

## THE COMPANIES ACTS 1985 to 1989

### PUBLIC COMPANY LIMITED BY SHARES

### MEMORANDUM OF ASSOCIATION OF

### MA POTTER'S PLC

- 1 The Company's name is "Ma Potter's plc".
- 2 The Company is to be a public company.
- 3 The Company's registered office is to be situated in England and Wales.
- 4 (i) The object of the Company is to carry on business as a general commercial company.  
(ii) Without prejudice to the generality of the object and the powers of the Company derived from Section 3A of the Act the Company has power to do all or any of the following things:-

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(a) To purchase or by any other means acquire and take options over any property whatever, and any rights or privileges of any kind over or in respect of any property.

(b) To apply for, register, purchase, or by other means acquire and protect, prolong and renew, whether in the United Kingdom or elsewhere any patents, patent rights, brevets d'invention, licences, secret processes, trade marks, designs, protections and concessions and to disclaim, alter, modify, use and turn to account and to manufacture under or grant licences or privileges in respect of the same, and to expend money in experimenting upon, testing and improving any patents, inventions or rights which the Company may acquire or propose to acquire.

(c) To acquire or undertake the whole or any part of the business, goodwill, and assets of any person, firm, or company carrying on or proposing to carry on any of the businesses which the Company is authorised to carry on and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company, or to acquire an interest in, amalgamate with, or enter into partnership or into any arrangement for sharing profits, or for co-operation, or for mutual assistance with any such person, firm or company, or for subsidising or otherwise assisting any such person, firm or company, and to give or accept, by way of consideration for any of the acts or things aforesaid or properly acquired, any shares, debentures, debenture stock or securities that may be agreed upon, and to hold and retain, or sell, mortgage and deal with any shares, debentures, debenture stock or securities so received.

(d) To improve, manage, construct, repair, develop, exchange, let on lease or otherwise, mortgage, charge, sell, dispose of, turn to account, grant licences, options, rights and privileges in respect of, or otherwise deal with all or any part of the property and rights of the Company.

(e) To invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined and to hold or otherwise deal with any investments made.

(f) To lend and advance money or give credit on any terms and with or without security to any person, firm or company (including without prejudice to the generality of the foregoing any holding company, subsidiary or fellow subsidiary or, or any other company associated in any with, the Company), to enter into guarantees, contracts of indemnity and suretyships of all kinds, to receive money on deposit or loan upon any terms, and to secure or guarantee in any manner and upon any terms the payment of any sum of money or the performance of any obligation by any person, firm or company (including without prejudice to the generality of the foregoing any such holding company, subsidiary, fellow subsidiary or associated company as aforesaid).

(g) To borrow and raise money in any manner and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, standard security, lien or other security upon the whole or any part of the Company's property or assets (whether present or future), including its uncalled capital, and also by a similar mortgage, charge, standard security, lien or security to secure and guarantee the performance by the Company of any obligation or liability it may undertake or which may become binding on it.

(h) To draw, make, accept, endorse, discount, negotiate, execute and issue cheques, bills of exchange, promissory notes, bills of lading, warrants, debentures, and other negotiable or transferable instruments.

(i) To apply for, promote, and obtain any Act of Parliament, order, or licence of the Department of Trade or other authority for enabling the Company to carry any of its objects into effect, or for effecting any modification of the Company's constitution, or for any other purpose which may seem calculated directly or indirectly to promote the Company's interests, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interests.

(j) To enter into any arrangements with any government or authority (supreme, municipal, local, or otherwise) that may seem conducive to the attainment of the Company's objects or any of them, and to obtain from any such government or authority any charters, decrees, rights, privileges or concessions which the Company may think desirable and to carry out, exercise, and comply with any such charters, decrees, rights, privileges, and concessions.

(k) To subscribe for, take, purchase, or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any other company constituted or carrying on business in any part of the world, and debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority, municipal, local or otherwise, in any part of the world.

(l) To control, manage, finance, subsidise, co-ordinate or otherwise assist any company or companies in which the Company has a direct or indirect financial interest, to provide secretarial, administrative, technical, commercial and other services and facilities of all kinds for any such company or companies and to make payments by way of subvention or otherwise and any other arrangements which may seem desirable with respect to any business or operations of or generally with respect to any such company or companies.

(m) To promote any other company for the purpose of acquiring the whole or any part of the business or property or undertaking or any of the liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company or to enhance the value of any property or business of the Company, and to place or guarantee the placing of, underwrite, subscribe for, or otherwise acquire all or any part of the shares or securities of any such company as aforesaid.

(n) To sell or otherwise dispose of the whole or any part of the business or property of the Company, either together or in portions, for such consideration as the Company may think fit, and in particular for shares, debentures, or securities of any company purchasing the same.

(o) To act as agents or brokers and as trustees for any person, firm or company, and to undertake and perform sub-contracts.

(p) To remunerate any person, firm or company rendering services to the Company either by cash payment or by the allotment to him or them of shares or other securities of the Company credited as paid up in full or in part or otherwise as may be thought expedient.

(q) To distribute among the Members of the Company in kind any property of the Company of whatever nature.

