

Company No: 4584241

The Companies Act 1985
COMPANY LIMITED BY SHARES
WRITTEN RESOLUTION

of

FRESHCUT FOODS LIMITED



(PURSUANT TO SECTION 381A COMPANIES ACT 1985)

We the undersigned, being or representing all the members of the Company entitled to attend and vote at a general meeting of the Company, **HEREBY RESOLVE** as follows:- *16 May 2003*

- 1 **THAT** the regulations contained in the document attached hereto and initialled by the Chairman of the Board of Directors for the purpose of identification be adopted as the Articles of Association of the Company in substitution for and to the exclusion of the existing Articles of Association of the Company.
- 2 **THAT** the ordinary share of £1.00 issued to Peter Clee be reclassified as an "A" ordinary share of £1.00 and that the remaining authorised but unissued share capital of the Company be reclassified as 59 "A" ordinary shares of £1.00 each and 40 "B" ordinary shares of £1.00 each and 900 preference shares of £1.00 having the rights and being subject to the restrictions set out in the Articles of Association of the Company.
- 3 **THAT** the authorised share capital of the Company be and is hereby increased from £1,000 to £60,000 by the creation of an additional 59,000 preference shares of £1 each, all such shares having the rights and being subject to the restrictions set out in the Articles of Association of the Company.
- 4 **THAT** the Directors be and are hereby generally and unconditionally authorised to exercise all the powers of the Company to allot relevant securities (within the meaning of Section 80 of the Companies Act 1985) ("the Act") up to an aggregate nominal amount of £60,000 in substitution for any authority previously conferred upon them save to the extent that the same may already have been exercised PROVIDED that this authority shall expire on the date falling five years after the passing of this Resolution, save that the Company may, before such expiry, make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the Directors may allot relevant securities in pursuance of such offer or agreement as if the authority conferred hereby had not expired.
- 5 **THAT** subject to the passing of the previous Resolution the Directors be and are hereby empowered pursuant to Section 95 of the Act to allot equity securities (within the meaning of Section 94 of the Act) pursuant to the authority conferred by the previous Resolution, as if Section 89(1) of that Act did not apply to any such allotment PROVIDED that this power shall be limited to the allotment of equity

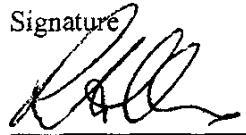
securities up to an aggregate nominal amount of £60,000 and shall expire on the date falling five years after the date of passing of this Resolution, save that the Company may, before such expiry, make an offer or agreement which would or might require the allotment of equity securities in pursuance of such offer or agreement as if the power conferred hereby had not expired.

Name of the Shareholder

Signature

Date of Signature

Peter Clee



23/5/03

Company No: 4584241

**THE COMPANIES ACTS 1985-1989
COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION
of
FRESHCUT FOODS LIMITED**

(adopted by Special Resolution
passed on 16 May 2003)

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Company No: 4584241

THE COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
of
FRESHCUT FOODS LIMITED

(adopted by Special Resolution
passed on 16 May 2003)

1 Definitions

1.1 In these Articles the following words and expressions shall, unless the context otherwise requires, bear the following meanings:-

"A Ordinary Shares" means "A" Ordinary Shares of £1.00 each having the rights and restrictions set out in these Articles;

"Acts" means the Companies Act 1985 (including amendments made thereto by the Companies Act 1989) and the Companies Act 1989;

"Auditors" means the auditors of the Company from time to time;

"B Ordinary Shares" means "B" Ordinary Shares of £1.00 each having the rights and restrictions set out in these Articles;

"Bad Leaver" means any person who holds "A" Ordinary Shares and who ceases to be a director, employee or consultant (whether directly or indirectly through any third party) of the Company or of its subsidiaries (other than a Good Leaver);

"Board" means the board of directors of the Company as constituted from time to time or any duly authorised committee of the Board;

"Cause" means in relation to a person:-

- (a) the termination of that person's contract of employment or engagement by summary notice in accordance with the relevant terms of that contract other than in circumstances where that person is a Good Leaver, or

(b) that person:-

- (i) becoming bankrupt; or
- (ii) making any arrangement or composition with his creditors; or
- (iii) voluntarily resigning or otherwise leaving his employment or terminating his engagement (other than in circumstances where that person is a Good Leaver) with the Company at a time before the third anniversary of the date of adoption of these Articles (save in circumstances constituting constructive or wrongful dismissal);

"Chairman" means the chairman from time to time of the Board;

"Change of Control" means the transfer of Shares as a result of which any person or persons Connected with each other or persons Acting in Concert with each other (not being Shareholders at the date hereof) would obtain Control over or increase Control beyond that number of Shares in the Company which in aggregate confer 75% or more of the voting rights normally exercisable at general meetings of the Company;

"Compliant Offer" means an offer to purchase Ordinary Shares in accordance with Article 12;

"Director" means a director of the Company for the time being;

"Financial Year" means an accounting period of 12 months (save for the first) ending on 31 March in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Acts;

"Good Leaver" means any person who holds "A" Ordinary Shares and who ceases to be a director, employee or consultant (whether directly or indirectly through any third party) of the Company or of its subsidiaries (and who is no longer a director, employee or consultant (whether directly or indirectly through any third party) of the Company or any of its subsidiaries): -

- (a) as a result of death, illness (including mental illness), disability, permanent incapacity through ill-health; or
- (b) as a result of retirement at normal retirement age in accordance with that person's contract of employment; or
- (c) otherwise than for Cause; or
- (d) at any time after the third anniversary of the date of adoption of these Articles unless that person has done or omitted to do anything which if he were a Bad Leaver would make him a Very Bad Leaver;

