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THE COMPANIES ACT 1985  
COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION  
of

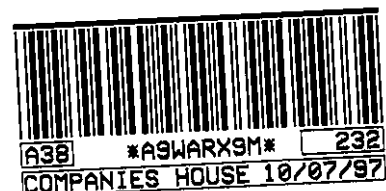
SHELF CORP 113 LIMITED

Company number: 3301834

Adopted by special resolution on: 1.7.97

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## Definitions

1. In these articles the following words and phrases have the meanings set out opposite them below:

'3i'	3i Group plc (and 'a member of the 3i Group' shall mean 3i, any subsidiary of 3i and any company of which 3i is a subsidiary).
'the A Ordinary Dividends'	the Fixed Dividend and the Participating Dividend referred to in these articles.
'Acquisition Agreement'	the agreement of the same date as the date on which these articles were adopted and made between the Company (1) and Mr Terry Mills ("Mr T Mills") (2) whereby the Company purchased Mr Mills' entire holding of shares in of A & J Bull (Holdings) Limited (registered number 01335580)
'the Act'	the Companies Act 1985 and every statutory modification or re-enactment thereof for the time being in force.
'Benefits'	all salary, fees and emoluments including sums paid by way of expenses allowance (if taxable), pension contributions and the cash value of benefits in kind to the extent that each such item is subject to income tax in the hands of the recipient thereof.
'Connected Persons'	as defined by section 839 Income and Corporation Taxes Act 1988.
'a Controlling Interest'	an interest in shares (as defined in Schedule 13 Part 1 and section 324 of the Act) in a company conferring in the aggregate 50% or more of the total voting rights conferred by all the issued shares in that company.
'Deferred Share'	a share having the rights set out in Article 22.

'Employee Member'	a person who is or has been a director and/or an employee of the Company or any of its subsidiaries.
'Employee Trust'	a trust approved by the holders of 75% of the A ordinary shares and whose beneficiaries are the bona fide employees of the Company or any of its subsidiaries.
'Equity Shares'	A ordinary shares and ordinary shares.
'Independent Expert'	an umpire (acting as an expert and not as an 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 at the request of any member.
'Index Linked'	adjusted annually in August such adjustment to be effective from 1 August in that year by an amount equal to the percentage increase (if any) in the retail price index published by the Government for the preceding twelve months. The first increase shall take effect on 1 August 1998 and shall be made by reference to the period from the date of adoption of these articles to the last day of July 1998.
'Net Profit'	<p>the profit on ordinary activities before taxation of the Company and its subsidiaries calculated on the historical cost accounting basis and shown in the audited consolidated profit and loss account of the Company and its subsidiaries for the relevant financial year (to the nearest £1) but adjusted by:-</p> <ul style="list-style-type: none"> <li>• adding back any amortisation of goodwill;</li> <li>• adding back any amount in excess of £731,000</li> </ul> <p>Index Linked in the aggregate charged in</p>

	respect of Benefits payable to Relevant Directors <sup>~</sup> *
'Ordinary Dividends'	the Ordinary Fixed Dividend and the Ordinary Participating Dividend referred to in these articles.
'Original Members'	persons who were members of the Company on the date of the adoption of these articles.
'Preference Dividend'	the A Preference Dividend or B Preference Dividend, as the case may require.
'Preference Shares'	the A preference shares and the B preference shares.
'Relevant Directors'	the directors and former directors of the Company and its subsidiaries (but only if such directors or former directors or their Connected Persons are interested in shares in the Company) and their Connected Persons (excluding from such Connected Persons employees of the Company or its subsidiaries employed bona fide and on at arm's length terms) but excluding any director appointed by 3i.
* provided that such amount shall reduce by an amount equal to the benefits of anyone who ceases to be a Relevant Director and shall be increased by the amount of benefits of anyone who becomes a Shareholding Director in replacement of the former	
'Table A'	Table A in the Companies (Tables A - F) Regulations 1985 as amended by the Companies (Tables A - F) (Amendments) Regulations 1985.
'Termination Date'	<ul style="list-style-type: none"> <li>where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires;</li> <li>where a contract of employment is terminated by the employer and a payment is made in lieu of notice, the date on which notice of termination was served;</li> </ul>

- where the Employee Member concerned is a director but not an employee, the date on which his contract for services with the Company is terminated; and
- in any other case, the date on which the contract of employment is terminated.

**'Term Loan'**

All monies outstanding, whether of principal, interest or otherwise, and owing by the Company to Lloyds Bank plc under the Term Loan Facility Letter (the "Original Debt") and any other monies outstanding and owing by the Company under any other agreement with any person for the purpose of refinancing the Original Debt to the extent that such monies have been applied in reduction of the Original Debt save to the extent that such other monies represent the proceeds of a subscription for shares in the Company.

**'Term Loan Facility Letter'**

The term loan facility letter dated the same date as the date of adoption of these articles addressed by Lloyds Bank plc to the Company relating to a term loan facility of £10,500,000.

**Application of Table A**

- 2.1 The regulations contained in or incorporated in Table A shall apply to the Company save insofar as they are excluded or varied hereby or are inconsistent herewith and such regulations (save as so excluded varied or inconsistent) and the articles hereinafter contained shall be the regulations of the Company.
- 2.2 Regulations 54, 73-80 (inclusive), 85, 86, 94-98 (inclusive) and 118 of Table A shall not apply to the Company.