(r) To pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company, or to contract with any person, firm or company to pay the same, and to pay commissions to brokers and others for underwriting, placing, selling, or guaranteeing the subscription of any shares or other securities of the Company.

(s) To support and subscribe to any charitable or public object and to support and subscribe to any institution, society, or club which may be for the benefit of the Company or its Directors or employees, or may be connected with any town or place where the Company carries on business; to give or award pensions, annuities, gratuities, and superannuation or other allowances or benefits or charitable aid and generally to provide advantages, facilities and services for any persons who are or have been Directors of, or who are or have been employed by, or who are serving or have served the Company, or any company which is a subsidiary of the Company or the holding company of the Company or a fellow subsidiary of the Company or the predecessors in business of the Company or of any such subsidiary, holding or fellow subsidiary company and to the wives, widows, children and other relatives and dependants of such persons; to make payments towards insurance including insurance for any Director, officer or Auditor against any liability as is referred to in Section 310(1) of the Act; and to set up, establish, support and maintain superannuation and other funds or schemes (whether contributory or non-contributory) for the benefit of any of such persons and of their wives, widows, children and other relatives and dependants; and to set up, establish, support and maintain profit sharing or share purchase schemes for the benefit of any of the employees of the Company or of any such subsidiary, holding or fellow subsidiary company and to lend money to any such employees or to trustees on their behalf to enable any such purchase schemes to be established or maintained.

(t) Subject to and in accordance with a due compliance with the provisions of Sections 155 to 158 (inclusive) of the Act (if and so far as such provisions shall be applicable), to give, whether directly or indirectly, any kind of financial assistance (as defined in Section 152(1)(a) of the Act) for any such purpose as is specified in Section 151(1) and/or Section 151(2) of the Act.

(u) To procure the Company to be registered or recognised in any part of the world.

(v) To do all or any of the things or matters aforesaid in any part of the world and either as principals, agents, contractors or otherwise, and by or through agents, brokers, sub-contractors or otherwise and either alone or in conjunction with others.

(w) To do all such other things as may be deemed incidental or conducive to the attainment of the Company's object or of any of the powers given to it by the Act or by this Clause.

AND so that: -

(1) None of the provisions set forth in any sub-clause shall be restrictively construed but the widest interpretation shall be given to each such provision, and none of such provisions shall, except where the context expressly so requires, be in any way limited or restricted by reference to or inference from any other provision set forth in such sub-clause, or by reference to or inference from the terms of any other sub-clause of this Clause, or by reference to or inference from the name of the Company.

(2) The word "Company" in this Clause, except where used in reference to the Company, shall be deemed to include any partnership or other body of persons, whether incorporated or unincorporated and whether domiciled in the United Kingdom or elsewhere.

(3) In this Clause the expression "the Act" means the Companies Act 1985, but so that any reference in this Clause to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.

5 The liability of the Members is limited.

6 The Company's share capital is £160,000 divided into 150,000 Redeemable Preference Shares of £1 and 10,000 Ordinary shares of £1.

We, the subscribers to this Memorandum of Association, wish to be formed into a Company pursuant to this Memorandum; and we agree to take the number of shares shown opposite our respective names.

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Names and addresses of Subscribers	Number of shares taken by each Subscriber
1 Instant Companies Limited 1 Mitchell Lane Bristol BS1 6BU	One
2 Swift Incorporations Limited 1 Mitchell Lane Bristol BS1 6BU	One
Total shares taken	Two

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Dated this 3rd day of July, 1995.

Witness to the above Signatures: -

Mark Anderson  
1 Mitchell Lane  
Bristol BS1 6BU

# THE COMPANIES ACTS 1985 to 1989

## PUBLIC COMPANY LIMITED BY SHARES

### ARTICLES OF ASSOCIATION OF

#### MA POTTER'S PLC

##### PRELIMINARY

1 (a) The Regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No 805) as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (SI 1985 No 1052) (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied hereby and such Regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the regulations of the Company.

(b) In these Articles the expression "the Act" means the Companies Act 1985, but so that any reference in these Articles to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.

##### ALLOTMENT OF SHARES

2 (a) Shares which are comprised in the authorised share capital with which the Company is incorporated shall be under the control of the Directors who may (subject to Section 80 of the Act and to paragraph (c) below) allot, grant options over or otherwise dispose of the same, to such persons, on such terms and in such manner as they think fit.

(b) All shares which are not comprised in the authorised share capital with which the Company is incorporated and which the Directors propose to issue shall first be offered to the Members in proportion as nearly as may be to the number of the existing ordinary shares held by them respectively unless the Company in General Meeting shall by Special Resolution otherwise direct. The offer shall be made by notice specifying the number of shares offered, and limiting a period (not being less than fourteen days) within which the offer, if not accepted, will be deemed to be declined. After the expiration of that period, those shares so deemed to be declined shall be offered in the proportion aforesaid to the persons who have, within the said period, accepted all the shares offered to them; such further offer shall be made in like terms in the same manner and limited by a like period as the original offer. Any shares not accepted pursuant to such offer or further offer as aforesaid or not capable of being offered as aforesaid except by way of fractions and any shares released from the provisions of this Article by any such Special Resolution as aforesaid shall be under

the control of the Directors, who may allot, grant options over or otherwise dispose of the same to such persons, on such terms, and in such manner as they think fit, provided that, in the case of shares not accepted as aforesaid, such shares shall not be disposed of on terms which are more favourable to the subscribers therefor than the terms on which they were offered to the Members. The foregoing provisions of this paragraph (b) shall have effect subject to Section 80 of the Act.