"Group" means the Company, its subsidiary undertakings, any holding company of the Company and any subsidiary undertakings of the holding company from time to time, or any of them, as the context admits and "member of the Group" shall have a corresponding meaning;

"Issue Price" means in respect of a Share the aggregate of the amount paid up (or credited as paid up) in respect of the nominal value thereof and any share premium thereon;

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

"Preference Shares" means the preference shares of £1.00 each in the capital of the Company having the rights and restrictions set out in these Articles;

"Pre-Tax Profits" means the profits on ordinary activities before taxation of the Company and any of its subsidiary undertakings calculated on the historical cost accounting basis and shown in the audited (consolidated, as the case may be) profit and loss account for the Company and any such subsidiary undertakings for the relevant Financial Year (rounded to the nearest whole £1.00);

"Shareholders" means the holders from time to time of the Shares;

"Shares" means together the "A" Ordinary Shares, the "B" Ordinary Shares and the Preference Shares;

"Specified Price" means a price per share equal to the highest price paid or payable by the Third Party Purchaser for any Shares within the last 6 months plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the specified shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as part of the overall consideration paid or payable for the specified shares;

"Table A" means Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No 805) as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (SI 1985 No 1052);

"Third Party Purchaser" has the meaning given to it in Article 12.1;

"Very Bad Leaver" means any person who is a Bad Leaver and who has:-

- (a) committed any act of fraud or dishonesty in relation to the Company's or any member of the Group's business (including, without limitation, theft or attempted theft of property, acceptance of bribes or diverting any opportunity away from the Company for his personal benefit); or
- (b) been guilty of gross misconduct bringing the Company or any member of the Group (or either's business) into disrepute;

- (c) wilfully engaging in conduct that is demonstrably and materially injurious to the Company or any member of the Group (or either's business);
- (d) been convicted of a criminal offence which was perpetrated against the Company or any member of the Group.

- 1.2 References to statutory provisions include references to any orders or regulations made thereunder and references to any statute, provision, order or regulation include references to that statute, provision, order or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date hereof (subject as otherwise expressly provided herein) and to any previous statute, statutory provision, order or regulation amended, modified, re-enacted or replaced by such statute, provision, order or regulation.
- 1.3 Headings are for information only and shall not form part of the operative provisions of, and shall be ignored in construing, these Articles.
- 1.4 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa, words denoting any gender shall include all genders and words denoting persons shall include bodies corporate and unincorporated, associations, partnerships and individuals.
- 1.5 Whether one person is "Connected" with another person shall be determined in accordance with Section 839 of the Income and Corporation Taxes Act 1988 ("ICTA").
- 1.6 "Control" shall mean the right by virtue of holding Shares in, or the possession of voting power in or in relation to, the Company or any other body corporate to exercise or procure the exercise of the voting rights attached to Shares in the Company.
- 1.7 A person "Acting in Concert" with another person shall have the meaning set out in the City Code on Takeovers and Mergers.
- 1.8 Words and expressions defined in or having a meaning provided by the Acts or by ICTA (but excluding any statutory modification not in force on the date of adoption of these Articles) shall, unless the context otherwise requires (or unless expressly defined in these Articles), have the same meaning when used herein.

2 Table A

- 2.1 The regulations contained in Table A, save insofar as they are excluded or varied hereby, and the provisions hereinafter contained shall constitute the articles of association of the Company.

- 2.2 Regulations 64, 73 to 77 (inclusive), 80, 87, 96, 101 and 118 of Table A and the final sentence of regulation 112 of Table A shall not apply to the Company.

3 Share Capital

- 3.1 The authorised Share capital of the Company at the date of the adoption of these Articles is £60,000 divided into:-
- 3.1.1 60 "A" Ordinary Shares;
 - 3.1.2 40 "B" Ordinary Shares; and
 - 3.1.3 59,900 Preference Shares.
- 3.2 Other than as specifically set out herein the "A" Ordinary Shares and "B" Ordinary Shares shall be separate classes of Shares but shall rank *pari passu* in all respects.

4 Rights Attaching to the Shares

- 4.1 In respect of each Financial Year the Preference Shares shall confer upon the holders of Preference Shares as a class the right to receive, in priority to any payment by way of dividend to the holders of any other shares in the capital of the Company a fixed cumulative preferential dividend ("the Fixed Dividend") on each Preference Share at the rate of 8% per annum of the Issue Price.
- 4.2 The Fixed Dividend shall accrue from day to day and shall be paid in cash as follows:-
- 4.2.1 in respect of the period from the date on which the relevant Share is allotted fully paid down to 31 March 2004 within 21 days after the annual general meeting at which the audited consolidated accounts of the Company and its subsidiary undertakings for the Financial Year ending on 31 March 2004 are approved;
 - 4.2.2 thereafter, until redemption, in respect of each Financial Year, within 21 days after the annual general meeting at which the audited consolidated accounts of the Company for the relevant Financial Year have been approved;
 - 4.2.3 on a Redemption Date (in respect only of Preference Shares redeemed on that date), in respect of the period for which no Fixed Dividend shall have been paid pursuant to Articles 4.2.1 and 4.2.2, calculated down to (and including) the Redemption Date.
- 4.3 The holders of Preference Shares shall be entitled to receive notice of and attend and speak at any general meeting of the Company but shall have no right to be included in a quorum of or vote at any such meeting.
- 4.4 In the event that the Company is unable by law to pay in full on the due dates for payment (each of which dates is in this paragraph referred to as a

"Dividend Date") any instalment of the Fixed Dividend which would otherwise be required to be paid pursuant to Article 4.1 on that Dividend Date then the following shall apply:-