**Share capital**

3. The authorised share capital of the Company is £6,728,775 divided into:

- 5,745,000 A preference shares of 1 penny each
- 3,382,500 B preference shares of 1 penny each
- 2,655,000 A ordinary shares of £1 each
- 3,982,500 ordinary shares of £1 each.

### Dividends

4. The profits of the Company available for distribution shall be used to pay dividends in the following order of priority:-

- 4.1 First, in paying to the holders of the A preference shares a dividend ('the A Preference Dividend') as follows:

<b>Amount</b>	:	<ul style="list-style-type: none"> <li>• in respect of the period from the date of subscription up to and including 31 July 1998, nil</li> <li>• in respect of the period from 1 August 1998 to 31 July 2000, 4 pence per share per annum</li> <li>• in respect of the period from 1 August 2000 to 31 July 2001, 5 pence per share per annum</li> <li>• in respect of all periods from 1 August 2001, 7 pence per share per annum</li> </ul>
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**Accrual date** : accruing from 1 August 1998

**Payment dates** : half yearly on 31 January and 31 July each year, the first payment to be made on 31 January 1999.

- 4.2 Second, and provided the Term Loan has been repaid in full, in paying to the holders of the B preference shares a dividend ('the B Preference Dividend') as follows:

<b>Amount</b>	:	<ul style="list-style-type: none"> <li>• in respect of the period from the date of adoption of these articles up to and including 31 July 1998, nil</li> <li>• in respect of the period from 1 August 1998 to 31 July 2000, 4 pence per share per annum</li> </ul>
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- in respect of the period from 1 August 2000 to 31 July 2001, 5 pence per share per annum
- in respect of all periods from 1 August 2001, 7 pence per share per annum

**Accrual date** : accruing from (and not payable in respect of periods prior to) the date upon which the Term Loan is repaid in full. The first B Preference Dividend will be pro rated to reflect the number of days in the financial year which have elapsed from the date of repayment in full of such Term Loan.

**Payment Dates** : half yearly on 31 January and 31 July each year, the first payment to be made on whichever of such dates is first to occur after the Term Loan is repaid in full.

4.3 Third, and notwithstanding that the B Preference Dividend has not begun to accrue, in paying to the holders of the A ordinary shares a dividend ('the Fixed Dividend') as follows:

**Amount** :

- in respect of the period from the date of subscription of these articles up to and including 31 July 1998, nil
- in respect of the period from 1 August 1998 to 31 July 2000, 4 pence per share per annum
- in respect of the period from 1 August 2000 to 31 July 2001, 5 pence per share per annum
- in respect of all periods from 1 August 2001, 7 pence per share per annum

**Accrual date** : accruing from (and not payable in respect of periods prior to) 1 August 1998

**Payment dates** : half yearly on 31 January and 31 July each year, the first payment to be made on 31 January 1999.

- 4.4 Fourth, and provided the Term Loan has been repaid in full, in paying to the holders of the ordinary shares a dividend ('the Ordinary Fixed Dividend') as follows:

**Amount** : 

- in respect of the period from the date of subscription of these articles up to and including 31 July 1998, nil
- in respect of the period from 1 August 1998 to 31 July 2000, 4 pence per share per annum
- in respect of the period from 1 August 2000 to 31 July 2001, 5 pence per share per annum
- in respect of all periods from 1 August 2001, 7 pence per share per annum

**Accrual date** : accruing from (and not payable in respect of periods prior to) the date upon which the Term Loan is repaid in full. The first Ordinary ~~fixed~~ Dividend will be pro rated to reflect the number of days in the financial year which have elapsed from the date of repayment in full of the Term Loan.

**Payment dates** : half yearly on 31 January and 31 July each year, the first payment to be made on whichever of such dates is first to occur after the Term Loan is repaid in full.

- 4.5 Fifth, and notwithstanding that the B Preference Dividend and the Ordinary Fixed Dividend have not begun to accrue in paying to the holders of the A ordinary shares as a class in respect of each financial year of the Company a dividend ('the Participating Dividend') as follows:

**Amount:** a sum which added to the aggregate Fixed Dividend payable in the financial year is equal to 10% of Net Profit.

**Accrual date:** accruing from 1 August 2002.



**Payment date:** not later than 4 months after the end of the relevant accounting period or within 14 days after the audit report on the accounts of the Company for the period is signed by the Company's auditors, whichever is the earlier.

- 4.6 Sixth, and provided the Term Loan has been repaid in full, in paying to the holders of the ordinary shares a dividend (the "Ordinary Participating Dividend") as follows:

**Amount:** a sum which added to the aggregate Ordinary Fixed Dividend payable in the financial year is equal to 10% of Net Profit.

**Accrual date:** accruing from (and not payable in respect of periods prior to) the date upon which the Term Loan is repaid in full. The first Ordinary Participating Dividend will be pro rated to reflect the number of days in the financial year which have elapsed from the date of repayment in full of the Term Loan.

**Payment date:** not later than 4 months after the end of the relevant accounting period or within 14 days after the audit report on the accounts of the Company for the period is signed by the Company's auditors, whichever is earlier.

- 4.7 Once all the foregoing dividends have been paid any remaining profits which the Company may determine to distribute shall, if the holders of 75% of the A ordinary shares and the holders of 75% of the ordinary shares agree in writing, be distributed amongst the holders of the ordinary and A ordinary shares (pari passu as if the same were one class of share).