(c) The Directors are generally and unconditionally authorised for the purposes of Section 80 of the Act, to exercise any power of the Company to allot and grant rights to subscribe for or convert securities into shares of the Company up to the amount of the authorised share capital with which the Company is incorporated at any time or times during the period of five years from the date of incorporation and the Directors may, after that period, allot any shares or grant any such rights under this authority in pursuance of an offer or agreement so to do made by the Company within that period. The authority hereby given may at any time (subject to the said Section 80) be renewed, revoked or varied by Ordinary Resolution of the Company in General Meeting.

## SHARES

3 The lien conferred by Clause 8 in Table A shall attach also to fully paid-up shares, and the Company shall also have a first and paramount lien on all shares, whether fully paid or not, standing registered in the name of any person indebted or under liability to the Company, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company. Clause 8 in Table A shall be modified accordingly.

### 3 (a) SHARE CAPITAL AND RIGHTS

1 As at 10 December 1999 the authorised share capital of the Company is £160,000 divided into 10,000 Ordinary Shares of £1 each ("Ordinary Shares") and 150,000 Redeemable Preference Shares of £1 each ("Preference Shares").

2 The rights and restrictions attaching to the Ordinary Shares and the Preference Shares are as follows:

#### (i) INCOME

##### **Preference Shares**

(a) First, the Preference Shares shall confer on the holders thereof the right to receive a fixed, cumulative preferential, cash dividend (the "Preference Dividend") at a rate per annum which exclusive of the tax credit associated therewith equals 2.5% above the base rate of National Westminster Bank PLC applicable on the relevant payment date of the amount paid up on such Preference Shares.

(b) The Preference Dividend shall accrue from day to day and the net amount be paid quarterly in arrear on 31 March, 30 June, 30 September and 31 December in each year (each such date being a "Preference Dividend Date") in respect of the periods ending on such dates. The Preference Dividend shall become a debt due by the Company on such dates without any resolution of the Directors or the Company in General meeting. Notwithstanding the foregoing, the first payment of Preference Dividend shall be made on 31 March 2000 in respect of the period from the date of allotment of the Preference Shares to 31 March 2000.

- (c) In the event of any Preference Share being redeemed other than on a Preference Dividend Date, then such share shall be entitled to receive an amount of Preference Dividend *pro rated* according to the number of days from the most recent Preference Dividend Date up to (and including) the date of redemption.
- (d) In the event of the profits of the Company available for distribution at any time being insufficient to allow payment in full of the amount of the Preference Dividend, the profits available as aforesaid shall be applied towards payment of the Preference Dividend and the amount of the shortfall (together with interest, if any) at 4% above the base rate of National Westminster Bank PLC from time to time ("the Rate") shall be paid out of subsequent profits available for distribution and prior to any subsequent Preference Dividend and all dividends payable on all other classes of shares in the capital of the Company.
- (e) In the event that any Preference Dividend is not paid on the relevant Preference Dividend Date then such sum shall become forthwith a debt due by the Company and interest shall accrue on the amount of such dividend at the Rate from such date until payment in full.

#### **Ordinary Shares**

Second, subject to and conditional upon payment in full of the Preference Dividend and all arrears of the Preference Dividend (together with any associated interest), the balance of the profits which may be distributed in respect of any financial period shall (if so determined by the Company in general meeting) be distributed amongst the holders of the Ordinary Shares *pro rata* according to the amount paid up on the Ordinary Shares respectively held by them.

#### (ii) CAPITAL

On a return of assets on liquidation, reduction of capital or otherwise, the surplus assets of the Company remaining after the payment of its liabilities shall be applied as follows:

#### **Preference Shares**

First, in paying to the holders of the Preference Shares then in issue (if any) the amount paid up thereon in respect of each of the Preference Shares held by them respectively together with a sum equal to any arrears, deficiency or accruals of the Preference Dividend (together with any associated interest) calculated down to the date of payment and to be payable irrespective of whether such dividend has been declared or earned or not.

#### **Ordinary Shares**

Second, the balance of such assets shall belong to and be distributed amongst the holders of the Ordinary Shares *pro rata* according to the amount paid up on the Ordinary Shares respectively held by them.

#### (iii) REDEMPTION

#### **Preference Shares**

- (a) The Company may redeem all or some (being not less than 25,000 in

number) of the Preference Shares on 31 March, 30 June, 30 September or 31 December in any year subject to giving to the holders thereof not less than 10 days' written notice.

