

Osborne
Clarke



31/10/2000
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Clarke

The Companies Act 1985

Company limited by shares

Articles of association

of

Tipmajor Limited

Company number: 3433256

Adopted by special resolution on: 21 November 1997

Bristol

London

Barcelona

Brussels

Copenhagen

Frankfurt

Lyon

Paris

Rotterdam

LW-004449



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1. Definitions

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, the Participating Dividend and the Compensatory Dividend referred to in these articles;
'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;
'Capitalisation'	shall mean (a) on a Flotation, the valuation placed upon the whole of the issued share capital of the Company as shown in a prospectus or listing particulars published in connection with such Flotation less the gross amount of any new money raised by the Company from the subscription for new shares issued by the Company at the time of and in connection with such Flotation and (b) on a Sale, the aggregate price paid for the equity share capital of the Company plus the cash value of any other sum (in cash or otherwise) received or receivable by the shareholders which can reasonably be regarded as an addition to the price paid (whether or not paid at the time of the Sale);
'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;
'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;
'Excess Benefits'	Benefits in excess of £172,500 Index Linked in the aggregate payable in respect of the relevant financial year to the Relevant Directors after deducting tax at the basic rate on such excess sum;
'Flotation'	means the listing or dealing permission (as the case may be) which becomes effective on the Flotation Date;
'Flotation Date'	shall mean the date upon which either (a) a listing of any equity share capital of the Company on the Official List of The London Stock Exchange becomes effective or (b) permission for any of the equity share capital of the Company to be dealt in on any recognised investment exchange (as defined by section 207 of the Financial Services Act 1986) becomes effective;
'Good Leaver'	<p>an Employee Member who ceases to be a director or employee of the Company or any of its subsidiaries and does not continue as either a director or employee in relation to any of them where such cessation occurs at any time for one of the following reasons:</p> <ul style="list-style-type: none"> • death; • illness or disablement; or • retirement at normal retirement age; <p>or where such cessation occurs after 1 January 2000 as a result of the Employee Member ceasing to be employed by reason of unfair, wrongful or constructive dismissal (as determined by a court or tribunal, as the case may be);</p>
'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;

'Index Linked'

adjusted annually each 1 November 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 place on 1 November 1998 and shall be made by reference to the period from 1 November 1997 to the last day of October 1998;

'Net Profit'

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:

- adding back any amortisation of goodwill;
- adding back any amount in excess of £172,500 Index Linked charged in respect of Benefits payable to Relevant Directors;

'Offer'

shall mean either (a) the making of an offer to purchase all the equity share capital of the Company which is accepted in relation to such percentage of such share capital as, when aggregated with such share capital, if any, already held by the offeror, will result in the offeror acquiring more than 90 per cent of the equity share capital of the Company; or (b) the entering into of one or more agreements which will result in any person acquiring more than 90 per cent of the equity share capital of the Company, which agreements become unconditional;

'Original Members'

persons who were members of the Company on the date of the adoption of these articles and the Privileged Relations of such members;

'Privileged Relations'

the spouse or widow or widower of the member and the member's children and grandchildren (including step and adopted children and their issue) and step and adopted children of the member's children;

'Profit After Tax'

the profit on ordinary activities after 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;

'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 but excluding any director appointed by 3i;

'Richard Brown Pension Plan'

the trust constituting the Richard Brown Pension Plan and created by the Company on the same date as the date of adoption of these Articles;

'Sale'

shall mean the transaction or transactions envisaged by an Offer;

'Sale Date'

shall mean the date upon which either (a) the offer or the agreement respectively referred to in the definition of 'Offer' is or becomes unconditional or (b) if later, the date on which such offer or agreement is completed in accordance with its terms;

'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'

- where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires;
- 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;
- 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.

2. 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.

3. **Share capital**

The authorised share capital of the Company is £147,388 divided into:

453,000	preference shares of 1 penny each	45300
42,858	A ordinary shares of £1 each	29,07835
100,000	ordinary shares of £1 each.	