- 4.8 Every dividend shall be distributed to the appropriate shareholders pro rata according to the amounts paid up or credited as paid up on the shares held by them respectively and shall accrue on a daily basis. All dividends are expressed net and shall be paid in cash. The A Preference Dividend, B Preference Dividend, the A Ordinary Dividends and the Ordinary Dividends are cumulative.

- 4.9 Unless the Company has insufficient profits available for distribution and the Company is thereby prohibited from paying dividends by the Act the A Preference Dividend, the B Preference Dividend, the A Ordinary Dividends and the Ordinary Dividends shall be paid immediately on the due date. Such payment shall be made

notwithstanding regulations 102 to 108 inclusive contained in Table A or any other provision of these articles and in particular notwithstanding that there has not been a recommendation of the directors or resolution of the Company in general meeting. If they are not paid on the due date they shall be a debt due by the Company and shall be payable in priority to any other dividend.

- 4.10 If due to delays in the preparation of the audited accounts of the Company the Participating Dividend cannot be calculated by the date it is due for payment then (subject to the requirements of the Act) the Company shall forthwith pay an interim dividend in respect of the Participating Dividend of a sum equal to the last Participating Dividend payable. The next and (if appropriate) any subsequent Participating Dividend shall be adjusted to take account of any overpayment or underpayment in respect of the said interim dividend which becomes apparent when the audited accounts are available.
- 4.11 If due to delays in the preparation of the audited accounts of the Company the Ordinary Participating Dividend cannot be calculated by the date it is due for payment then (subject to the requirements of the Act) the Company shall forthwith pay an interim dividend in respect of the Ordinary Participating Dividend of a sum equal to the last Ordinary Participating Dividend payable. The next and (if appropriate) any subsequent Ordinary Participating Dividend shall be adjusted to take account of any overpayment or underpayment in respect of the said interim dividend which becomes apparent when the audited accounts are available.
- 4.12 The Company shall procure that each of its subsidiaries which has profits available for distribution shall from time to time and to the extent that it may lawfully do so declare and pay to the Company such dividends as are necessary to permit lawful and prompt payment by the Company of any redemption moneys due on the preference shares and the A Preference Dividend, the B Preference Dividend, the A Ordinary Dividends and the Ordinary Dividends.

#### **Return of capital**

- 5 On a return of assets on liquidation or capital reduction or otherwise, the assets of the Company remaining after the payment of its liabilities shall be applied in the following order of priority:-

- 5.1 first in paying to the holders of the A preference shares £1.00 per share together with a sum equal to any arrears or accruals of the A Preference Dividend calculated down to the date of the return of capital;
- 5.2 second in paying to the holders of the B preference shares £1.00 per share together with a sum equal to any arrears or accruals of the B Preference Dividend calculated down to the return of capital;
- 5.3 third in paying to the holders of the A ordinary shares £1.00 per share together with a sum equal to any arrears or accruals of the dividends on the A ordinary shares calculated down to the date of the return of capital;
- 5.4 fourth in paying to the holders of ordinary shares £1.00 per share together with a sum equal to any arrears or accruals of the dividends on the ordinary shares calculated down to the return of capital; and
- 5.5 the balance of such assets shall be distributed amongst the holders of the A ordinary shares and ordinary shares (pari passu as if the same constituted one class of share) in proportion to the amounts paid up or credited as paid up on the A ordinary shares and ordinary shares held by them respectively.

#### **Conversion of A ordinary shares**

- 6.1 The holders of the A ordinary shares may at any time convert the whole of their A ordinary shares into a like number of ordinary shares. The following provisions of this article shall apply to the conversion.
- 6.2 The conversion shall be effected by notice in writing given to the Company signed by the holders of 75% of the A ordinary shares which shall be binding on all the holders of the A ordinary shares. The conversion shall take effect immediately upon the date of delivery of such notice to the Company (unless such notice states that conversion is to be effective when any conditions specified in the notice have been fulfilled in which case conversion shall take effect when such conditions have been fulfilled).
- 6.3 Forthwith after conversion takes effect the holders of the resulting ordinary shares shall send to the Company the certificates in respect of their respective holdings of A ordinary shares. The Company shall issue to such holders certificates for the ordinary shares resulting from the conversion.

- 6.4 The ordinary shares resulting from the conversion shall rank from the date of conversion pari passu in all respects with the other ordinary shares in the capital of the Company.
- 6.5 On the date of conversion the Company shall pay a dividend to the holders of the A ordinary shares of a sum equal to any arrears or accruals of the A Ordinary Dividends. The Fixed Dividend will be calculated on a daily basis to the date of conversion. The Participating Dividend shall be calculated pro rata according to the profits of the Company and its subsidiaries for the relevant financial year down to the date of such conversion, such profits to be calculated by the Company on a basis reasonably acceptable to the holders of 75% of the A ordinary shares.

#### Redemption of preference shares

- 7.1 Subject to the provisions of the Act the A preference shares shall be redeemed in the proportions and on the dates set out below:-

<u>Redemption date</u>	<u>Number of shares redeemable</u>
31 July 2007	1,436,250
31 July 2008	1,436,250
31 July 2009	1,436,250
31 July 2010	1,436,250

and any shares not redeemed upon the due date shall be redeemed forthwith thereafter upon redemption becoming permissible under the Act.

