinary Shares and the Ordinary Shares immediately prior to the Sale the balance of such purchase consideration in accordance with their respective equity entitlements determined in accordance with the conversion rights set out in Article 6(G) save that if that would result in the holders of the Preferred Ordinary Shares immediately prior to the Sale receiving in aggregate less than £186,667, such holders shall receive £186,667 (in proportion to the numbers of Preferred Ordinary Shares held by them) and the balance shall be distributed to the holders of the Ordinary Shares immediately prior to the Sale (in proportion to the numbers of Ordinary Shares held by them).

7.

SPECIAL DIRECTOR AND VENDORS' NOMINEE DIRECTOR

- (A) The majority in nominal value of the holders of the Preferred Ordinary Shares shall have the right from time to time to appoint one person to be a director of the Company and each of its subsidiaries (hereinafter referred to as a "Special Director") and to remove from office any person so appointed and to appoint another person in his place.
- (B) No resolution to remove a director appointed pursuant to this Article 7 or to amend or alter this Article 7 or to alter its effect, shall be effective unless the holders of the majority of the Preferred Ordinary Shares vote in favour of such resolution.
- (C) Any appointment or removal pursuant to Article 7(A) shall be in

writing served on the Company and signed by the relevant appointors. Such appointment or removal (which may consist of several documents) may be signed by or on behalf of any such appointor by its or their director or secretary or by its or their duly appointed attorney or duly authorised representative.

- (D) On any resolution to remove a director appointed pursuant to a nomination made by Spread Trustee Company Limited or any of its permitted assignees ("Spread") pursuant to Clause 13 of the Agreement or to amend this Article 7(D) or its effect then provided the right of appointment conferred by the said Clause 13 is still subsisting, the shares held by Spread (in the capacity in which it shall have made such nomination) in the case of a resolution to remove such a director or Spread (in the capacities in which it shall have the rights to make such nominations) in the case of a resolution to amend this Article 7(D) or its effect shall carry at least one vote in excess of seventy-five per cent of the votes exercisable at the general meeting at which such resolution is to be proposed.

8. VARIATION OF RIGHTS

Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding-up with the consent in writing of the holders of at least three-fourths of the issued shares of that class, or with the sanction of an Extraordinary Resolution passed at a separate meeting of the holders of that class, but not otherwise. To every such separate general meeting all the provisions of these Articles relating to general meetings of the Company or to the proceedings thereat shall, mutatis mutandis, apply, except that the necessary quorum shall be two persons at least holding or representing by proxy one-third in nominal value of the issued shares of the class unless all the shares of any class are registered in the name of a single shareholder in which case the quorum shall be that person his proxy or duly authorised representative of such shareholder (but so that if, at any adjourned meeting of such holders, a quorum as above defined is not present those members who are present shall be a quorum) and that any holder of shares of the class present in person or by proxy may demand a poll and that the holders of shares of the class shall, on a poll, have one vote in respect of every share of the class held by them respectively. The rights conferred upon the holders of the Preference Shares shall not be deemed to be varied by the creation or issue of further Ordinary Shares or Preferred Ordinary Shares.

9. SUBSCRIPTION RIGHTS

(A) Notwithstanding anything contained in these Articles and subject to any direction or authority contained in the resolution of the Company creating or authorising the same the directors are generally and unconditionally authorised for the purposes of Section 80 of the Companies Act 1985 to allot grant options rights of subscription or conversion over or otherwise dispose of unissued shares to such persons (whether existing shareholders or not), at such times and on such terms and conditions as they think proper. Provided however that the authority hereby granted to the directors:-

- (1) shall not permit the directors to allot grant options rights of subscription or conversion over or otherwise dispose of shares to an amount of more than the unissued share capital at the date of adoption of these Articles or (if such authority is renewed or varied by the Company in general meeting) the amount specified in the resolution for such renewal or variation;
- (2) shall expire:-
  - (a) not more than five years from the date of the adoption of these Articles; or
  - (b) (if such authority is renewed or varied by the Company in general meeting) on the date specified in the resolution on which the renewal or varied authority shall expire;
- (3) may be renewed, revoked or varied at any time by the Company in general meeting;
- (4) shall permit the directors after the expiry of the period of the said authority to allot any shares or grant any such rights in pursuance of an offer or agreement so to do made by the Company within that period.