4. **Dividends**

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 preference shares a dividend ('the Preference Dividend') as follows:

Amount: 9 pence per share per annum for the period to 30 April 2001 and 10 pence per share per annum for each year following

Accrual date: accruing from the date of subscription

Payment dates: half yearly on 30 April and 31 October each year, the first payment to be made on 30 April 1998.

- 4.2 Second, in paying to the holders of the A ordinary shares a dividend ('the Fixed Dividend') as follows:

Amount: 9 pence per share per annum for the period to 30 April 2001 and 10 pence per share per annum for each year following

Accrual date: accruing from the date of subscription

Payment dates: half yearly on 30 April and 31 October each year, the first payment to be made on 30 April 1998.

- 4.3 Third, 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 when added to the aggregate Fixed Dividend payable in the financial year is equal to:

for the financial years of the Company ending on or before 30 April 2001 - 6% of Net Profit

for each financial year of the Company following 30 April 2001 - 10% of Net Profit

Accrual date: accruing from the date of subscription. The first Participating Dividend will be pro rated to reflect the number of days in the financial year during which the A ordinary shares have been in issue.

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.

4.4 Fourth, in paying to the holders of the A ordinary shares in respect of each financial year of the Company a dividend ('the Compensatory Dividend') as follows:

Amount: a sum per share calculated by dividing the Excess Benefits by the number of ordinary shares held by Relevant Directors on the last day of the relevant financial year (if there is no Excess Benefits no Compensatory Dividend is payable)

Accrual date: accruing from the date of subscription

Payment date: the due date for payment of the Participating Dividend.

4.5 Fifth, in paying to the holders of the ordinary shares a dividend as follows:

Amount: such amount as the directors may determine up to the amount of the aggregate of the Fixed Dividend and the Participating Dividend paid on each A ordinary share

Accrual date: dividends do not accrue on ordinary shares. Their payment depends on a recommendation by the directors and satisfaction of each of the conditions set out below

Payment date: at any time during the financial year in which the Participating Dividend by reference to which it is calculated is paid.

4.6 No dividend shall be payable on the ordinary shares in respect of any financial year unless on the proposed payment date each of the following conditions is satisfied:

- 4.6.1 the holders of 50% of the Equity Shares have first given their written consent;
- 4.6.2 Profit After Tax is at least three times the total of
- all dividends made or proposed to be made in respect of that financial year, plus
 - any Excess Benefits;
- 4.6.3 the profits of the Company available for distribution following payment of the proposed dividend on the ordinary shares are not less than £100,000;
- 4.6.4 all preference shares which have fallen due for redemption have been redeemed;
- 4.6.5 the Participating Dividend (if any) has been paid in full in respect of that financial year and in respect of all previous financial years of the Company;
- 4.6.6 there are no arrears of any other dividends.
- 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 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 Preference Dividend and the A 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 Preference Dividend and the A 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 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 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 Preference Dividend and the A Ordinary Dividends.

5. Return of capital

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 preference shares £1 per share together with a sum equal to any arrears or accruals of the Preference Dividend calculated down to the date of the return of capital;
- 5.2 second in paying to the holders of the A ordinary shares £1 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;
- 5.3 third in paying to the holders of ordinary shares £1 per share; and
- 5.4 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.

6. 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. 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.

7. Redemption of 'A' ordinary shares

- 7.1 If a Sale or Flotation occurs on or prior to 31 October 2002, the Company shall redeem such number (if any) of 'A' Ordinary Shares or ordinary shares (as the case may be) as will result in the percentage of the equity share capital of the Company represented by the 'A' ordinary shares being the figure shown in column 3 below against the relevant period in which the Sale Date or the Flotation Date falls as shown in column 1 below and against the relevant band of Capitalisation shown in column 2 below:

<i>Column 1 Relevant period (s)</i>	<i>Column 2 Flotation/Sale Capitalisation</i>	<i>Column 3 'A' Ordinary Shares %</i>
01.11.1997 - 31.10.2000	£7,500,000+	25%
	£6,750,000 - £7,499,999	27.5%
	£6,000,000 - £6,749,999	30%
	£5,250,000 - £5,999,999	32.5%
	£0 - £5,249,999	35%
01.11.2000 - 31.10.2001	£8,250,000+	25%
	£7,500,000 - £8,249,999	27.5%
	£6,750,000 - £7,499,999	30%
	£6,000,000 - £6,749,999	32.5%
	£0 - £5,999,999	35%
01.11.2001 - 31.10.2002	£9,000,000+	25%
	£8,250,000 - £8,999,999	27.5%
	£7,500,000 - 8,249,999	30%
	£6,750,000 - £7,499,999	32.5%
	£0 - £6,749,999	35%

- 7.2 Any redemption in terms of article 7.1 shall be made on the Flotation Date or the Sale Date (as the case may be) but immediately prior to the Flotation or Sales (as the case may be).