- 7.2 The Company shall pay on each of the preference shares redeemed whether pursuant to article 7.1 or 7.4 the sum of £1.00. At the same time it shall pay any arrears or accruals of any Preference Dividend calculated to the date of redemption. In the absence of any direction to the contrary by the holder of the relevant preference share any moneys paid on redemption of such share shall relate first to the said arrears and accruals of any such Preference Dividend. The Preference Dividend on any preference share shall cease to accrue from the date of payment of the redemption moneys in relation to such share.
- 7.3 Subject to the provisions of the Act the Company may with the prior written consent of the holders of 75% of the A preference shares redeem all or (in instalments of not less than 100,000 shares) some of the A preference shares in advance of the due date for redemption. In the absence of any contrary agreement between such holders and the Company any

partial early redemption shall be deemed to relate to the shares falling due for redemption in inverse order of maturity.

- 7.4 Subject to the provisions of the Act all of the preference shares shall (unless the holders of 75% of the A preference shares with respect to the A preference shares or the holders of 75% of the B preference shares, with respect to the B preference shares, give prior notice in writing to the contrary) be redeemed immediately upon any of the following dates:-

7.4.1 the date upon which any of the equity share capital of the Company is admitted to the Official List of London Stock Exchange Limited or permission for any of the equity share capital of the Company to be dealt in on a share dealing market of any recognised investment exchange (as defined in section 207 of the Financial Services Act 1986) becomes effective; or

7.4.2 the date upon which a successful offer to purchase 90% or more of the issued equity share capital of the Company (or 90% or more of all such capital including any already held by the offeror) is completed.

- 7.5 On the dates fixed for any redemption the Company shall pay to each registered holder of preference shares the amount payable in respect of such redemption and upon receipt of that amount each such holder shall surrender to the Company the certificate for his shares which are to be redeemed in order that they may be cancelled. If any certificate so surrendered includes any shares not redeemable at that time the Company shall issue a fresh certificate for the balance of the shares not redeemable to the holder. If there is more than one holder of any class of preference shares any redemption shall be made among such holders pro rata (as nearly as may be) to their respective holdings of such class.

### Voting

- 8.1 Shares in the Company shall carry votes as follows:

**ordinary shares:** one vote per share

**A ordinary shares:** one vote per share

**preference shares:** no votes

The preference shares shall carry the right to receive notice of general meetings of the Company but not the right to attend such meetings.

Votes on shares may be exercised:

- on a show of hands by every member who (being an individual) is present in person or (being a corporation) is present by a representative (in which case each member holding shares with votes shall have one vote)
- on a poll by every member who (being an individual) is present in person or by proxy or (being a corporation) is present by a representative or by a proxy (in which case each member holding shares with votes shall have one vote for each such share held).

8.2 A person becoming entitled to a share by reason of the death of the holder of such share (including any person who is for the time being a personal representative of such holder or, where no grant of representation has been made, would be a person entitled to apply for such grant either by reason of such person being named as an executor in the will of such holder or by reason of such person being one of the class of persons entitled to apply or which would be entitled to apply for a grant in respect of such holder's estate under the Non-Contentious Probate Rules, 1987 (as amended extended replaced or re-enacted from time to time) in accordance with the order of priority for grant in case of intestacy set out in rule 22 thereof and (in the case of dispute as regards such order) as determined by the ~~the~~ board of directors for the time being of the Company (the "Board") whose decision for this purpose as to the entitlement of any person shall be final and binding) shall be entitled to all rights attached to such share conferred by these articles including (without prejudice to the generality of the foregoing) all rights in relation to meetings of the Company (of whatever kind) and all rights in relation to the giving of all consents and agreements in relation to or provided for in these articles. References in these articles to members, shareholders or the holders of any shares shall except where the context otherwise requires be construed accordingly. Regulation 31 of Table A shall be modified accordingly.

8.3 The omission to give notice of a meeting to any person entitled to receive notice by virtue of article 8.2 above shall not invalidate the proceedings at that meeting. Regulation 39 of Table A shall be extended accordingly.

### **Class rights**

9. 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, only with the consent in writing of the holders of 75% of the issued shares of that class. Without prejudice to the generality of this article,

the special rights attached to the A preference shares and the A ordinary shares shall be deemed to be varied:-

9.1 by the Company:

- 9.1.1 altering its memorandum or articles of association; or
- 9.1.2 varying in any way (whether directly or indirectly) the rights attached to any of the shares for the time being in the capital of the Company; or
- 9.1.3 applying by way of capitalisation any sum in or towards paying up any share or loan capital of the Company; or
- 9.1.4 entering into a contract to purchase any of its own shares; or
- 9.1.5 redeeming any of its shares (except as specifically provided for in these articles); or
- 9.1.6 passing a resolution that it be wound up; or

9.2 by the Company or any of its subsidiaries:

- 9.2.1 altering, increasing, reducing, sub-dividing or consolidating its authorised or issued share capital; or
- 9.2.2 granting any option or other right to subscribe for its own shares; or
- 9.2.3 disposing of all or a substantial part of its undertaking pursuant to any transaction or series of related transactions where the aggregate consideration received or receivable by the Company and/or any of its subsidiaries exceeds £2,000,000  
Index-linked; or
- 9.2.4 acquiring any interest in any share in any capital of any company pursuant to any transaction or series of related transactions where the aggregate consideration paid or payable by the Company and/or any of its subsidiaries exceeds £1,000,000  
Index-linked; or
- 9.2.5 disposing of any interest in any share in any capital of any company pursuant to any transaction or series of related transactions where the aggregate consideration

received or receivable by the Company and/or any of its subsidiaries exceeds £2,000,000 Index-linked.