- 4.4.1 on the due Dividend Date the Company shall pay to the holders of the Preference Shares on account of the Fixed Dividend the maximum sum (if any) which can then pursuant to these Articles and by law be paid by the Company and such sum shall be divided among the holders of the Preference Shares pro rata to the number of Preference Shares held by them; and
- 4.4.2 the Company shall pay the balance of the Fixed Dividend (whether in one or more instalments) as soon after the due Dividend Date as may by law be paid and such payment shall be made in priority to any dividend which shall have accrued on the Preference Shares in respect of a period subsequent to the relevant Dividend Date.
- 4.5 The Company shall procure that if any of its subsidiary undertakings have profits available for distribution for the purposes of the Acts such profits will to the extent necessary be distributed to the Company as to enable the payment on the due Dividend Date of the Fixed Dividend.
- 4.6 Except with the consent of the holders of the Preference Shares the holders of the Ordinary Shares shall not be entitled to receive any dividend in respect of any Financial Year unless and until all of the Preference Shares have been redeemed in accordance with Article 4.9. Any dividend declared on the Ordinary Shares in respect of any Financial Year ("the Ordinary Dividend") shall be paid to the holders of the Ordinary Shares in proportion to the number of Ordinary Shares held by them respectively.
- 4.7 To the extent there are profits available for distribution for the purposes of the Acts (after payment of all dividends accrued and in arrears on Preference Shares in respect of any earlier Financial Year) on the due date for payment therefor the Fixed Dividend and the Ordinary Dividend shall and without resolution of the Board of the Company in general meeting (and notwithstanding anything contained in regulations 102 to 108 (inclusive) of Table A) become debts due from and immediately payable by the Company to the holders of the Preference Shares and/or the Ordinary Shares (as the case may be) pro rata according to the number of Preference Shares and/or Ordinary Shares held by each such shareholder.
- 4.8 On a return of capital on liquidation or capital reduction or otherwise the assets of the Company available for distribution to holders remaining after payment of all other debts and liabilities of the Company shall be applied as follows:-
 - 4.8.1 Firstly, in paying to the holders of the Preference Shares all unpaid arrears and accruals of any Fixed Dividend;
 - 4.8.2 Secondly, in paying to the holders of the Ordinary Shares all unpaid arrears and accruals of any Ordinary Dividend;

- 4.8.3 Thirdly, in paying the holders of the Preference Shares the Issue Price of the Preference Shares;
- 4.8.4 Fourthly, in paying the holders of the Ordinary Shares the Issue Price of the Ordinary Shares; and
- 4.8.5 Lastly, in distributing the balance amongst the holders of the Ordinary Shares.

4.9 The Preference Shares shall be redeemed as follows:-

- 4.9.1 Subject to the provisions of the Act the Preference Shares shall be redeemed at par in three equal annual instalments the first such instalment to be paid on 31st March 2004 (each of which dates shall be referred to as "a Redemption Date") and any shares not redeemed upon the due Redemption Date shall be redeemed forthwith upon redemption becoming permissible under the Act.
- 4.9.2 Subject to the provisions of the Act the Company may redeem any or all of the Preference Shares in advance of the due date for redemption on giving 14 days notice of its intention to do so to the Preference Shareholders and in the absence of any contrary agreement between the Preference Shareholders and the Company any partial early redemption shall be deemed to relate to the shares falling due for redemption in inverse order of maturity.
- 4.9.3 Subject to the provisions of the Act all of the Preference Shares shall (unless 75% of the Preference Shareholders give notice in writing to the Company to the contrary) be redeemed immediately upon the following dates:-
 - 4.9.3.1 the date upon which any of the equity share capital of the Company is admitted to the Official List or the Alternative Investment Market of the London Stock Exchange or is admitted to any other recognised investment exchange within the meaning of the Financial Services Act 1986;
 - 4.9.3.2 the date upon which a Change of Control occurs .
- 4.9.4 On each Redemption Date the Company shall pay to each registered Preference Shareholder 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 Preference Shares which are to be redeemed in order that they may be cancelled provided that if any certificate so surrendered includes any Preference Shares not redeemable at that time the Company shall issue a fresh certificate for the balance of the Preference Shares not redeemable to the holder. If there is more than one holder of Preference Shares any redemption shall be made among

such holders pro rata (as nearly as may be) to their respective holdings.

4.9.5 There shall be paid on the redemption of each Preference Share an amount equal to the Issue Price together with all arrears and accruals of Fixed Dividend.

4.9.6 As from any relevant Redemption Date the Fixed Dividend (in respect of any Preference Shares failing to be redeemed on such date) shall cease to accrue unless upon surrender of the certificate for such shares payment of the redemption moneys shall be refused.

4.10 The voting rights attaching to each class of Shares shall be as follows:

4.10.1 the "A" Ordinary Shares shall confer upon the holders of the "A" Ordinary Shares 80% in aggregate of the voting rights exercisable at a general meeting of the Company; and

4.10.2 the "B" Ordinary Shares shall confer upon the holders of the "B" Ordinary Shares 20% in aggregate of the voting rights exercisable at a general meeting of the Company,

and each holder of "A" Ordinary Shares and "B" Ordinary Shares shall be entitled to exercise the voting rights attaching to those Shares pro rata to their holding of "A" Ordinary Shares and "B" Ordinary Shares (as the case may be).

5 Variation of Rights

Whenever the capital of the Company is divided into different classes of Shares the rights attached to any class may be varied or abrogated only with the consent in writing of the holders of 75% or more in nominal value of the issued Shares of that class, or with the sanction of a resolution passed by the holders of 75% or more in nominal value of the issued Shares of that class passed at a separate meeting of the holders of that class, but not otherwise.

6 Lien

The lien conferred by regulation 8 of Table A shall attach also to fully paid up Shares and to all Shares registered in the name of any person indebted or under liability to the Company whether he shall be the sole registered holder thereof or shall be one of two or more joint holders.