- 7.3 If a Flotation or Sale has not take place by 31 October 2002 the Company shall on that date redeem such number of ordinary shares as will result in the 'A' Ordinary Shares representing 35% of the equity share capital of the Company.
- 7.4 If there is more than one holder of 'A' ordinary shares or ordinary shares, then redemptions in terms of this article 7 shall be made pro rata in the proportion which the number of shares held by each such holder bears to the total number of 'A' ordinary shares or ordinary shares (as the case may be) in issue immediately prior to such redemption.
- 7.5 The Company shall pay on each of the 'A' ordinary shares or ordinary shares (as the case may be) so redeemed the sum of £1 together with a sum equal to any arrears or accruals of the dividends due on the 'A' ordinary shares or ordinary shares (as the case may be) calculated to the date of redemption. 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 redemption as such profits to be calculated by the Company on a basis reasonably acceptable to the holders of the 'A' ordinary shares.

8. Redemption of preference shares

- 8.1 Subject to the provisions of the Act the preference shares shall be redeemed in five equal instalments of £90,600 on 30 April and 31 October in each year commencing on 30 April 2002 and any shares not redeemed upon the due date shall be redeemed forthwith upon redemption becoming permissible under the Act.
- 8.2 The Company shall pay on each of the preference shares redeemed the sum of £1. At the same time it shall pay any arrears or accruals of the 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 Preference Dividend. The Preference Dividend shall cease to accrue from the date of payment of the redemption moneys.
- 8.3 Subject to the provisions of the Act the Company may with the prior written consent of the holders of 75% of the preference shares provided there are no arrears of dividend on the A ordinary shares or preference shares redeem all or (in instalments of not less than 50,000 shares) some of the 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.
- 8.4 Subject to the provisions of the Act all of the preference shares shall (unless the holders of 75% of the preference shares give notice in writing to the Company to the contrary) be redeemed immediately upon any of the following dates:
- 8.4.1 the date upon which any of the equity share capital of the Company is admitted to the Official List of The London Stock Exchange 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

8.4.2 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.

8.5 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.

9. Voting

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).

10. Class rights

Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, 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 preference shares and the A ordinary shares shall be deemed to be varied:

10.1 by the Company:

10.1.1 altering its memorandum or articles of association; or

- 10.1.2 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
- 10.1.3 applying by way of capitalisation any sum in or towards paying up any share or loan capital of the Company; or
- 10.1.4 entering into a contract to purchase any of its shares; or
- 10.1.5 redeeming any of its shares (except as specifically provided for in these articles); or
- 10.1.6 passing a resolution that it be wound up; or

10.2 by the Company or any of its subsidiaries:

- 10.2.1 altering, increasing, reducing, sub-dividing or consolidating its authorised or issued share capital; or
- 10.2.2 granting any option or other right to subscribe for shares; or
- 10.2.3 disposing of its undertaking or any substantial part thereof; or
- 10.2.4 disposing of or acquiring any interest in any share in the capital of any company.

11. **Transfer of shares**

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.

12. **Permitted and mandatory transfers**

12.1 *Permitted transfers to relations*

Notwithstanding any other provision in these articles any member may at any time transfer (or by will bequeath or otherwise dispose of on death) all or any shares held by him to a Privileged Relation.

12.2 *Permitted transfers by trusts*

On a change of trustee of the Richard Brown Pension Plan shares held by the Richard Brown Pension Plan may be transferred to the new trustee(s) and such shares may at any time be transferred to the beneficiary of such trust.

12.3 *Permitted transfers by 3i*

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.