- (b) The Company shall be bound to redeem all of the Preference Shares on the earlier of (i) Flotation or (ii) Sale or (iii) 31 December 2010. For this purpose, "Flotation" means the admission of the Ordinary Shares to the Official List of the London Stock Exchange or to any other recognised stock exchange or the admission of the same to trading on the Alternative Investment Market of the London Stock Exchange; and "Sale" means any person or any persons and any one or more persons acting in concert (as such term is defined in the City Code on Takeovers and Mergers) with such person, acquiring shares conferring in aggregate 100% of the total voting rights conferred by all of the shares in the capital of the Company for the relevant time being in issue and conferring the right to vote at all general meetings.
- (c) Upon the dates specified in paragraph (a) or the earlier occurrence of any of the other matters specified in paragraph (b), the sum required to redeem the Preference Shares then to be redeemed together with all arrears and accruals of the Preference Dividend and interest thereon due in respect of such shares ("the redemption monies") shall become a debt due and payable by the Company in respect of the Preference Shares to the holders of the Preference Shares and upon receipt of the relevant share certificate (or an indemnity from the holder in respect thereof in a form satisfactory to the Board acting reasonably) the Company shall forthwith pay the redemption monies to the appropriate shareholder save that where such payment can only be made out of capital, such payment shall be made subject to compliance with the relevant provisions of the Act.
- (d) There shall be paid on each Preference Share redeemed in accordance with this Article a sum equal to the aggregate of (i) the amount paid up on such Preference Shares (ii) such amount as equates to a compounded annual return of 10% on the amount paid up on such Preference Shares from the date of issue of such Preference Shares up to (and including) the date of redemption thereof; and (iii) any arrears, deficiency or accruals of the Preference Dividend on such Preference Share to be calculated down to the date of redemption whether such dividend has been declared or earned or not so that, for the purposes of these Articles, the Preference Dividend shall be deemed to accrue on a daily basis and shall cease to accrue on any Preference Share upon the date of redemption thereof.
- (e) Any redemption of any Preference Shares pursuant to this Article shall be carried out by the Company *pro rata* according to the number of shares of that class held by each holder thereof at the date of such redemption

(iv) VOTING

**Ordinary Shares**

On a show of hands every holder of Ordinary Shares who (being an

individual) is present in person or (being a corporation) is present by a duly authorised representative, not being himself a Member entitled to vote, shall have one vote and, on a poll, every holder of Ordinary Shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative shall have one vote for each Ordinary Share of which he is the registered holder.

#### **Preference Shares**

The holders of Preference Shares shall be entitled to receive copies of all circulars to any shareholder of the Company or debenture holder and shall be entitled to receive notices of and to attend but shall not be entitled to vote in any circumstances at any general meeting of the Company.

4 The liability of any Member in default in respect of a call shall be increased by the addition at the end of the first sentence of Clause 18 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment".

#### **GENERAL MEETINGS AND RESOLUTIONS**

5 (a) Every notice convening a General Meeting shall comply with the provisions of Section 372(3) of the Act as to giving information to Members in regard to their right to appoint proxies; and notices of an other communications relating to any General Meeting which any Member is entitled to receive shall be sent to the Directors and to the Auditors for the time being of the Company.

(b) No business shall be transacted at any General Meeting unless a quorum is present. Subject to paragraph (c) below two persons entitled to vote upon the business to be transacted, each being a Member or a proxy for a Member or a duly authorised representative of a corporation, shall be a quorum.

(c) If and for so long as the Company has only one Member, that Member present in person or by proxy or if that Member is a corporation by a duly authorised representative shall be a quorum.

(d) If a quorum is not present within half an hour from the time appointed for a General Meeting the General Meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors may determine; and if at the adjourned General Meeting a quorum is not present within half an hour from the time appointed therefor such adjourned General Meeting shall be dissolved.

(e) Clauses 40 and 41 in Table A shall not apply to the Company.

6 (a) If and for so long as the Company has only one Member and that Member takes any decision which is required to be taken in General Meeting or by means of a written resolution, that decision shall be as valid and effectual as if agreed by the Company in General Meeting save that this paragraph shall not apply to resolutions passed pursuant to Sections 303 and 391 of the Act.

(b) Any decision taken by a sold Member pursuant to paragraph (a) above shall be recorded in writing and delivered by that Member to the Company for entry in the Company's Minute Book.

## APPOINTMENT OF DIRECTORS

7 (a) Clause 64 in Table A shall not apply to the Company.

(b) The maximum number and minimum number respectively of the Directors may be determined from time to time by Ordinary Resolution in General Meeting of the Company. Subject to and in default of any such determination there shall be no maximum number of Directors and the minimum number of Directors shall be two.

(c) The Directors shall not be required to retire by rotation and Clauses 73 to 80 (inclusive) in Table A shall not apply to the Company.

(d) No person shall be appointed a Director at any General Meeting other than pursuant to Article 7(h) below unless either: -

(i) he is recommended by the Directors; or

(ii) not less than fourteen nor more than thirty-five clear days before the date appointed for the General Meeting, notice signed by a Member qualified to vote at the General Meeting has been given to the Company of the intention to propose that person for appointment, together with notice signed by that person of his willingness to be appointed.

(e) Subject to paragraph (d) above, the Company may by Ordinary Resolution in General Meeting appoint any person who is willing to act to be a Director, either to fill a vacancy or as an additional Director.

(f) The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number determined in accordance with paragraph (b) above as the maximum number of Directors and for the time being in force.