7 Transfer of Shares

7.1 The Directors shall refuse to register the transfer of any Share unless the transfer is expressly authorised by Articles 8 or 9. Regulation 24 of Table A shall be modified accordingly.

7.2 For the purpose of this Article the following shall be deemed (without limitation) to be a transfer by a member of Shares in the Company: -

- 7.2.1 any direction (by way of renunciation or otherwise) by a member entitled to an allotment or transfer of Shares that a Share be allotted or issued or transferred to some person other than himself, and
- 7.2.2 any sale or any other disposition of any legal or equitable interest in a Share (including any voting right attached thereto) and whether or not by the registered holder thereof and whether or not for consideration or otherwise and whether or not effected by an instrument in writing.

8 Permitted Transfers

8.1 Pursuant to a Compliant Offer

Any Shares may be transferred pursuant to the acceptance of a Compliant Offer.

8.2 Within Groups

Any member being a body corporate shall be entitled to transfer all or any of its Shares or any beneficial interest therein to any other body corporate which is for the time being its subsidiary or holding company or another subsidiary of its holding company.

8.3 To Relatives

Any holder of "A" Ordinary Shares who is an individual may transfer some or all of the Shares held by him (or any beneficial interest therein) for whatever consideration to:-

- 8.3.1 one or more Privileged Relations;
- 8.3.2 the trustee or trustees of a family trust set up wholly for the benefit of one or more Privileged Relations; or
- 8.3.3 joint names of the individual member and one or more Privileged Relations,

and for the purposes of this Article 8.3 "Privileged Relations" means the person who first transfers the relevant Share pursuant to this Article 8.3 and his spouse, lineal descendants and ascendants in direct line (including any step, adopted or illegitimate children), brothers and sisters and the spouses of any such relations.

8.4 With Consent

- 8.4.1 Any holder of "B" Ordinary Shares may with the consent in writing of the holders of a majority in nominal value of the "A" Ordinary Shares (such consent not to be unreasonably withheld or delayed) transfer some or all of the Shares held by him (or any beneficial interest therein) to those persons set out in Article 8.3.1 to 8.3.3.

- 8.4.2 Any holder of Shares may with the consent in writing of the holders of a majority in nominal value of 75% of the "A" Ordinary Shares transfer some or all of the Shares held by him (or any beneficial interest therein) to any person.

9 Transfer Notice and Pre-emption Rights

- 9.1 Any member proposing to transfer Shares held by him (a "Proposing Transferor") otherwise than in accordance with Article 8 shall give notice in writing (a "Transfer Notice") to the Company stating: -
- 9.1.1 the number and class(es) of Shares which he proposes to transfer (the "Sale Shares");
 - 9.1.2 the price per Share (subject to Article 9.4) at which he proposes to transfer the Sale Shares (the "Transfer Price"); and
 - 9.1.3 whether or not the Transfer Notice is conditional upon all and not part only of the Sale Shares being sold pursuant to the offer hereinafter mentioned and in the absence of such stipulation it shall be deemed not to be so conditional.
- 9.2 No Transfer Notice once given or deemed to be given in accordance with Article 11 shall be withdrawn unless: -
- 9.2.1 the Proposing Transferor is obliged to procure the making of a Compliant Offer in accordance with Article 12 and is unable so to procure in which event the Proposing Transferor shall be entitled to withdraw such Transfer Notice, without liability to any person, within 28 days of service; or
 - 9.2.2 the Board consents to the withdrawal of the Transfer Notice.
- 9.3 The Transfer Notice shall constitute the Company the agent of the Proposing Transferor for the sale of the Sale Shares at the Transfer Price.
- 9.4 The Transfer Price shall be agreed between the Proposing Transferor and the Directors. If the Proposing Transferor and the Directors are unable within 28 days of receipt of the Transfer Notice to agree the Transfer Price the Directors shall instruct the Auditors to determine the Transfer Price in accordance with Article 14.
- 9.5 The Company shall forthwith upon the later (if relevant) of: -
- 9.5.1 receipt of a Transfer Notice; or
 - 9.5.2 where the Transfer Price is not stated in the Transfer Notice the determination of the Transfer Price,
- give notice in writing to each of the members of the Company (other than the Proposing Transferor and any other member who has or is deemed to have

served a Transfer Notice in relation to all of the Sale Shares held by him) inviting them to state in writing by a specified date being 28 days from the date of the said notice whether and, if so, the maximum number of Sale Shares he wishes to purchase at the Transfer Price.

- 9.6 Any offer of Sale Shares shall be made on the basis that the Sale Shares shall be offered firstly to the holders of "A" Ordinary Shares and thereafter to all other holders of Shares.
- 9.7 The Sale Shares shall subject to Article 9.6 be offered on the basis that, in the event that acceptances are received for a greater number of Shares than the maximum number of Sale Shares available for purchase, the Sale Shares available for that class shall be sold to the members who have accepted the offer in proportion (as nearly as may be) to their existing holdings of Shares of the relevant class, subject to the maximum number of Shares which each has indicated he wishes to purchase.
- 9.8 Within seven days of the closing of the offer to Shareholders pursuant to Article 9.5 the Company shall give notice of each allocation of Sale Shares in accordance with Articles 9.6 and (an "Allocation Notice") to the Proposing Transferor and each of the persons to whom Sale Shares have been allocated (each a "Purchaser") and shall specify in the Allocation Notice the place and time (being not less than 7 and not more than 14 days after the date of the notice) at which the sale of the Sale Shares shall be completed **PROVIDED** that the transfer and completion of the sale of the Sale Shares shall not be sanctioned or effected by the Board if such transfer obliges the Proposing Transferor to procure the making of a Compliant Offer in accordance with Article 12, and no such Compliant Offer has been made and completed.
- 9.9 Subject to Article 9.10, upon such allocation being made as aforesaid, the Proposing Transferor shall be bound, on payment of the Transfer Price, to transfer the Sale Shares comprised in the Allocation Notice to the Purchaser(s) named therein at the time and place therein specified. If he makes default in so doing the Chairman (provided he is not the Proposing Transferor) or failing him one of the Directors or some other person duly nominated by a resolution of the Board for that purpose, shall forthwith be deemed to be the duly appointed attorney of the Proposing Transferor with full power to execute, complete and deliver in the name and on behalf of the Proposing Transferor a transfer of the relevant Sale Shares to the Purchaser(s) and the Board may receive and give a good discharge for the purchase money on behalf of the Proposing Transferor and (subject to the transfer being duly stamped) enter the name of the Purchaser(s) in the register of members as the holder or holders by transfer of the Shares so purchased by him or them. The Board shall forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such money on trust (but without interest) for the Proposing Transferor until he shall deliver up his certificate or certificates for the relevant Shares to the Company when he shall thereupon be paid the purchase money.
- 9.10 If the Proposing Transferor shall have included in the Transfer Notice a provision that unless all the Sale Shares are sold none shall be sold and if the