(B) Save in respect of (1) any conversion rights (2) any rights granted or to be granted over or any allotment of Ordinary Shares or Preferred Ordinary Shares pursuant to the Agreement or Article 6(P)(2), all new shares shall be offered for subscription to the holders of Ordinary Shares and Preferred Ordinary Shares (which for these purposes shall be treated as one class of share) in the proportion that the aggregate nominal value of such shares for the time being held respectively by each such member bears to the total number of such shares in issue and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time (being not less than four weeks) within which the offer if not accepted will be deemed to be declined. And after the expiration of such time or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares so offered the directors may dispose of the same in such manner as they may think most beneficial to the Company. If owing to the inequality in the number of new shares to be issued and the number of shares held by members entitled to have the offer of new shares any difficulty shall arise in the apportionment of any such new shares amongst the members such difficulties shall in the absence of direction by the Company be determined by the directors. The provisions of Section 89(1), Section 90(1) to (5) and Section 90(6) of the Companies Act 1985 shall not apply to the Company.

#### LIEN

10. The lien conferred by Regulation 8 of Table A shall attach to all shares (not being a fully paid share) registered in the name of any person indebted or under any liability to the Company whether he shall be the sole registered holder thereof or shall be one of two or more joint holders.

#### TRANSFER OF SHARES

11. No transfer of any share may be registered without the approval of the directors. The directors may withhold such approval if (but only if)

the Company has a lien on the share and shall withhold such approval if the transfer has not been effected in accordance with these Articles or if the directors are otherwise required to withhold such approval under these Articles but the directors shall approve a transfer permitted by these Articles.

12. (A) For the purpose of this Article the following shall be deemed (but without limitation) to be a transfer by a member of shares in the Company:-

- (1) Any direction (by way of renunciation or otherwise) by a member entitled to an allotment or transfer of shares that a share be allotted or issued or transferred to some person other than himself; and
- (2) Any sale or any other disposition of any legal or equitable interest in a share and whether or not by the registered holder thereof and whether or not for consideration or otherwise and whether or not affected by an instrument in writing.

(B) Except as hereinafter provided no share in the Company or any beneficial interest therein shall be transferred unless and until the rights of pre-emption hereinafter conferred shall have been exhausted.

(C) (1) Subject as herein provided any member who is an individual may transfer all or any of his shares to his or her spouse or adult children or adult step children or to the trustee or trustees of a family trust set up wholly for the benefit of one or more of the transferor his or her spouse children, common-law wife or step children and of which the said member is the settlor or to a bare nominee PROVIDED THAT a member acquiring shares hereunder shall not have the like right unless the transfer is to the person from whom he, she or they took the shares in the first instance or is a transfer by the trustees of any such trust as aforesaid to new trustees of the same trust on a change of trustees (provided that no change in beneficial ownership is thereby effected).

(2) Any trustees of a family trust set up wholly for the benefit of any member, his spouse, common-law wife, children or step children and of which such member is the settlor may transfer any shares to any beneficiary of such a trust.

(3) Any member may at any time transfer any shares in accordance with the provisions of the Acts to the Company.

(4) Any member may at any time transfer such shares or any beneficial interest therein to any other person for whatever consideration with the prior written consent of all the other members of the Company for the time being and such consent shall be deemed to have been given in respect of any transfer of shares by BID permitted by Clause 12.01 of the Agreement.

(5) Any share held by any member as nominee or trustee for the Barclays de Zoete Wedd Buy-out Trust II ("the Trust") may be transferred for any consideration to any other person or persons being a nominee or trustee (whether joint or otherwise) of the Trust or to any holder of units in the Trust in accordance with the Trust.

(6) Any member may at any time transfer shares to a nominee or

being a nominee of another person or persons to that other person or persons or to another nominee for him or them provided that no beneficial interest in such shares passes by reason of such transfer.

(7) Any member ("the Transferor") being a person, body corporate, partnership, trust company or any sort or description of entity or body whatsoever may transfer all or any of its shares or beneficial interest therein to any other entity or body as aforesaid ("the transferee") PROVIDED THAT the transferee is legally bound to or with the transferor so that the transferor controls the transferee or vice versa or so that both such entities are controlled by the same entity or by entities which are controlled by the same entity and PROVIDED FURTHER THAT if any such entity while it is a member shall cease to be so legally bound as aforesaid it shall within 21 days of so ceasing transfer the shares held by it to the first such entity that held such shares or some other entity which remains so legally bound as aforesaid and failing such transfer the member shall be deemed to have given a Transfer Notice in respect of all the shares held by it pursuant to paragraph (D).