(g) In any case where as the result of the death of a sole Member of the Company the Company has no Members and no Directors the personal representatives of such deceased Member shall have the right by notice in writing to appoint a person to be a Director of the Company and such appointment shall be as effective as if made by the Company in General Meeting pursuant to paragraph (e) of this Article.

(h) Each person who holds not less than 20 per cent of the total number of ordinary shares in the Company in issue (each a "Major Investor"), shall have the right by notice in writing to the Company to appoint one Director of the Company and the following provisions shall have effect:

(i) Any such appointment shall be made by notice in writing to the Company by such Major Investor and such Major Investor may in like manner at any time and from time to time remove from office any Director appointed by it pursuant to this Article 7(h) and appoint any person in place of any such Director so removed or who had died or otherwise vacated office.

(ii) Upon any resolution pursuant to Section 303 of the Act or these Articles of Association or otherwise for the removal of any Director appointed by it and for the time being holding office pursuant to this Article 7(h), the shares held by such Major Investor shall confer the right to an aggregate number of votes which is one vote greater than the number of votes capable of being cast on such resolution by all other members of the Company.

## BORROWING POWER

8 The Directors may exercise all the powers of the Company to borrow money without limit as to amount and upon such terms and in such manner as they think fit, and subject (in the case of any security convertible into shares) to Section 80 of the Act to grant any mortgage, charge or standard security over its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

## ALTERNATE DIRECTORS

9 (a) An alternate Director shall not be entitled as such to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, and the first sentence of Clause 66 in Table A shall be modified accordingly.

(b) A Director, or any such other person as is mentioned in Clause 65 in 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.

## GRATUITIES AND PENSIONS

10 (a) The Directors may exercise the powers of the Company conferred by Clause 3(ii)(s) of the Memorandum of Association of the Company and shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.

(b) Clause 87 in Table A shall not apply to the Company.

## PROCEEDINGS OF DIRECTORS

11 (a) A Director may vote, at any meeting of the Directors or of any committee of the Directors, on any resolution, notwithstanding that it in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest whatsoever, and if he shall vote on any such resolution as aforesaid his vote shall be counted; and in relation to any such resolution as aforesaid he shall (whether or not he shall vote on the same) be taken into account in calculating the quorum present at the meeting.

(b) Clauses 94 to 97 (inclusive) in Table A shall not apply to the Company.

(c) The quorum for the transaction of the business of the Directors shall be all the Directors who are present in the United Kingdom at the time of the relevant meeting of the Directors. A person who holds office only as an alternate Director shall, if his appointor is not present, be counted in the quorum. Clause 89 of Table A shall not apply to the Company.

(d) Any Director including an alternate Director may participate in a meeting of the Directors or a committee of the Directors of which he is a member by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the Act, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chairman of the meeting is.

## THE SEAL

12 (a) If the Company has a seal it shall only be used with the authority of the Directors or of a committee of Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Director and by the Secretary or second Director. The obligation under Clause 6 of Table A relating to the sealing of share certificates shall apply only if the Company has a seal. Clause 101 of Table A shall not apply to the Company.

(b) The Company may exercise the powers conferred by Section 39 of the Act with regard to having an official seal for use abroad, and such powers shall be vested in the Directors.

## INDEMNITY

13 (a) Every Director or other officer or Auditor of the Company shall be indemnified out of the assets of the Company against all 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, or in connection with any application under Section 144 or Section 727 of the Act in which relief is granted to him by the Court, 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. But this Article shall only have effect in so far as its provisions are not avoided by Section 310 of the Act.

(b) The Directors shall have power to purchase and maintain for any Director, officer or Auditor of the Company insurance against any such liability as is referred to in Section 310(1) of the Act.

(c) Clause 118 in Table A shall not apply to the Company.

## TRANSFER OF SHARES

14.1 The Directors shall be required (subject only to Articles 14.2 and 14.3) to register promptly any transfer of shares made in accordance with the provisions of these Articles and shall not register any transfer of shares not so made.

14.2 The Directors may refuse to register a transfer unless: -

(a) it is lodged at the office or such other place as the Directors may reasonably appoint and is accompanied by the certificate for the shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer and it is in favour of not more than four transferees.

14.3 The Directors may also refuse to register a transfer if it is:

- (a) the transfer of a share on which the Company has a lien; or
- (b) the transfer of a share to a bankrupt, a minor or a person of unsound mind.

15 In this Article and in Article 16, the following words shall bear the following meanings:-

- |                     |  |
|---------------------|--|
| "Acceptance Period" | a period during which an offer made under Article 16.4 is open for acceptance; |
| "company"           | includes any body corporate;   |