total number of Shares applied for is less than the total number of Sale Shares then the Allocation Notice shall refer to such provision and shall contain a further invitation open for 28 days to those persons to whom Sale Shares have been allocated to apply for further Sale Shares and completion of the sales in accordance with the preceding paragraphs of this Article 9 shall be conditional upon such offer being accepted in relation to all of the Sale Shares.

9.11 In the event of any (and in the case of a condition in accordance with Article 9.1.3 being applicable, all) of the Sale Shares are not sold in accordance with this Article 9 the Proposing Transferor may at any time within two calendar months after receiving confirmation from the Company that the pre-emption provisions herein contained have been exhausted, transfer any Sale Shares not sold to any person or persons at any price not less than the Transfer Price **PROVIDED** that:-

9.11.1 the Board shall be entitled to refuse registration of the proposed transferee if he is believed to be, or is a nominee for, a person reasonably considered by the Board to be a competitor or Connected with a competitor of the business of the Company and its subsidiaries and if as a result of such transfer more than 10% of the equity Share capital of the Company would be held by, or by nominees for, competitors or persons Connected with competitors of the business of the Company and its subsidiaries **PROVIDED** that the Board shall not be so entitled if the effect of such transfer would oblige the Proposing Transferor to procure the making of a Compliant Offer in accordance with Article 12 below and such offer has been made and completed;

9.11.2 if the Proposing Transferor stipulated in the Transfer Notice that unless all the Sale Shares were sold none should be sold, the Proposing Transferor shall not be entitled, save with the written consent of the holders of a majority in nominal value of the "A" Ordinary Shares, to sell hereunder only some of the Sale Shares comprised in the Transfer Notice to such person or persons;

9.11.3 any such sale shall be a bona fide sale and the Board may require to be satisfied in such manner as it may reasonably require that the Sale Shares are being sold in pursuance of a bona fide sale for not less than the Transfer Price without any deduction, rebate or allowance whatsoever to the Purchaser and if not so satisfied may refuse to register the instrument of transfer; and

9.11.4 the Board shall refuse registration of the proposed transferee if such transfer obliges the Proposing Transferor to procure the making of a Compliant Offer in accordance with Article 12 until such time as such offer has been made and completed.

10 **Provision of Information**

For the purpose of ensuring that a transfer of Shares is duly authorised hereunder or that no circumstances have arisen whereby a Transfer Notice is required to be or

ought to have been given hereunder or a Compliant Offer is required to be or ought to have been made, the Board may require any member or the legal personal representatives of any deceased member or any person named as transferee in any transfer lodged for registration or such other person as the Board may reasonably believe to have information relevant to such purpose, to furnish to the Company such information and evidence as the Board may think fit regarding any matter which they deem relevant to such purpose including (but not limited to) the names, addresses and interests of all persons respectively having interests in the Shares from time to time registered in the member's name.

11 Compulsory and Deemed Transfer Notices

- 11.1 Any holder of "A" Ordinary Shares who is a director, employee or consultant of the Company or any of its subsidiaries who ceases for whatever reason to be a director, employee or consultant of the Company or its subsidiaries (and does not continue in that capacity in relation to any of them) or is declared bankrupt shall be a "Retiring Member". A Retiring Member or a person or persons to whom Shares formerly held by such a Retiring Member have been transferred (whether or not by the Retiring Member) pursuant to Article 8, shall, upon the Retiring Member ceasing for whatever reason to be a director, employee or consultant of the Company and of its subsidiaries (and not continuing in that capacity in relation to any of them) or being declared bankrupt, be deemed to have given (immediately before the happening of such event) a Transfer Notice in accordance with Article 9.1 above in respect of all Shares then held by such member.
- 11.2 If a Transfer Notice is deemed to be given pursuant to Article 11.1 by a Retiring Member who is a "Good Leaver", then the "Transfer Price" shall be the price per Share determined in accordance with Article 9.4.
- 11.3 If a Transfer Notice is deemed to be given pursuant to Article 11.2 by a Retiring Member who is a "Bad Leaver" then the "Transfer Price" per Share shall be the lower of:-
 - 11.3.1 the Issue Price per Share which the Retiring Member paid for each such Share; and
 - 11.3.2 the price per Share determined in accordance with Article 9.4.
- 11.4 If a Transfer Notice is deemed to be given pursuant to Article 11.1 by a Retiring Member who is a Very Bad Leaver then the Transfer Price shall be £1.00 for the aggregate number of Shares held by such Very Bad Leaver.
- 11.5 Any holder of "B" Ordinary Shares (and/or any person to whom such holder has transferred shares in accordance with Article 8) who:-
 - 11.5.1 becomes bankrupt or enters into or makes any arrangement or composition with or for the benefit of his creditors generally; or
 - 11.5.2 has appointed a receiver, administrator or manager of all or any of its undertakings or assets; or

11.5.3 is deemed by virtue of Section 123 of the Insolvency Act 1986 to be unable to pay its debts; or

11.5.4 becomes of unsound mind or becomes a patient for any purpose of any statute relating to mental health and remains so for a period of 3 months; or

11.5.5 dies,

shall be deemed subject to the provisions of Articles 11.6 and 11.7 to have given (immediately before the happening of any such event) a Transfer Notice in accordance with Article 9.1 in respect of all Shares held by such member.