(D) Any member holding Preferred Ordinary Shares or Preference Shares or Ordinary Shares who desires to transfer such shares or any beneficial interest therein (hereinafter called "the Vendor") otherwise than in accordance with paragraph (C) of this Article shall give notice in writing (hereinafter called "the Transfer Notice") to the Company of his desire specifying:-

- (i) the shares which he desires to sell or transfer;
- (ii) the name of the third party (if any) to whom he proposes to sell or transfer the shares;
- (iii) the price at which he desires to sell or transfer the shares; and
- (iv) whether or not it is conditional upon all and not part only of the shares comprised being sold or offered and in the absence of such stipulation it shall be deemed not to be so conditional.

No Transfer Notice once given or deemed to be given in accordance with this Article 12 shall be withdrawn unless the Vendor is obliged to procure any matter specified in 12(J) and is unable so to procure. In that event the Vendor shall be entitled to withdraw such Transfer Notice, without liability to any person within the period specified in Article 12(I) in respect of the Sale Shares (as defined in Article 12(E)) to be sold under Article 12(J).

(E) The Transfer Notice shall constitute the Company the agent of the Vendor for the sale of the shares specified therein (hereinafter called "the Sale Shares") in one or more lots, at the discretion of the directors, at such price in the case of a Transfer Notice given by the member as may be specified in the Transfer Notice or, in the case of a Transfer Notice deemed to be given pursuant to Article 12(K) below at such price as the member and the board of directors shall agree, or failing agreement, or if no price is so specified, at the fair value as determined by the Auditors pursuant to Article 12(H) (herein referred to as "the Transfer Price").

(F) (1) The Company shall forthwith upon receipt of a Transfer Notice

or, where an Auditors valuation is required, upon receipt of such valuation, give notice in writing to each of the members of the Company informing them that the Sale Shares are available and of the Transfer Price and shall invite each member to state in writing within thirty days from the date of the said notice (which date shall be specified therein) whether he is willing to purchase any and, if so, how many of the Sale Shares. All shares mentioned in any Transfer Notice shall be offered in the first instance to all other persons (other than the Vendor) of the class set out in the appropriate line of Column (2) below and in so far as such offer shall not be accepted by such persons shall be offered to all of the Members holding the classes of shares shown in Columns (3), (4) and (5) below in that order of priority:-

(1)	(2)	(3)	(4)	(5)
Class of Shares comprised in Transfer Notice	Offered First to	Offered Secondly to	Offered Thirdly to	Offered Fourthly to
'A' Ordinary Shares	Employees (as defined below) as to one-third (or as near as may be) of the Sale Shares and 'A' Ordinary Shares as to the remainder of the Sale Shares	'A' Ordinary Shares	'B' Ordinary Shares and Preferred Ordinary Shares	Preference Shares
'B' Ordinary Shares	'B' Ordinary Shares	'A' Ordinary Shares and Preferred Ordinary Shares	Preference Shares	-
'A' Preferred Ordinary Shares	'A' Preferred Ordinary Shares	Ordinary Shares and 'B' Preferred Ordinary Shares	Preference Shares	-
'B' Preferred Ordinary Shares	'B' Preferred Ordinary Shares	Ordinary Shares and 'A' Preferred Ordinary Shares	Preference Shares	-
Preference Shares	Preference Shares	'A' Preferred Ordinary Shares	Ordinary Shares and 'B' Preferred Ordinary Shares	-

'Employees' shall mean for the purposes of this Article 12(F) such full time



employees of the Company or any of its subsidiaries or such person (not being a full time employee of the Company or any of its subsidiaries) who is offered or is to be offered such a post and accepts the same in each such case and in such numbers as the directors may in their absolute discretion determine.

The Sale Shares shall be offered to each class of shareholder (the several classes referred to in the table above under the same column heading being for the purpose of this paragraph one class of shares) on terms that in the event of competition the Sale Shares offered shall be sold to the members accepting the offer in proportion (as nearly as may be) to their existing holdings of shares of the class to which the offer is made ("the Proportionate Entitlement"). It shall be open to each such member to specify if he is willing to purchase shares in excess of his Proportionate Entitlement ("Excess Shares").