"Excluded Person"	<p>(a) any Member (or other person entitled to shares in the manner set out in Article 16.9) who is deemed to have given a Transfer Notice under Article 16.9;</p> <p>(b) any Member or other person who has been required to give a Transfer Notice under Article 16.9 (whether or not that requirement has been complied with), but so that such Member or other person shall cease to be an Excluded Person if, at the end of the relevant Acceptance Period, the Company has failed to find persons wishing to purchase all the Sale Shares which are the subject of the Transfer Notice;</p> <p>(c) any Employee who has given, or been given, notice to terminate his contract of employment with the Company or any Group Company (otherwise than in consequence of ill health, disability or incapacity or in contemplation of retirement at normal retirement age, as determined by his employing company's policy in that regard for the time being);</p>
"Member"	
"Prescribed Price"	<p>a holder of Shares;</p> <p>the price per Sale Share specified in the Transfer Notice or (if no price is specified) the price per Sale Share agreed or determined pursuant to Article 16.3;</p>
"Proposing Transferor"	
"Purchaser"	a Member proposing to transfer or dispose of Shares or any interest therein;
"Sale Shares"	a Member willing to purchase Shares comprised in a Transfer Notice;
"Shares"	all Shares comprised in a Transfer Notice;
"Transfer Notice"	<p>Ordinary Shares of £1 each in the capital of the Company;</p> <p>a written notice served or deemed to be served by a Member on the Company in accordance with Article 16.</p>

16 The right to transfer Shares or any interest therein shall be subject to the restrictions set out in this Article 16.

16.1 The Proposing Transferor shall before transferring, or disposing of any Shares (or any interest in Shares) serve a Transfer Notice on the Company specifying the number of Shares in question, and the Transfer Notice shall constitute the Company his agent for the sale of those Shares in accordance with this Article 16. Except as provided in this Article 16, a Transfer Notice once given or deemed to be given shall not be revocable.

16.2 A Transfer Notice: -

16.2.1 may comprise Shares of more than one class and must, where the Proposing Transferor holds different classes of shares, comprise equal proportions of each class of shares;

16.2.2 may specify the Prescribed Price per Share;

16.2.3 shall, if the Proposing Transferor has received any offer to purchase Shares of the same class as the Sale Shares (whether or not any such offer constitutes an offer capable of becoming legally binding upon acceptance), within the period of one month prior to service of the Transfer Notice, give the name of the offeror, the number of Shares concerned and the price per Share offered.

16.3 The Prescribed Price for Ordinary Shares will be determined as follows: -

16.3.1 forthwith following receipt of a Transfer Notice comprising Ordinary Shares and which does not specify a Prescribed Price for such Shares, the Members shall seek to agree the Prescribed Price with the Proposing Transferor. In the event that the Prescribed Price is not agreed within 14 days after receipt of the Transfer Notice by the Company, the Proposing Transferor shall have the right at any time thereafter on behalf of the Company to appoint an independent financial adviser to determine the Prescribed Price;

16.3.2 for the purposes of Article 16.3.1, the independent financial adviser shall act as an expert and not as an arbitrator and (save only for manifest error) its determination shall be final and binding upon the Company and all Members. The costs and expenses of the independent financial adviser in relation to the making of its determination shall be borne by the Company unless the Prescribed Price as so determined is the same as, or substantially the same as, that (if any) which had been notified to the Proposing Transferor as being the Prescribed Price, in which event such costs and expenses shall be borne by the Proposing Transferor. The independent financial adviser will be instructed to arrive at its determination by calculating the market value of the relevant Sale Shares as between a willing buyer and a willing seller at arm's length and for the purposes of such calculation to:

16.3.3 take into account the price earnings ratio calculated by taking the sector P/Es for companies which appear in the "Restaurants, Pubs and Breweries" classification (or any replacement classification deemed appropriate by such independent financial adviser) appearing in the London Share Service section of the edition of the Financial Times dated the date of the Transfer Notice, and weighting them in line with the respective sector market capitalisations as reported in such edition of the Financial Times;

16.3.3.1 take into account the need for an adjustment to the above price earnings ratio (upwards or downwards to the extent the auditors think reasonable) in order to reflect each of:

- (i) the current performance of the business and its future prospects;
- (ii) the size of the Company relative to the quoted companies with which it is being compared;
- (iii) the current level of gearing in the Company; and

- (iv) the maintainable profit after tax of the Company;
- 16.3.3.2 apply a further discount (to the extent the independent financial adviser thinks reasonable) of no more than 25% to the resulting value to reflect any restrictions on the transfer of the Sale Shares but not to make any adjustment to reflect any premium or any discount arising in relation to the size of the holding the subject of the Transfer Notice; and
- 16.3.3.3 take into account bona fide offers received by the Proposing Transferor or the Board of Directors.
- 16.4 The Sale Shares shall, within 14 days following receipt of the Transfer Notice or (in a case falling within Article 16.3.1) agreement or determination of the Prescribed Price, be offered by the Company (other than to the Proposing Transferor and any Excluded Person) first to holders of ordinary shares in the Company pro rata according to their respective shareholdings for purchase at the Prescribed Price. All offers shall be made by notice in writing and specify a time (being not less than 30 days and not more than 60 days) within which the offer must be accepted or, in default, will be deemed to have been declined. A copy of such offers shall at the same time be sent by the Company to the Proposing Transferor.
- 16.5 Not later than 7 days following the last day of the Acceptance Period the Company shall give written notice to the Proposing Transferor stating: -
  - 16.5.1 if it is the case, that no person has sought to purchase any of the Sale Shares; or,
  - 16.5.2 the number of Sale Shares which persons have sought to purchase, giving the name and address of each Purchaser and the number of Sale Shares to be purchased by him;and so that in the event that purchasers have been found in the Acceptance Period for some only of the Sale Shares, the Proposing Transferor may within 7 days of service on him of notice under this Article 16.5 revoke his Transfer Notice by written notice to the Company.
- 16.6 In the event that the Proposing Transferor is given notice under Article 16.5.2 (and subject to the Proposing Transferor not revoking his Transfer Notice in accordance with Article 16.5, where permitted) the Proposing Transferor shall be bound on payment of the Prescribed Price to transfer the Shares in question to the respective Purchasers. The sale and purchase shall be completed at the registered office of the Company during normal business hours on the first business day after the expiry of 7 days from the date of service of notice under Article 16.5.2.
- 16.7 If a Proposing Transferor, after having become bound to transfer any Shares to a Purchaser, shall fail to do so, any Member shall have the right on behalf of the Company to authorise any person to execute on behalf of and as attorney for the Proposing Transferor any necessary instruments of transfer and shall register the Purchaser as the holder of the relevant Shares. The Company's receipt of the purchase money shall be a good discharge to the Purchaser, and the Company shall thereafter hold the same on trust for the Proposing Transferor. After the name of the Purchaser has been entered in the Register in purported exercise of these powers, the validity of the proceedings shall not be questioned by any person.