### **Transfer of shares**

10. The directors shall refuse to register any transfer of shares made in contravention of the provisions of these articles but (subject to Regulation 24 of Table A) shall not otherwise be entitled to refuse to register any transfer of shares. For the purpose of ensuring that a particular transfer of shares is permitted under the provisions of these articles, the directors may request the transferor, or the person named as transferee in any transfer lodged for registration, to furnish the Company with such information and evidence as the directors may reasonably think necessary or relevant. Failing such information or evidence being furnished to the satisfaction of the directors within a period of 28 days after such request the directors shall be entitled to refuse to register the transfer in question.

### **Permitted and mandatory transfers**

#### **Permitted transfers by 3i**

11.1 Notwithstanding any other provisions of these articles a transfer of any shares in the Company held by any member of the 3i Group may be made between the member in the Group holding such shares and any other member in the 3i Group without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any such transferee ceases to be a member of the 3i Group it shall forthwith transfer the relevant shares to a member of the 3i Group.

#### **Transfers with shareholder approval**

11.2 Notwithstanding any other provisions of these articles a transfer of any shares approved in writing by the holders of 75% of the ordinary shares and the holders of 75% of the A ordinary shares at that time or at the time of the giving of the consent may be made without restriction as to price or otherwise and any such transfer shall be registered by the directors.

#### **Mandatory transfer on cessation of employment**

11.3 If an Employee Member ceases to be a director or employee of the Company or any of its subsidiaries and does not continue in that capacity in relation to any of them, Transfer Notices shall be deemed to have been served on the relevant Termination Date in respect of all shares held by the Employee Member immediately before such cessation.

Transfers under this sub-article are in these articles referred to as Compulsory Employee Transfers.



## Pre-emption rights

### Transfer notices

- 12.1 Save as otherwise provided in these articles every member who desires to transfer any shares (hereinafter called 'the Vendor') shall give to the Company notice in writing of such desire (in these articles called a 'Transfer Notice'). Where the Transfer Notice is deemed to have been given it is referred to as a Deemed Transfer Notice. Transfer Notices and Deemed Transfer Notices shall constitute the Company the Vendor's agent 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 the Sale Price.

### Calculation of the Sale Price

- 12.2 The Sale Price shall be the price agreed by the Vendor and the directors. If the Vendor and the directors are unable to agree a price within 28 days of the Transfer Notice being given or being deemed to have been given the Sale Price will instead be the price which the Independent Expert shall certify to be in his opinion a fair value thereof. In arriving at his opinion the Independent Expert will value the shares on a going concern basis as between a willing seller and a willing buyer ignoring any reduction in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority interest and on the assumption that the Sale Shares are capable of transfer without restriction. The decision of the Independent Expert as to the Sale Price shall be final and binding.

### Right of Vendor to reject partial sales

- 12.3 A Transfer Notice, including a Deemed Transfer Notice, shall, except at the written request of the transferor given to the Company before determination of the Sale Price, contain a condition ('a Total Transfer Condition') that unless all the shares comprised therein are sold by the Company pursuant to this article none shall be sold. Any such provision shall be binding on the Company.

### Certification of the Sale Price and right of Vendor to cancel

- 12.4 If the Independent Expert is asked to certify the fair value his certificate shall be delivered to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Vendor. The Vendor shall be entitled by notice in writing given to the Company within ten days of the service upon him of the copy certificate to cancel the Company's authority to sell the Sale Shares unless the shares are to be sold pursuant to a Deemed Transfer Notice. The cost of obtaining the certificate shall be paid by the Company unless the Vendor cancels it in which case the Vendor shall bear the cost.

#### Pre-emptive offers-general

- 12.5 Once the Sale Price has been determined then unless the Vendor gives a valid notice of cancellation the Sale Shares shall be offered for sale as set out below. All offers made by the Company shall give details of the number and Sale Price of the Sale Shares.
- 12.6 So long as the holders of 75% of the A ordinary shares have given their prior written consent any shares being sold by reason of a Compulsory Employee Transfer shall first be offered to the Company. Such consent shall not be unreasonably withheld or delayed but the holders of 75% of the A ordinary shares may refuse their consent if in their opinion any transfer of such shares to the Company under this sub-article would result in the Company becoming a subsidiary company of any member of the 3i Group. Whether a company is a subsidiary shall be determined by 3i and shall include subsidiaries under tax legislation and company law. If 3i refuses consent under this sub-article the shares in question shall instead be offered for sale to an Employee Trust. Any shares not sold under this sub-article within 21 days of such offer will be offered for sale to the members of the Company as set out below.

#### First Offer

- 12.7 As soon as Sale Shares become available they shall be forthwith offered for sale by the Company to all holders of Equity Shares (other than the Vendor) pro rata as nearly as may be to the respective numbers of Equity Shares held by such members.

Any offer made by the Company under this sub-article will invite the relevant members to state in writing the maximum number of the shares offered to them they wish to purchase and will remain open for 21 days ('the First Offer Period').

#### Second Offer

- 12.8 If at the end of the First Offer Period there are any Sale Shares offered which have not been allocated the Company shall offer such shares to such members as have stated in writing their willingness to purchase all the shares previously offered to them.

This offer will invite the relevant members to state in writing the maximum number of shares they wish to purchase. If there are insufficient Sale Shares to meet the demand then the directors will allocate the Sale Shares pro rata as nearly as may be in proportion to the number of Equity Shares held by the relevant members. This offer will remain open for a further period of 21 days.