11.6 If a Transfer Notice is deemed given pursuant to Articles 11.5.1, 11.5.2 or 11.5.3, then the Transfer Price for the aggregate number of Shares held by the relevant shareholder shall be the lower of:-

11.6.1 the Issue Price per Share which the Retiring Member paid for each such Share; and

11.6.2 the price per Share determined in accordance with Article 9.4.

11.7 If a Transfer Notice is deemed to be given pursuant to Articles 11.5.4 or 11.5.5 the Transfer Price per Share shall be the price per Share determined in accordance with Article 9.4.

11.8 On receipt by the Company of a Transfer Notice deemed to be given under Article 11.1 the Board shall be entitled to allocate the Shares:-

11.8.1 to any person who is or who is to be a full time employee; or

11.8.2 to any trust established or to be established by the Company to hold Shares for the benefit of employees of the Company; or

11.8.3 to a suitable nominee; or

11.8.4 to the holders of the Shares; or

11.8.5 for the purchase by the Company; or

11.8.6 to any combination of the above.

Such entitlement shall be exercised within 28 days of the date of the deemed Transfer Notice being served and the exercise of it by the Board shall be communicated in writing to the Retiring Member. In the event that such entitlement is not exercised within this period then the Retiring Member shall be deemed to have given a Transfer Notice in accordance with Article 9.1 and the Shares shall be offered to the members of the Company (other than the Retiring Member and any other member who has or is deemed to have served a Transfer Notice in relation to the Shares held by him) in accordance with the provisions of Article 9.

11.9

- 11.9.1 Where the purpose of an enquiry by the Board under Article 10 was to establish whether a Transfer Notice is required to be or ought to have been given and the enquiry concludes in the affirmative or where the purpose of an enquiry by the Board under Article 12 was to establish whether a Transfer Notice is required to be or ought to have been given hereunder or a Compliant Offer is required to be or ought to have been made and such information and evidence as the Board has requested is not furnished within 28 days of the Board's request, a Transfer Notice shall be deemed to have been given by the holder of the relevant Shares in respect of such Shares.
- 11.9.2 Where the purpose of an enquiry by the Board under Article 10 was to establish whether a Compliant Offer is required to be or ought to have been made, and the enquiry concludes in the affirmative then pending the making and completion of the Compliant Offer (save as regards actions needed to implement the Compliant Offer) the Shares held by or on behalf of the person or persons Connected with each other or Acting in Concert with each other who has or have obtained Control over or increased Control beyond the number or percentage of Shares as are referred to in Article 12.1.1, shall cease to entitle the holder or holders thereof (or any proxy of his or theirs) to voting rights (whether on a show of hands or on a poll and whether exercisable at a general meeting of the Company or at a separate meeting of the class of Shares in question) otherwise attaching to such Shares or to any further Shares issued in right of such Shares or in pursuance of an offer made to the holders thereof to the extent that will result in such person or persons aforesaid only being able to control that percentage of the voting rights attaching to Shares that such person or persons were in a position to control prior to the obligation to procure the making of a Compliant Offer arising.
- 11.10 If, following a transfer of Shares pursuant to Article 8, the transferee ceases to be a person to whom the transferor would be entitled to transfer Shares pursuant to such Article, the transferee shall, within 21 days of so ceasing, transfer the Shares held by it to the transferor or to some other person to whom the transferor would be entitled to transfer such Shares pursuant to these Articles and failing such transfer shall be deemed to have given a Transfer Notice in accordance with Article 9.1.
- 11.11 A chargee of a member who exercises any rights in respect of any Shares under the charge or a person entitled to any Shares in consequence of the bankruptcy, receivership or liquidation of a member or a member being a company entering into receivership, liquidation or having another analogous event occur in respect of it shall be bound to give a Transfer Notice in respect of such Shares, if and when required in writing by a majority of the Directors to do so.

- 11.12 If in the case of a corporate member, there is a change in a controlling interest of such corporate member, such member shall be bound to give a Transfer Notice in respect of any Shares held by it, if and when required in writing by a majority of the Director to do so. The expression "controlling interest" shall mean the ability to exercise or control the exercise of in aggregate more than 50% of the total voting rights (within the meaning of section 736A(2) of the Act) capable of being exercised at general meetings of such member.
- 11.13 In any case where the Directors have duly required a Transfer Notice to be given in respect of any Shares and such Transfer Notice is not duly given within a period of one week such Transfer Notice shall be deemed to have been given at the expiry of the said period and the provisions of these Articles relating to Transfer Notices shall take effect accordingly unless a majority of the Directors elect otherwise.
- 11.14 Where any Transfer Notice is deemed to have been given in accordance with this Article 11, the deemed Transfer Notice shall be treated as having specified:-
- 11.14.1 that all the Shares registered in the name of the Proposing Transferor shall be included for transfer,
- 11.14.2 that other than a Transfer Notice deemed to have been given pursuant to Article 11.1 the Transfer Price is as determined in accordance with Article 9.4; and
- 11.14.3 that the condition as referred to in Article 9.1.3 shall apply.
- 11.15 In any case where a Shareholder (or his personal representative) has been required to give or has been deemed to have given a Transfer Notice pursuant to the provisions of this Article 11 and subsequently becomes the holder of further Shares in the Company by virtue of the holding of any Shares comprised in such Transfer Notice (whether by rights or bonus issue or conversion or pre-emption rights on issue or transfer or howsoever otherwise) a majority of the Directors may at any time thereafter determine in their absolute discretion that he (or his personal representatives as appropriate) shall be deemed to have served a Transfer Notice pursuant to Articles 9 or 11 (as appropriate) in respect of such further Shares.