- 16.8 The Proposing Transferor may transfer Sale Shares to any person or persons in the following circumstances: -
- 16.8.1 If the Company shall fail within the Acceptance Period to find a Purchaser or Purchasers for any of the Sale Shares, the Proposing Transferor may, subject to Article 16.8.3, sell all or any of the Sale Shares.
- 16.8.2 If the Company shall within the Acceptance Period find a Purchaser or Purchasers for some (but not all) of the Sale Shares and shall serve notice accordingly under Article 16.5.2, any Proposing Transferor may sell all or any of the Sale Shares for which no Purchaser has been found.
- 16.8.3 The following provisions apply to any proposed sale of Sale Shares pursuant to Articles 16.8.1 and/or 16.8.2:
- 16.8.3.1 Shares may not be sold after the expiry of three months after the date on which notice is given to the Proposing Transferor under Article 16.5.2.
- 16.8.3.2 The Shares must be sold in pursuance of a bona fide sale at a price not being less than the Prescribed Price and the Directors may require to be satisfied that the Shares are being transferred in pursuance of a bona fide sale for the consideration stated in the instrument of transfer without any deduction, rebate or allowance whatsoever to the purchaser.
- 16.8.3.3 No Shares may be transferred, or disposed of, pursuant to this Article 16.8 by any person who is an Excluded Person, unless the Directors approve such transfer or disposal in advance in writing.
- 16.9 If any person becomes entitled to a Share in consequence of the death, bankruptcy, receivership or liquidation of a Member, then Transfer Notices, which do not specify a Prescribed Price, shall be deemed to have been given on the date on which any Director becomes aware that such entitlement has arisen in respect of all the Shares then registered in the name of the deceased, bankrupt or insolvent Member. Such Transfer Notices shall not be capable of revocation under the provisions of Article 16.5. Regulations 29 to 31 of Table A shall take effect accordingly.
- 16.10 For the purpose of ensuring that a transfer of Shares is duly authorised under these Articles or that no circumstances have arisen by reason of which a Transfer Notice may be required to be given or is deemed to have been given, the Directors shall have the right on behalf of the Company from time to time to require any Member or past Member or the personal representatives or trustee in bankruptcy, receiver or liquidator of any Member or any person named as transferee in any instrument of transfer lodged for registration to provide to the Company such information as the Directors may reasonably require regarding any matter which it considers relevant. If such information is not provided to the reasonable satisfaction of the Directors within a reasonable time after request, the Directors shall be entitled to refuse to register the transfer in question or (in case no transfer is in question) by notice in writing the Directors shall be entitled to require that a Transfer Notice be given, or to declare that a Transfer Notice is deemed to have been given, in respect of the Shares concerned. If the information discloses (in the reasonable opinion of the Directors) that a Transfer Notice ought to have been given or is deemed to have been given under this Article 16 in respect of any Shares, the Directors shall be entitled by notice in writing to require that a Transfer Notice be given, or to declare that a Transfer Notice is

deemed to have been given, in respect of the Shares concerned. Any Transfer Notice required to be given or declared to have been given under this Article 16.10 shall not specify a Prescribed Price and shall not be capable of revocation under the provisions of Article 16.5.

- 16.11 In any case where a Transfer Notice is required under this Article 16 to be given in respect of any Shares, if a Transfer Notice is not duly given within a period of 14 days of demand being made, a Transfer Notice shall be deemed to have been given at the expiration of that period. Such a deemed Transfer Notice shall not be capable of revocation under the provisions of Article 16.5.
- 16.12 Any notice required to be given under this Article 16 by the Company to a Member or by a Member to the Company or otherwise shall be given or served either personally or by sending it by first class post to the registered office of the Company or to the registered address of the Member (as the case may be) or, if he has no registered address within the United Kingdom and has supplied to the Company an address within the United Kingdom for the giving of notice to him, to the address so supplied. When a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected 48 hours after posting.