(2) After the expiry of the offers to be made pursuant to paragraph (1) above or sooner if all the Sale Shares offered shall have been accepted in the manner provided in paragraph (1) above the directors shall allocate the Sale Shares in the following manner:-

- (i) if the total number of shares applied for is equal to or less than the number of Sales Shares the Company shall allocate the number applied for in accordance with the applications; or
- (ii) if the total number of shares applied for is more than the number of Sale Shares, each member shall be allocated his Proportionate Entitlement or such lesser number of Sale Shares for which he may have applied and applications for Excess Shares shall be allocated (as nearly as may be) in the proportions which applications for Excess Shares bear to one another;

and in either case the Company shall forthwith give notice of each such allocation (hereinafter called "an Allocation Notice") to the Vendor and each of the persons to whom Sale Shares have been allocated (hereinafter called "a Member Applicant") and shall specify in the Allocation Notice the place and time (being not later than fourteen days after the date of the Allocation Notice) at which the sale of the Sale Shares shall be completed SAVE THAT the transfer and completion of the sale of the Sale Shares shall not be sanctioned or effected by the directors if such transfer obliges the Vendor to procure the making of an Appropriate Offer in accordance with Article 12(J) below, and no such offer has been made or and the resultant sale (if any) completed.

(G) Subject to (H) and (J) below upon such allocations being made as aforesaid, the Vendor shall be bound, on payment of the Transfer Price, to transfer the shares comprised in the Allocation Notice to the Member Applicant named therein at the time and place therein specified. If he makes default in so doing the Chairman for the time being of the Company or failing him one of the directors or some other person duly nominated by a resolution of the board of directors for that purpose, shall forthwith be deemed to be the duly appointed attorney of the Vendor with full power to execute complete and deliver in the name and on behalf of the Vendor a transfer of the relevant Sale Shares to the Member Applicant and the directors may receive and give a good discharge for the purchase money on behalf of the Vendor and (subject to the transfer being duly stamped) enter the name of the Member Applicant in the register of members as the holder or

holders by transfer of the shares so purchased by him or them. The directors shall forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such money in trust for the Vendor until he shall deliver up his certificate or certificates for the relevant shares to the Company when he shall thereupon be paid the purchase money.

(B) If the Vendor shall have included in the Transfer Notice a provision that unless all the shares comprised therein are sold none shall be sold then if the total number of shares applied for is less than the number of Sale Shares the Allocation Notice shall refer to such provision and shall contain a further invitation open for 28 days to those persons to whom Sale Shares have been allocated to apply for further Sale Shares and completion of the sales in accordance with the preceding paragraphs of this Article shall be conditional upon such provision as aforesaid being complied with in full.

(I) In the event of all the Sale Shares not being sold under the preceding paragraphs of this Article the Vendor may at any time within three calendar months after receiving confirmation from the Company that the pre-emption provisions herein contained have been exhausted or, in the absence of such confirmation, seven days after having made a request in writing to the Company for such confirmation to which there has been no reply, transfer any Sale Shares not sold to any person or persons at any price not less than the Transfer Price save that:-

- (a) the directors shall be entitled to refuse registration of the proposed transferee if he is or is believed to be a nominee for a person reasonably considered by the board of directors to be a competitor or connected (within the meaning of Section 249 of the Insolvency Act 1986) with a competitor of the business of the Company and its subsidiaries and if such transfer were to be registered more than 10% of the equity share capital of the Company would be held by or by nominees for competitors or persons connected (within the meaning aforesaid) with competitors of the business of the Company and its subsidiaries PROVIDED THAT the directors shall not be so entitled if the effect of such transfer would result in a change of control pursuant to paragraph (J) below and the provisions thereof have been complied with;
- (b) if the Vendor stipulated in the Transfer Notice that unless all the shares comprised therein were sold pursuant to this Article none should be sold, the Vendor shall not be entitled, save with the written consent of all the other members of the Company, to sell hereunder only some of the Sale Shares comprised in the Transfer Notice to such person or persons;
- (c) any such sale shall be a bona fide sale and the directors may require to be satisfied in such manner as they may reasonably require that the Sale Shares are being sold in pursuance of a bona fide sale for the consideration stated in the Transfer Notice without any deduction, rebate or allowance whatsoever to the purchaser and if not so satisfied may refuse to register the instrument of transfer;
- (d) the directors shall refuse registration of the proposed transferee if such transfer obliges the Vendor to procure the making of an

Appropriate Offer in accordance with Article 12(J) below and no such offer has been made and the resultant sale (if any) has not been completed.