12.4 *Transfers with shareholder approval*

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

12.5 *Mandatory transfer if trust ceases to be for the benefit of Richard Brown*

If and whenever any shares held by the trustee(s) for the Richard Brown Pension Plan cease to be held upon a trust (otherwise than in consequence of a transfer to Richard Brown) or there cease to be any beneficiaries of the Richard Brown Pension Plan a Transfer Notice (as hereinafter defined) shall be deemed to have been given in respect of the relevant shares (as hereinafter defined) by the holders thereof and such shares may not otherwise be transferred.

For the purposes of this sub article the expression "relevant shares" means and includes the shares originally transferred to the trustee(s) by virtue of the holding of the relevant shares or any of them.

12.6 *Mandatory transfer on cessation of employment*

If an Employee Member ceases to be a director or employee of the Company or any of its subsidiaries and does not continue in either capacity in relation to any of them, Transfer Notices shall be deemed to have been served on the relevant Termination Date in respect of:

12.6.1 all shares held by the Employee Member immediately before such cessation; and

12.6.2 all shares then held by the Employee Member's Privileged Relations and, in the case of Richard Brown, all shares held by the trustee(s) of the Richard Brown Pension Plan (other than shares which the directors are satisfied were not acquired by such holders either (i) directly or indirectly from the Employee Member or (ii) by reason of their connection with the Employee

Member, and the decision of the board of directors in this respect will be final).

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

13. Pre-emption rights

13.1 *Transfer notices*

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.

13.2 *Calculation of the Sale Price*

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.

13.3 *Restriction of Sale Price for certain transfers by Employee Members*

In the case of Compulsory Employee Transfers where the Employee Member is not a Good Leaver the Sale Price shall be restricted to a maximum of the original subscription price of the Sale Shares.

13.4 *Right of Vendor to reject partial sales*

A Transfer Notice (but not a Deemed Transfer Notice) may 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.

13.5 *Certification of the Sale Price and right of Vendor to cancel*

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.

13.6 *Pre-emptive offers-general*

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.

13.7 *Preliminary offer to a 'Warehouse'*

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.

13.8 *First Offer*

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').

13.9 *Second Offer*

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.

13.10 *Transfer procedure for pre-emptive offers*

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.

13.11 *Transfers free of pre-emption*

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.

13.12 *Effect of non-compliance*

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

14. *Transfer of control*

14.1 *Transfers prohibited absolutely*

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 (or persons acting in concert with them) has a Controlling Interest.

14.2 *Transfers permitted where offer is made for A ordinary shares*

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 if as a result of such sale or transfer and registration thereof a Controlling Interest would be obtained in the Company by any person or group of persons acting in concert 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 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 plus a sum equal to any arrears or accruals of the 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.

14.3 *Calculation of the Specified Price*

In this article the 'Specified Price' means the greater of :

(1)

- £1 per share, plus
- all arrears and accruals of the dividends on such share calculated down to the date of sale or transfer; and

(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.

14.4 *Compulsory purchases*

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:

- 14.4.1 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;

14.4.2 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;

14.4.3 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;

14.4.4 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.

14.5 *Interpretation*

In this article:

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

14.5.2 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;

14.5.3 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.

14.6 *Primacy of article*

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.

15. **Appointment of directors**

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.

16. 3i appointee

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. Upon request by 3i the directors shall also procure that the 3i appointee is appointed and acts as Chairman of the board of directors of the Company. The remuneration and reasonable expenses to be paid to the 3i appointee 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. Upon request by 3i the Company shall also procure that the 3i appointee be appointed a director to any subsidiary of the Company.

17. Meetings of directors

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.

18. Directors' conflicts of interest

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:

- 18.1.1 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;
- 18.1.2 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;
- 18.1.3 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;
- 18.1.4 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
- 18.1.5 shall be entitled to vote and be counted in the quorum on any matter referred to in the foregoing paragraphs of this article.

18.2 For the purposes of this article:

- 18.2.1 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;
- 18.2.2 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
- 18.2.3 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.

19. Lien

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.

20. Calls

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."

21. Seal

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.

22. Indemnity

- 22.1 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.

- 22.2 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.