Thereafter the Company shall continue to make offers on the same terms while any member continues to state in writing his willingness to purchase all shares offered to him.

### Transfer procedure for pre-emptive offers

- 12.9 If the Company finds a purchaser for all or any of the Sale Shares under the terms of this article the Vendor shall be bound upon receipt of the Sale Price to transfer the Sale Shares (or such of the same for which the Company shall have found a purchaser or purchasers) to such persons. If the Vendor defaults in transferring Sale Shares the Company shall if so required by the person or persons willing to purchase such Sale Shares receive and give a good discharge for the purchase money on behalf of the Vendor and shall authorise some person to execute transfers of the Sale Shares in favour of the purchasers and shall enter the names of the purchasers in the Register of Members as the holder of such of the Sale Shares as shall have been transferred to them provided always that if the Sale Shares were the subject of a Total Transfer Condition then the Vendor shall not be obliged to sell any of the Sale Shares unless the Company has found a Purchaser for all of the Sale Shares.

### Transfers free of pre-emption

- 12.10 If the Company does not find purchasers for all of the Sale Shares under the terms of this article the Vendor shall at any time within six months after the final offer by the Company to its members be free to sell and transfer such of the Sale Shares as have not been so sold to any person at a price which is no less than the Sale Price. However if the Sale Shares were the subject of a Total Transfer Condition such a sale may only be made of all the shares and not part only.

### Effect of non-compliance

- 12.11 Any purported transfer of shares otherwise than in accordance with the provisions of these articles shall be void and have no effect.

### Transfer of control

### Transfers prohibited absolutely

- 13.1 No sale or transfer of the legal or beneficial interest in any shares in the Company may be made or validly registered if as a result of such sale or transfer and registration thereof a Controlling Interest would be obtained in the Company by a company in which one or more of the members of the Company immediately before such transfer (or persons acting in concert with them) has a Controlling Interest.

### Transfers permitted where offer is made for A ordinary shares

- 13.2 No sale or transfer of the legal or beneficial interest in any shares in the Company may be made or validly registered without the consent in writing of the holders of 75% of the A ordinary shares and the holders of 75% of the ordinary shares if as a result of such sale or transfer and registration thereof a Controlling Interest would be obtained in the Company

by a person or persons who are not Original Members unless the proposed transferee or transferees or his or their nominees are independent third parties acting in good faith and has or have offered to purchase all the A ordinary shares and all the ordinary shares at the Specified Price (calculated as set out below) and (if not redeemed) all the preference shares at a price per share of at least £1.00 plus a sum equal to any arrears or accruals of any Preference Dividend calculated down to the date of sale or transfer.

If any part of the Specified Price is to be paid except by cash then the holders of the A ordinary shares may, at their option, elect to take a price per share of such cash sum as may be agreed by them and the proposed transferee having regard to the transaction as a whole.

Calculation of the Specified Price

13.3 In this article the 'Specified Price' *in relation to the Equity shares* means the greater of :

- (1)
  - £1.00 per share, plus
  - all arrears and accruals of the dividends on such share calculated down to the date of sale or transferand
- (2)
  - the consideration (in cash or otherwise) per share equal to that offered or paid or payable by the proposed transferee or his or their nominees for the shares being acquired, plus
  - the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of such other 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, plus
  - all arrears and accruals of the dividends on such share calculated down to the date of the sale or transfer.

In the event of disagreement the calculation of the Specified Price shall be referred to an Independent Expert whose decision shall be final and binding.

Disapplication of articles 13.2 and 13.3

13.4 Articles 13.2 and 13.3 shall apply except when and if before the fifth anniversary of the date of adoption of these articles:

- and registration thereof*
- (1) a sale ~~transfer~~ of the legal or beneficial interest in any shares in the Company is proposed the result of such sale ~~of transfer and registration thereof~~ would be that a Controlling Interest would be obtained in the Company by a person or persons who are not Original Members;
  - (2) the proposed transferee or transferees or his or their nominees are independent third parties acting in good faith (each an "Offeror");
  - (3) The Offerors have offered to purchase all the preference shares (if not redeemed) at a price per share equal to or less than £1.00 and a sum equal to any arrears or accruals of the Preference Dividend on each such share calculated down to the date of sale ~~of transfer~~;
  - (4) the Offerors have offered to purchase all of the A ordinary shares and ordinary shares for the same price per share but in the case of the A ordinary shares the price is less than the Specified Price as determined in accordance with articles 13.3(1) and (2), and

Provided that:

- (5) an Independent Expert appointed by Terry Mills and the holders of 75% of the A ordinary shares has given a written valuation in relation to the preference shares, the A ordinary shares and the ordinary shares which values each of such shares at less than or equal to the amounts referred to in articles 13.4(3) and (4);
- (6) the holders of the A ordinary shares and A preference shares have been given a reasonable opportunity to accept (whether or not conditionally) the offers referred to in articles 13.4(3) and 13.4(4) (to the extent that such offers apply to the shares held by them) following receipt of a written copy of the valuation referred to in article 13.4(5);
- (7) the holders of 75% of the A ordinary shares have not made an offer or *(any such offer to be made in good faith and on at arm's length terms)* procured a third party to make an offer or together with a third party made an offer, within *30* ~~14~~ days of receipt by such holders of A ordinary shares of a written copy of the valuation referred to in article 13.4(5), in respect of all shares in the Company on no less favourable terms than the offer referred to in article 13.4(4) and (5);