No Sale Notice once given shall be withdrawn.

(J) (1) If at any time a proposed transfer or transfers of shares made other than in accordance with Article 12(C) would if completed enable any person or persons to obtain control of the Company (save to the extent that such control was acquired as a result of the exercise of any conversion rights attaching to any shares in the Company), the Vendor shall procure, and, without prejudice to Articles 12(F)(2) and 12(I)(d) above, the directors shall not sanction the making and registration of such transfer or transfers unless the Vendor has procured, that an Appropriate Offer (as hereinafter defined) shall be made to all of the other members of the Company and every shareholder in receipt of an Appropriate Offer shall be bound within 28 days of the date of such offer (which date shall be specified therein) either to accept or reject such offer in writing (and in default of so doing shall be deemed to have rejected the offer) and no such proposed transfer by the Vendor shall be completed until the completion of any sale which shall arise as a consequence of any other member accepting an Appropriate Offer.

(2) For the purposes of this paragraph "control" shall mean the right by virtue of holding shares in the Company or by virtue of any contract or arrangement with any holder of shares in the Company to exercise voting rights which would result in the appointment of a majority of the members of the board of directors of the Company, and "Appropriate Offer" shall mean:-

- (a) in the case of the Ordinary Shares and Preferred Ordinary Shares which will be converted into ordinary shares pursuant to Article 6(G) an offer to purchase all the said shares held by each member at the highest of:-
  - (i) fair value determined by the Auditors pursuant to paragraph (M) below; or
  - (ii) par; or
  - (iii) the highest price per share (excluding stamp duty, stamp duty reserve tax and commission) paid or to be paid by any person or persons referred to in paragraph (J)(1) and/or persons acting in concert (as such expression is defined in the City Code on Takeovers and Mergers) with such person or persons for the Ordinary Shares or the Preferred Ordinary Shares in the Company (as the case may be) within the period of three years prior to and on the proposed date of completion of such transfer of shares; and
- (b) in the case of the Preference Shares an offer to purchase all the said shares held by each member at the sum of £1 per Preference Share; and
- (c) in the case of the Ordinary Shares and Preferred Ordinary Shares which will be converted into Deferred Shares an offer to purchase all the said shares held by each member for the aggregate sum of

£1 for all such shares

together, in the case of (a)(ii) and (b) with all dividends in arrear or accrued plus in every case an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the relevant shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the relevant shares.

In the event of disagreement, the calculation of the relevant Appropriate Offer price shall be referred to an umpire (acting as expert and not as arbitrator) nominated by the parties concerned (or in the event of disagreement as to nomination appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales) whose decision shall be final and binding.

(K) Any member of the Company who is (i) an employee of the Company or any of its subsidiaries (other than either Mr. Gordon Miller or Mr. Christopher Dunn) ("a Retiring Member") or (ii) is a person or persons to whom shares formerly held by a Retiring Member have been transferred pursuant to Article 12(C) or (iii) are the trustees of a family settlement of the type described in Article 12(C)(2) of which the Retiring Member is settlor or (iv) is a person to whom such trustees have transferred shares pursuant to Article 12(C)(2) shall, upon the Retiring Member being declared bankrupt or ceasing to be an employee of the Company or any of its subsidiaries for whatever reason other than wrongful (or, if at the time of such dismissal BID holds less than 10 per cent of the combined issued preferred ordinary and ordinary share capital of the Company, unfair) dismissal, be deemed to have given (immediately before the happening of such event) a Transfer Notice in accordance with paragraph (D) above in respect of all shares then held by such member ("a Deemed Transfer Notice").

(L) (1) If a Deemed Transfer Notice is given after 12 months of the date of adoption of these Articles for any of the reasons set out in Article 12(K) or in the event of the Retiring Member ceasing to be an employee of the Company or any of its subsidiaries as a result of his death, ill health or permanent incapacity at any time after the date of adoption of these Articles then the transfer price shall be agreed between the other directors and such member (or his personal representatives) failing which it shall be the fair value determined by the Auditors in accordance with paragraph (N) below or, if more, the amount paid up on the shares the subject of the Deemed Transfer Notice including any premium paid thereon.

(2) If a Deemed Transfer Notice is given by a Retiring Member within 12 months of the date of adoption of these Articles for any reason whatsoever (other than by reason of his death, ill health or permanent incapacity) then the transfer price shall be the amount paid up on the shares the subject of the Deemed Transfer Notice including any premium paid thereon, or, if less, fair value determined by the Auditors in accordance with paragraph (M) below.