#### ACQUISITION OF A CONTROLLING INTEREST IN THE COMPANY

- 17.1 Notwithstanding anything contained in these Articles, but subject always to Article 17.3, no sale or transfer of any Ordinary Shares to any person whomsoever which would result if made and registered in a person obtaining a controlling interest in the Company whether alone or together with one or more persons acting in concert (the "Specified Shares"), shall be made or registered unless before the transfer is lodged for registration the proposed transferee has made an offer (stipulated to be open for acceptance for 28 days) to purchase all the other Ordinary Shares at the Specified Price (as hereinafter defined), which offer every holder of Ordinary Shares shall be bound within 28 days of the making of such offer to him either to accept or reject in writing (and in default of so doing shall be deemed to have rejected the offer).

- 17.2 For the purpose of Article 17.1:

17.2.1 the expression "acting in concert" shall have the meaning attributed to it in the City Code on Take-overs and Mergers;

17.2.2 the expression "a controlling interest" shall mean shares conferring in aggregate 50 per cent or more of the total voting rights conferred by all the shares for the time being in issue and conferring at the date of sale or transfer the right to vote at general meetings in substantially all circumstances;

17.2.3 the "Specified Price" shall mean (in respect of the Ordinary Shares) a price per share at least equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees for the Specified Shares to the holders thereof plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified 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 Specified Shares.

In the event of a disagreement the calculation of the Specified Price shall be referred to an umpire (acting as an expert and not as an arbitrator) nominated jointly by the parties concerned and acting at the expense of such party or parties as the umpire may direct (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.

- 17.3 If as a result of a general offer made pursuant to Article 17.1 a person or persons being a bona fide third party purchaser (not being a person connected with any holder of Ordinary Shares) (the "Buyer") acquires shares conferring in aggregate not less than 75 per cent of the total voting rights conferred by all the shares for the time being in issue and conferring at the date of such acquisition the right to vote at general meetings in substantially all circumstances, the Buyer may by written notice to the Company served within 30 days of such acquisition require the Company as agent for the Buyer to serve notices (each a "Compulsory Purchase Notice") on the holders of shares who have not accepted such offer (the "Minority Shareholders") requiring them to sell such shares at the consideration applicable to such general offer. The Company shall serve the Compulsory Purchase Notices forthwith and for 28 days from the service of the Compulsory Purchase Notices the Minority Shareholders shall not be entitled to transfer their shares to anyone except the Buyer or the person identified by the Buyer.
- 17.4 The Buyer shall complete the purchase of all shares in respect of which a Compulsory Purchase Notice has been given at the same time and no later than 21 days from the date of serving of such Compulsory Purchase Notices. The consideration shall be payable in full without any set off. The Directors shall not register any transfer to the Buyer and the Buyer shall not be entitled to exercise or direct the exercise of any rights in respect of any shares to be transferred to the Buyer until the buyer has fulfilled all his obligations pursuant to this Article.
- 17.5 If in any case a Minority Shareholder, on the expiration of 28 days from the service of the Compulsory Purchase Notice, shall have not transferred his shares to the person identified by the Buyer against payment of the price therefor, the Directors may authorise some person to execute and deliver on his behalf any necessary transfer in favour of the Buyer or the person identified by the Buyer and shall receive the consideration in respect of such shares and shall thereupon (subject to the transfer being duly stamped) cause the name of the Buyer (or the person identified by the Buyer) to be entered into the register of members as the holder of the relevant shares. The Company shall hold the consideration in trust for the Minority Shareholder but shall not be bound to earn or pay interest thereon. The receipt by the Company of the consideration shall be a good receipt for the price for the relevant shares but the Buyer shall not be discharged from procuring that the Company applies the money in payment to the Minority Shareholder which shall be made against delivery by the Minority Shareholder of the certificate in respect of the shares or an indemnity in respect of the same. After the name of the Buyer or the person identified by the Buyer has been entered in the Register in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person.
- 17.6 For the purpose of this Article 17, "Ordinary Shares" means ordinary shares in the capital of the Company.

#### FLOTATION

- 18.1 In connection with any proposed Flotation of the Company each holder of shares conferring less than 20 per cent of the voting rights conferred by all shares for the time being in issue and conferring at the relevant date the right to vote at general meetings in substantially all circumstances (each "a Minority Shareholder") shall be deemed to have irrevocably appointed the Chairman for the time being of the Board:

(a) to exercise the voting rights attached to such shares and/or to give written consents in respect of such shares to meetings being held on short notice and/or to sign written resolutions in respect of such shares in connection with the implementation of any such Flotation; and

(b) with full authority to sell all or some of such shares on Flotation at the flotation price PROVIDED THAT at least two Directors who are shareholders are also selling at the flotation price a percentage of their shareholdings which is the same as the percentage of such Minority Shareholder's shareholding proposed to be sold pursuant to the authority in this sub-paragraph (b).

18.2 For the purpose of Article 18.1, "Flotation" means the admission of the Company's ordinary share capital to the Official List of the London Stock Exchange or OFEX or to any other recognised stock exchange or the grant of permission to deal in the same on the Alternative Investment Market of the London Stock Exchange or any successor thereto.