*and provided that such offer was remained open for acceptance for a period of no less than 30 days of its receipt by the shareholders of the Company*

- (8) the proceeds of sale of the shares referred to in articles 13.4(3) and (4) are applied in the following manner to the extent that there are sufficient such proceeds:
- (a) first, in paying to the holders of the A preference shares before transfer £1.00 per share transferred plus all arrears and accruals of the dividends on such share calculated down to the date of sale ~~of transfer~~;
  - (b) second, in paying to the holders of the B preference shares before transfer £1.00 per share transferred plus all arrears and accruals of the dividends on each share calculated down to the date of sale ~~of transfer~~;
  - (c) third, in paying to the holders of the A ordinary shares before transfer all arrears and accruals of the dividends on such shares calculated down to the date of sale ~~of transfer~~;
  - (d) fourth, in paying to the holders of the ordinary shares before transfer all arrears and accruals of the dividends in such shares calculated down to the date of sale ~~of transfer~~;
  - (e) the balance of the proceeds being distributed pari passu among the holders before transfer of the A ordinary shares and ordinary shares in proportion to the amounts paid up or credited as paid up on the A ordinary shares and ordinary shares held by them respectively before ~~transfer~~.

(as if the same constituted one class of share)

sale

#### Compulsory purchases

13.5 If an offeror for shares in the Company, having made offers to all the members of the Company which are acceptable to the holders of at least 75% of the A ordinary shares, receives valid acceptances which would, on completion, result in such offeror becoming the holder of not less than 80% of the issued equity share capital of the Company, then:

13.5.1 such offeror may give notice to any non-accepting holder of ordinary shares requiring him to accept the offer within 14 days and stating that, failing such acceptance, he shall be deemed to have accepted such offer in respect of all ordinary shares held by him and irrevocably to have waived any pre-emption rights he may have in relation to any shares the subject of such offer;

13.5.2 upon the expiry of such notice each recipient thereof shall be obliged to deliver to the offeror (or as he may direct) an executed share transfer form and share certificate(s) in respect of the shares which were the subject of the notice together with an executed waiver of pre-emption rights, if appropriate;

13.5.3 if any such member fails to deliver executed share transfer form(s), share certificate(s) and pre-emption waiver(s) (if appropriate) as set out above he shall be deemed to have appointed any director of the Company to be his agent and attorney to execute such documents on his behalf and, against receipt by the Company (on trust for such member) of the appropriate purchase moneys, to deliver such executed transfer(s) and pre-emption waiver(s) (if appropriate) to the offeror and it shall be no impediment to completion of the transfer that such member's share certificate(s) has/have not been produced;

13.5.4 after such offeror or his nominee has been registered as the holder of shares transferred in accordance with this article the validity of such transaction shall not be questioned by any person.

#### Interpretation

13.6 In this article:

13.6.1 the expressions 'transfer' and 'transferee' shall include respectively the renunciation of a renounceable letter of allotment and the renounee under any such letter of allotment;

13.6.2 the expression 'shares' includes bearer shares, depository receipts and any other security or instrument into which shares may be converted with a view to a sale;

13.6.3 whether or not persons are acting in concert will be determined by the then most recent edition of the City Code on Takeovers and Mergers.

#### Primacy of article

13.7 All other regulations of the Company relating to the transfer of shares and the rights to registration of transfers shall be read subject to the provisions of this article.

#### **Appointment of directors**

14. 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. In addition, the holders of shares representing more than half of the shares which carry the right to attend and vote at general meetings of the Company may by notice to the Company together appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director.

#### **3i appointee**

- 15.1 Notwithstanding any other provisions of these articles, so long as 3i is the holder of any share in the Company, it shall be entitled to appoint as a director of the Company any person and to remove from office any person so appointed and to appoint another person in his place. The remuneration and reasonable expenses to be paid to the 3i appointee shall be payable by the Company and shall be the sum of £15,000 Index ~~linked~~. Upon request by 3i the Company shall also procure that the 3i appointee be appointed a director to any subsidiary of the Company.
- 15.2 Subject to article 15.5 following the fifth anniversary of the date of adoption of these articles and notwithstanding any other provisions of these articles, so long as 3i is the holder of any share in the Company, it shall be entitled further to appoint as directors of the Company in addition to any 3i appointee appointed pursuant to article 15.1 any two persons and to remove from office any such persons so appointed and to appoint other persons in their place. The remuneration and reasonable expenses to be paid to the 3i appointees shall be payable by the Company and shall be such sum as may be agreed between them and the Company or failing agreement such reasonable sum as shall be fixed by 3i. Upon request by 3i the Company shall also procure that any such 3i appointees be appointed a director to any subsidiary of the Company.
- 15.3 Subject to article 15.5 following the fifth anniversary of the date of adoption of these articles and so long as 3i is the holder of any share in the Company, upon request by 3i the directors shall also procure that any such 3i appointees referred to in articles 15.1 and 15.2 is appointed and acts as Chairman of the board of directors of the Company.
- 15.4 If Mr Terry Mills ceases at any time to be the chairman of the board of directors of the Company and so long as 3i is the holder of any share in the Company, upon request by 3i the directors shall also procure that any director requested by 3i is appointed and acts as chairman of the board of directors of the Company. The additional remuneration and reasonable expenses to be paid to any director so appointed as chairman shall be payable by the Company and shall be such sum as may be agreed between him and the Company or failing agreement such reasonable sum as shall be fixed by 3i.
- 15.5 Articles 15.2 and 15.3 shall not apply if (i) before the fifth anniversary of the date of adoption of these articles an offer has been made in relation to all of the shares in the Company at (in relation to the A ordinary shares and the A preference shares) the price specified and in accordance with the provisions of articles 13.2 to 13.4 inclusive and the holders of the A ordinary shares have rejected such offer (without an offer being made in accordance with article 13.4(7)) (ii) the Board had recommended such offer to the



shareholders of the Company and (iii) Terry Mills had confirmed in writing to the holders of the A ordinary shares that he wished to accept such offer.