(3) A Deemed Transfer Notice once given may not be withdrawn.

(M) (1) In the event that the Auditors are required to determine the price at which shares are to be transferred pursuant to these Articles such price shall be the amount the Auditors shall on the application of the directors certify in writing to be the price which in their opinion

represents a fair value for such Sale Shares as between a willing vendor and a willing purchaser on the basis that the holders of all the issued share capital of the Company are willing sellers and there is a willing purchaser for cash for all the said issued share capital and, in making such determination, the Auditors shall not take any account of whether the Sale Shares comprise a majority or a minority interest in the Company nor the fact that transferability is restricted by these Articles (and shall assume that the entire issued share capital of the Company was being sold) and shall have regard to the provisions of Article 6(G).

(2) The Auditors shall:-

- (i) determine the value of the entire issued share capital of the Company on a going concern basis; and
- (ii) determine the amount to be attributed to each of the classes of the Preference Shares, Ordinary Shares and the Preferred Ordinary Shares.

If the shares to be valued are Preference Shares the amount certified shall be a proportion of the amount determined under (ii) above as shall be the same proportion as the shares comprised in the Transfer Notice bear to the issued Preference Shares measured in nominal value.

If the shares to be valued are Ordinary Shares or Preferred Ordinary Shares the amount certified shall be a proportion of the amount determined under (ii) above as the nominal value of shares comprised in the Transfer Notice or Deemed Transfer Notice (as the case may be) bear to the nominal value of the issued Preferred Ordinary Shares and Ordinary Shares as if the same were one class of share.

In so certifying, the Auditors shall act as experts and not as arbitrators and their decision shall be final and binding on the parties.

(N) For the purpose of ensuring that a transfer of shares is duly authorised hereunder or that no circumstances have arisen whereby a Transfer Notice is required to be given hereunder or for the purpose of ensuring that an Appropriate Offer is procured in accordance with Paragraph (J) above or that no circumstances have arisen whereby an Appropriate Offer is required to be procured the directors may from time to time require any member or the legal personal representatives of any deceased member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the directors may think fit regarding any matter which they deem relevant to such purpose including (but not limited to) the names addresses and interests of all persons respectively having interests in the shares from time to time registered in the member's name. Failing such information or evidence being furnished to the satisfaction of the directors within 28 days after request the directors shall be entitled to refuse to register the transfer in question or (in case no transfer is in question) to require by notice in writing that a Transfer Notice be given in respect of the shares concerned or that an Appropriate Offer be procured.

(O) Any transfer or purported transfer of any share made otherwise than in accordance with this Article shall be void and of no effect and in any case where, pursuant to this Article, a Transfer Notice shall be required to be given or an Appropriate Offer shall be required to be procured and made in respect of any share(s) and such Transfer Notice or

Appropriate Offer is not duly given or made within a period of fourteen days then in the case of a Transfer Notice not having been served, a Transfer Notice shall be deemed to have been given, at the expiration of the said period and, in such case, together with in the case of an Appropriate Offer not having been made the Directors may (without prejudice to any other rights remedies or sanctions available to them) resolve at the expiration of the period as aforesaid that the shares concerned (which in the case of the requirement for the making of an Appropriate Offer shall be such shares or any interest therein as have been acquired such as to confer control on the person or persons referred to in Paragraph (J) above) cease to confer upon the holders thereof the right to receive notice of or attend and vote at general meetings of the Company for such period and on such terms as they may direct.

#### VOTING RIGHTS

13. (A) Regulation 54 of Table A shall be modified in accordance with the following provisions of this Article.

(B) A proxy shall be entitled to vote on a show of hands.

(C) Subject to sub-clause (E) below of this Article 13 the Preference Shares shall not carry any rights to vote at a general meeting.

(D) Without prejudice to Article 7 on a poll every member shall have one vote for every Preferred Ordinary or Ordinary Share of which he is the holder and which is fully paid up or credited as fully paid.