12 Compliant Offer

- 12.1 If the effect of any transfer of Ordinary Shares by a Proposing Transferor (other than a transfer permitted by Article 8 or a transfer to any person who is a Shareholder at the date of adoption of these Articles) would, if completed, be to enable any person or persons Connected with each other or persons Acting in Concert with each other:-
- 12.1.1 to obtain Control over or increase Control beyond that number of Shares in the Company which in aggregate confer 50% or more of the voting rights normally exercisable at general meetings of the Company; or

- 12.1.2 to obtain Control over or increase Control beyond 50% in nominal value of the Shares of the Company then in issue,

the Proposing Transferor shall procure the making by the proposed transferee of the Proposing Transferor's Shares, of a Compliant Offer to all of the other members of the Company (other than any person or persons Connected with each other or Acting in Concert with each other who shall as a consequence of the proposed transfer obtain or, where relevant, increase such Control). Every Shareholder on receipt of a Compliant Offer shall be bound within 28 days of the date of such offer (which date shall be specified therein) either to accept or reject such offer in writing (and in default of so doing shall be deemed to have rejected the offer). Until such Compliant Offer has been made and completed the Board shall not sanction the making and registration of the relevant transfer.

- 12.2 The Compliant Offer shall be at a price per Share (the "Offer Price") which is not less than the higher of:-

12.2.1 any price offered or paid or agreed to be paid by the proposed transferee or any person Connected with or any person Acting in Concert with such person for each such Share; and

12.2.2 the average price per Share paid or agreed to be paid in respect of all such Shares so acquired during the preceding 12 months including any such Shares acquired by the proposed transferee or any person Connected or any person Acting in Concert with such person,

and in determining the price paid or agreed to be paid for a Share for the purposes of this Article 12 there shall be included in each case an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the seller of the relevant Shares (or any person Connected or person Acting in Concert with such person) which (having regard to the substance of the transaction as a whole) can reasonably be regarded as forming part of the consideration for the relevant Shares and all dividends in arrears or accrued up to the date of sale or the Compliant Offer as appropriate.

- 12.3 In the event of disagreement the calculation of the Offer Price shall be referred to an umpire (acting as expert and not as arbitrator) nominated by and acting at the joint expense of 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 (or any successor body thereto) at the request of any of the parties concerned whose decision shall be final and binding. In the absence of fraud such umpire shall be under no liability to any person by reason of his calculation or anything done or omitted to be done by him for the purposes thereof or in connection therewith. The Proposing Transferor and any other Shareholder shall provide such umpire with whatever information the umpire reasonably requests for the purposes of the calculation.

13 Drag Along Option

- 13.1 If the holders of a majority in nominal value of the Ordinary Shares (together the "Selling Shareholders") wish to transfer on a bona fide arms length basis any interest in any Shares (other than as a permitted transfer under Article 8) where that transfer would result in a Change of Control, the Selling Shareholders shall have the option (the "Drag Along Option") to require all the other holders of Ordinary Shares to transfer all their shares to the proposed purchaser (the "Third Party Purchaser") or as the Third Party Purchaser directs in accordance with this Article 13.
- 13.2 The Selling Shareholders may exercise the Drag Along Option by giving notice to that effect (a "Drag Along Notice") to all other holders of Ordinary Shares (the "Dragged Shareholders") at any time before the transfer of Shares resulting in the Change of Control. A Drag Along Notice shall specify that the Dragged Shareholders are required to transfer all their Ordinary Shares (the "Dragged Shares") pursuant to Article 13.1, the price at which the Dragged Shares are to be transferred (being the Specified Price) and the proposed date of transfer.
- 13.3 A Drag Along Notice is irrevocable but the Drag Along Notice and all obligations thereunder will lapse if for any reason there is not a Change of Control caused by a transfer of Shares by the Selling Shareholders to the Third Party Purchaser within 60 days after the date of the Drag Along Notice.
- 13.4 Completion of the sale of the Dragged Shares under this Article shall take place on the same date as the date proposed for completion of the sale of the Selling Shareholders' Ordinary Shares unless:
- 13.4.1 all of the Dragged Shareholders and the Selling Shareholders agree otherwise; or
- 13.4.2 that date is less than 7 days after the Drag Along Notice, where it shall be deferred until the seventh day after the Drag Along Notice.

14 Transfer Price

- 14.1 In the event that the Auditors are required to determine the price at which Shares are to be transferred pursuant to these Articles such price shall be the amount the Auditors shall on the application of the Board certify in writing to be the price which in their opinion represents the open market value of each Share being the sum which a willing purchaser would agree with a willing seller to be the purchase price for all the Shares of the Company (taking account of any under option) divided by the number of issued Shares and Shares under option and so that there shall be no addition of any premium or subtraction of any discount by reference to the size of the holding the subject of the Transfer Notice or in relation to any restrictions on the transferability or options of over the Shares to be sold whether under these Articles or the Investment Agreement.