### **Meetings of directors**

16. Notice of every meeting of the directors shall be given to each director at any address supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such meeting that notice was not given to him. Meetings of the directors may, be held by conference telephone or similar equipment, so long as all the participants can hear each other. Such meetings shall be as effective as if the directors had met in person and shall be treated as taking place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.

### **Directors' conflicts of interest**

17.1 Subject to the provisions of the Act and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:-

- 17.1.1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested;
- 17.1.2 may be a director or other officer of or employed by or be a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is in any way interested;
- 17.1.3 may (and any firm or company of which he is a partner or member or director may) act in a professional capacity for the Company or any body corporate in which the Company is in any way interested;
- 17.1.4 shall not by reason of his office be accountable to the Company for any benefit which he derives from such office service or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and
- 17.1.5 shall be entitled to vote and be counted in the quorum on any matter referred to in the foregoing paragraphs of this article.

17.2 For the purposes of this article:-

- 17.2.1 a general notice to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified;
- 17.2.2 an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and
- 17.2.3 an interest of a person who is for any purpose of the Act (excluding any statutory modification not in force when these articles were adopted) connected with a director shall be treated as an interest of the director and in relation to an alternate director an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise.

#### Lien

18. The lien conferred by regulation 8 of Table A shall apply to all shares of the Company whether fully paid or not and to all shares registered in the name of any person indebted or under liability to the Company whether he be the sole registered holder thereof or one of several joint holders.

#### Calls

19. 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 regulation 18 in Table A of the words "and all expenses that may have been incurred by the Company by reason of such non-payment."

#### Seal

20. Regulation 6 of Table A shall be modified so as to remove the reference to the company seal and regulation 101 of Table A shall be modified by the insertion of the words ", if the Company has one," after the words "The seal" at the beginning of that regulation.

#### Indemnity

- 21.1 Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution of his duties or 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 the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part 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.
- 21.2 The Company may purchase and maintain insurance against any liability falling upon its directors or other officers or auditors which arises out of their respective duties to the Company or in relation to its affairs.

#### Conversion of Shares held by the Directors

- 22 In the event that a claim is made by the Company pursuant to the Acquisition Agreement against Mr Terry Mills (the "Defaulting Shareholder") and Mr Terry Mills exercises his election to satisfy his liability (the "Established Liability" ) to the Company pursuant to and in accordance with the terms of the Acquisition Agreement in respect of that claim then:

- (including any premium)
- 22.1 that number of B preference shares held by the Defaulting Shareholder whose aggregate subscription price is equal to the Established Liability shall be converted into and redesignated as the same number of Deferred Shares of 1 pence each in satisfaction pro tanto of that Established Liability, the proportion of B preference shares to be so converted to be as directed in writing by the holders of not less than 75% of the A ordinary shares;
- 22.2 any dividend that has accrued on any B preference shares held by a Defaulting Shareholder and which remains unpaid immediately prior to conversion of any of those shares pursuant to article 22.1 shall be deemed to have been waived by that Defaulting Shareholder and the amount of the dividend so waived shall be deducted from the amount of the Established Liability to which conversion under article 22.1 is to apply prior to ascertaining in accordance with those articles the number of shares to be so converted.
- 22.3 the rights attached to the Deferred Shares of 1 pence each arising on conversion under this article 22 are as follows:

- 22.3.1 the Deferred Shares shall not confer on the holders of them any right to receive payment of any dividend;
  - 22.3.2 the Deferred Shares shall not confer on the holders of them any right to receive notice of, or to attend and vote at, any general meeting of the Company;
  - 22.3.3 on a return of assets on a winding up or otherwise the Deferred Shares shall entitle the holders thereof only to payment of 1 penny for each Deferred Share held after the repayment of the capital paid up on each A preference share, B preference share, A ordinary share and ordinary share and the payment to each holder of each such share of the sum of £10,000 for each share so held; and
  - 22.3.4 the Company shall have irrevocable authority at any time to appoint any person to execute on behalf of the holders of all or any of the Deferred Shares a transfer thereof (and/or an agreement to transfer the same) to such person(s) as the Company may determine as custodian thereof and/or to purchase the same itself (in accordance with the provisions of the Act), in any such case for not more than 1 penny for each Deferred Share held by any member, without further obtaining the sanction of the holder or holders thereof and pending such transfer and/or purchase to retain the certificate for the Deferred Shares; and
- 22.4. the holders of the Deferred Shares resulting from the conversion shall send to the Company the certificates in respect of their respective holdings of B preference shares (or such indemnity in lieu thereof as the Company may reasonably require) that have been converted for cancellation and the Company shall issue to the holders certificates for the Deferred Shares resulting from the conversion and certificates for any B preference shares remaining following such conversion.