(E) In the event that for whatever reason any dividend on the Preference Shares is not paid within 28 days of the due dividend date in accordance with Article 6(A), or the profits of the Company as derived from the appropriate management accounts, for any period in respect of which the instalment of the Fixed Dividend is to be paid and after applying thereto a notional rate of tax equal to the corporation tax rate from time to time, are not equal to or in excess of the instalment of the Fixed Dividend payable in respect of that period, or in the event that the Preference Shares have not been redeemed in accordance with Article 6(F) hereof, then the Preference Shares shall until due payment of such dividends, or until cumulative profits (computed as aforesaid) for the said period and subsequent periods are equal in amount to the cumulative instalments of the Fixed Dividend for the same periods, or until the Preference Shares required to be redeemed pursuant to Article 6(F) have been so redeemed, together carry at least one vote in excess of seventy-five per cent. of the votes exercisable at general meetings of the Company and such votes shall be apportioned among each holder of Preference Shares in the proportion that the number of Preference Shares held by such person bears to the total number of Preference Shares.

#### DIRECTORS

14. The directors shall not be liable to retire by rotation and accordingly the second and third sentences of Regulation 79 of Table A shall not apply to the Company and in Regulation 73 of Table A the words "Subject as aforesaid" and "and may also determine the rotation in which any additional directors are to retire" shall be deleted.

15. Other than in respect of Mr Gordon Miller and Mr Christopher Dunn

the office of any director shall be vacated if he shall for whatever reason cease to be employed by the Company or any subsidiary of the Company. Paragraph (e) of Regulation 81 of Table A shall be omitted.

#### ALTERNATE DIRECTORS

16. In Regulation 67 of Table A the words "but, if" and the following words to the end of the Regulation shall be deleted.

17. A director, or any such other person as is mentioned in Regulation 65 of Table A, may act as an alternate director to represent more than one director, and an alternate director shall be entitled at any meeting of the directors or of any committee of the directors to one vote for every director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one for the purpose of determining whether a quorum is present. The identity of any alternate shall be subject to the prior written approval of the majority of the directors of the Company (other than his appointor) such approval not to be unreasonably withheld.

#### PROCEEDINGS OF DIRECTORS

18. Any director or member of a committee of the board of directors may participate in a meeting of the directors or such committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and any director or member of a committee participating in a meeting in this manner shall be deemed to be present in person at such meeting.

19. Except with the prior written consent of the Special Director, (or the prior written consent of the holders of a majority in nominal value of the Preferred Ordinary Shares) a director shall not vote as a director on any resolution concerning a matter in which he has, directly or indirectly, any kind of interest or duty whatsoever and if he shall so vote on any such resolution as aforesaid his vote shall not be counted and Regulation 94 of Table A shall be modified accordingly provided that any director may vote on any resolution concerning the Agreement;

#### BORROWING POWERS

20. Subject as provided in these Articles the directors may exercise all the powers of the Company (whether express or implied):-

- (A) of borrowing or securing the payment of money;
- (B) of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts;
- (C) of entering into leasing, hire or credit purchase transactions; and
- (D) of mortgaging or charging the property assets and uncalled capital of the Company and issuing debentures

but so that:-

- (1) the directors of the Company shall procure that the aggregate of the amounts for the time being remaining undischarged or owing or

due by virtue of any of the foregoing operations (including any liability whether ascertained or contingent under any guarantee for the time being in force but excluding inter-company loans and all borrowings outstanding immediately following the acquisition by the Company of the entire issued share capital of Superbreak Mini-Holidays Limited) shall not without the prior consent of the holders of the Preference Shares and Preferred Ordinary Shares given in accordance with Article 8 exceed £500,000;

- (2) no such sanction as is referred to in paragraph (1) of this Article 20 shall be required for the borrowing of any sum of money intended to be applied in the immediate repayment (with or without premium) of any moneys then already borrowed and outstanding and which is so applied, notwithstanding that the same may result in such limit being exceeded;
- (3) no lender or other person dealing with the Company shall be concerned to see or enquire whether the limit imposed by this Article is observed and no debt or liability incurred in excess of such limit shall be invalid and no security given for the same shall be invalid or ineffectual except in the case of express notice to the lender or recipient of the security or person to whom the liability is incurred at the time when the debt or liability was incurred or the security given that the limit hereby imposed had been or was thereby exceeded.

#### INDEMNITY

21. Subject to the provisions of the Acts, every director or other officer of the Company shall be indemnified out of the assets of the Company against all costs, charges, expenses, losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by the Court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company. 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 proper execution of the duties of his office or in relation thereto. The Company may purchase and maintain for any director or other officer of the Company and the Auditors insurance against any liability which by virtue of any law would attach to him in respect of any negligence, default, breach of duty or breach of trust he may be guilty of in relation to the Company.