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

14.3 The Auditors' costs of determining the Transfer Price shall be borne by the Company.

15 General Meetings

15.1 If a meeting is adjourned under Regulation 41 of Table A because a quorum is not present, and at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, those member or members present at such adjourned meeting shall form a quorum, and Regulation 41 of Table A shall be modified accordingly.

15.2 Two persons entitled to attend and vote upon the business to be transacted, each being a member (or a proxy for a member or duly authorised representative of a corporation) and one of whom shall be a holder of "A" Ordinary Shares shall be a quorum and Regulation 40 of Table A shall be modified accordingly.

15.3 A poll may be demanded by the Chairman or by any Shareholder present in person or by proxy and having the right to vote at the meeting and Regulation 46 of Table A shall be modified accordingly.

15.4 The chairman of the meeting shall not have a second or casting vote and Regulation 50 of Table A shall be modified accordingly.

15.5 Regulation 59 of Table A shall be modified by the addition at the end of the following sentence: "Deposit of an instrument of proxy shall not preclude a member from attending and voting at the meeting or at any adjournment thereof".

15.6 Regulation 62 of Table A shall be modified by the deletion in paragraph (a) of the words "deposited at" and by the substitution for them of the words "left at or sent by post or by facsimile transmission to" and by the insertion at the end of the Regulation after the word "invalid" of the words "unless a majority of the Directors resolve otherwise".

15.7 Any resolution of the Company shall require the approval of a majority in nominal value of the holders of the "A" Ordinary Shares and Regulation 46 of Table A shall be modified accordingly.

16 Written Resolutions

16.1 Regulation 53 of Table A shall be modified by the addition at the end of the following sentence: "If such a resolution in writing is described as a special resolution or as an extraordinary resolution or as an elective resolution, it shall have effect accordingly".

16.2 A resolution signed by any director or the secretary of a corporation which is a member shall be validly executed by that member for the purposes of Regulation 53 of Table A.

17 Directors

- 17.1 Unless otherwise determined by ordinary resolution the number of Directors (other than alternate directors) shall be not less than two.
- 17.2 The Directors shall not be liable to retire by rotation and accordingly the second and third sentences of Regulation 79 of Table A shall not apply to the Company and in Regulation 79 of Table A the words "Subject as aforesaid" and "and may also determine the rotation in which any additional directors are to retire" shall be deleted and the last sentence of Regulation 78 shall be deleted.

18 Alternate Directors

- 18.1 A Director, or any such other person as is mentioned in Regulation 65 of Table A, may act as an alternate Director to represent more than one director, and an alternate Director shall be entitled at any meeting of the Board or of any committee of the Board to one vote for every Director who he represents in addition to his own vote (if any) as a director, but he shall count as only one for the purpose of determining whether a quorum is present.
- 18.2 Regulation 68 of Table A shall be modified by the addition at the end of the following sentence: "Any such notice may be left at or sent by post or facsimile transmission to the office or such other place as may be designated for the purpose by the Directors".
- 18.3 An alternate Director shall not be entitled as such to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, and the first sentence of Regulation 66 in Table A shall be modified accordingly.

19 Proceedings of Directors

Unless a majority of the Directors agree otherwise:-

- 19.1 the quorum for Board meetings shall be two Directors present throughout the meeting and Regulation 89 of Table A is modified accordingly;
- 19.2 any Director or member of a committee of the Board may participate in a meeting of the Board or such committee by means of conference, telephone or similar communications equipment whereby all persons participating in the meeting can hear and speak to each other and any Director or member of a committee participating in a meeting in this manner shall be deemed to be present in person at such meeting;
- 19.3 except with the prior written consent of a majority of the other Directors a Director shall not vote as a director on any resolution concerning a matter in which he has, directly or indirectly, any kind of interest or duty whatsoever and Regulation 94 of Table A which shall be modified accordingly;

- 19.4 the chairman of a meeting of the directors shall not have a second or casting vote and Regulation 88 of Table A shall be modified accordingly.

20 Company Seal

- 20.1 If the Company has a seal it shall only be used with the authority of the Board or of a committee of the Board. The Board may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Director and by the secretary or a second Director. The obligations under Regulation 6 of Table A relating to the sealing of Share certificates shall apply only if the Company has a seal.

- 20.2 The Company may exercise the powers conferred by Section 39 of the Companies Act 1985 with regard to having an official seal for use abroad, and such powers shall be vested in the Board.

21 Borrowing Powers

The Directors may exercise all the powers of the Company to borrow and raise money and to mortgage and charge all or any part of the undertaking, property and uncalled capital of the Company and, subject to the provisions of the Acts, to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

22 Indemnity

- 22.1 Subject to the provisions of the Acts, but without prejudice to any indemnity to which he may otherwise be entitled, every director, alternate director, secretary or other officer or employee of the Company shall be indemnified out of the assets of the Company against all costs, charges, expenses, losses, damages and liabilities which he may sustain or incur in or about the execution of his duties or the exercise of his powers or otherwise in relation hereto including without prejudice to the generality of the foregoing, any liability incurred defending any proceedings, whether civil or criminal, which relate to anything done or omitted to alleged to have been done or omitted by him as an officer or employee of the Company in which judgement is given in his favour or in which he is acquitted, or which are otherwise disposed of without any finding or admission of 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 Directors may exercise all the powers of the Company to purchase and maintain for any Director, auditor or other officer (including former directors and other officers) or any other person insurance against any liability for negligence, default, breach of duty or breach of trust or any other liability which may lawfully be insured against.

23 **Notices**

A notice may be given under these Articles either personally or by sending it by prepaid first class post or airmail to the recipients address stated in the Company's register of members or to any other address supplied by the recipient to the Company for the giving of notice to him. A properly addressed and prepaid notice sent by post shall be deemed to have been served at an address within the United Kingdom at the expiry of 48 hours after the notice is posted.