

THE COMPANIES ACT 1985

PRIVATE COMPANY LIMITED BY SHARES

NEW

ARTICLES OF ASSOCIATION

(Adopted by Written Resolution
passed on 18 August 2005)

- of -

MENZIES HOTELS HOLDINGS LIMITED

1. PRELIMINARY

- 1.1 The regulations contained in Table A in the Companies (Tables A-F) Regulations 1985 (as amended prior to the adoption of these Articles) ("**Table A**") shall apply to the Company save in so far as they are excluded or varied hereby or to the extent inconsistent herewith.
- 1.2 The following Regulations of Table A shall not apply to this Company viz: 3, 24, 35, 40, 46, 47, 50, 53, 54, 64 to 69 (inclusive), 73 to 77 (inclusive) 80, 81, 88, 89, 93 to 98 (inclusive) 115 and 118.
- 1.3 In these Articles, unless the context otherwise requires the following words have the meanings ascribed to them:

"**A Share**" means an A ordinary share of 1p in the capital of the Company and "**A Shareholder**" means a holder of any of them;

"**AcquisitionCo**" means PMH Acquisitions Limited (registered number 5302708) whose registered office is at Bakrum House, Etwell Road, Mickleover, Derby DE3 0DL;

"**Act**" means Companies Act 1985;

"**Admission**" means the admission of shares both (i) to the Official List of the Financial Services Authority (acting as the UK Listing Authority) in accordance with the Listing Rules of that authority for the time being ("**the Listing Rules**") and (ii) to trading in accordance with the Admission and Disclosure Standards of the London



Stock Exchange for the time being ("the Trading Rules") and references to such admission becoming effective shall be construed in accordance with the Listing Rules and Trading Rules;

"Annual Business Plan" means a business plan and budget in respect of a financial year for the Group as approved with Investor Consent and as amended, supplemented or replaced from time to time and approved with Investor Consent;

"Auditors" means the auditors for the time being of the Company;

"B Director" means any director in office from time to time appointed by the B Shareholders pursuant to Article 35;

"B Share" means a B ordinary share of 1p in the capital of the Company and "B Shareholder" means a holder of any of them;

"B Shareholder Consent" means the consent or sanction of the holders of a Majority of the B Shares;

"the Board" or "the Directors" means the board of directors for the time being of the Company or any duly constituted and authorised committee thereof;

"business day" means a day (other than a Saturday or Sunday) on which banks are open for commercial business in the City of London;

"Completion" means completion of the Subscription Agreement;

"C Share" means a C ordinary share of 1p in the capital of the Company and "C Shareholder" means a holder of any of them;

"Default Period" means any period in which, except with Investor Consent:

- (i) the Company or any member of the Group (other than a dormant subsidiary) is in liquidation or receivership or administration or unable to pay its debts as they fall due or otherwise insolvent within the meaning of Section 123 of the Insolvency Act 1986 (or the equivalent in any jurisdiction outside England and Wales); or
- (ii) an event of default by whatever name called in respect of a payment obligation or breach of financial covenant (giving rise to a right of termination or accelerated payment or cancellation of the availability of the facilities concerned in whole or part) is outstanding for the purposes of the Bank Facilities (as defined in the Subscription Agreement) or any substitution therefor on substantially similar payment terms and with financial covenants no more onerous in any material respect than those contained in the Bank Facilities (and/or any other borrowings or similar financial facilities from time to time of the Group which Nicholas Robert Menzies and the Lead Investor have agreed in writing (such agreement referring specifically to this definition) should be included within this definition) and has not been waived and is either incapable of remedy or an unremedied breach or any other event has occurred or circumstances subsist which (with the giving of notice, passing of time or otherwise) would be such an event of default;

"Disposal" means the disposal of all or substantially all of the assets and/or the undertaking of the Group or a return of assets on liquidation;

"Employees Trust" means any entity specifically established by the Company (with Investor Consent required under Article 5) to acquire and hold shares in the capital of the Company for the benefit of employees and/or future employees of members of the Group;

"Equity Shares" means A Shares, B Shares and C Shares;

"Exit" means a Sale, a Disposal or a Flotation, whichever is the first to occur;

"Family Trust" means in relation to any member holding shares other than as a result of a transfer permitted under Articles 10.2. to 10.5 ("the original member" which for this purpose shall include each of Robert Nicholas Menzies and Wendy Machin in relation to each Menzies Family Trust) trusts (whether arising under a settlement inter vivos or a testamentary disposition by whomsoever made or on intestacy) under which no immediate beneficial interest in the shares in question is for the time being vested in any person other than the original member or privileged relations of such member and no power of control over the voting powers conferred by such shares is for the time being exercisable by or subject to the consent of any person other than the trustees as trustees or the original member or privileged relations of such member;

"Flotation" means the effective Admission of any part of the equity share capital of the Company or, subject to Investor Consent, the grant of effective permission by The London Stock Exchange for dealings to take place in the same on the Alternative Investment Market or the commencement of dealings in the same on any other recognised investment exchange (as defined in the Financial Services and Markets Act 2000) (whichever is the earlier);

"Group" means the Company and its subsidiary undertakings from time to time and member of the Group is to be construed accordingly;

"Investor Consent" means the consent or sanction of the holders of a Majority of the A Shares;

"Investor Director" means any director in office from time to time after appointment pursuant to Article 32;

"Investor Group" means, in relation to any A Shareholder, that A Shareholder and its associated companies from time to time and **"Investor Group Member"** shall be construed accordingly;

"Investor Protection Period" means the period commencing on completion of the Subscription Agreement and ending upon the earlier of (i) Flotation and (ii) the date on which the Lead Investor shall hold less than one per cent. in nominal value of the issued equity share capital of the Company;

"Lead Investor" means Pall Mall Hotels Limited (registered number 5302715) whose registered office is at 100 Pall Mall, London SW1Y 5NN;

"Lead Investor Group" means the Lead Investor and its associated companies from time to time;

"Loan Notes" means the £4,000,000 unsecured loan notes of AcquisitionCo created by an instrument executed pursuant to the Subscription Agreement;

"London Stock Exchange" means London Stock Exchange plc;

"Majority" means as regards members of a class or classes of shares, a majority by reference to the number of shares of such class or classes held and not by reference to the number of members holding shares of such class or classes;

"Menzies Family Member" means Robert Nicholas Menzies and his Related Shareholders/Stockholders;

"Menzies Family Trusts" means the R.N. Menzies Discretionary Settlement and the W.M. Menzies Discretionary Settlement;

"privileged relation" means the wife or husband or children or step-children or adopted children or remoter issue of a member (which shall include for these purposes Wendy Machin in relation to Robert Nicholas Menzies and Robert Nicholas Menzies in relation to Wendy Machin);

"Related Shareholder / Stockholder" means, in relation to Robert Nicholas Menzies, Wendy Machin and/or each Menzies Family Trust and/or any other person to or from whom at the time Robert Nicholas Menzies or Wendy Machin or the trustees of each such settlement could transfer or receive a transfer of Relevant Securities within the provisions of Articles 10.2 to 10.5 (inclusive) and any direct or indirect transferee of any such person pursuant to such Articles;

"Relevant Securities" means shares in the Company;

"RNM Protection Period" means the period commencing on completion of the Subscription Agreement and ending on the earlier of (i) Flotation and (ii) date on which the Menzies Family Members together hold less than one per cent in nominal value of the issued equity share capital of the Company;

"Sale" means the sale (except as permitted by Article 10.6 below) of all or substantially all of the Equity Shares;

"Subscription Agreement" means the Subscription Agreement entered into on 31 December 2004 and amended on 18 August 2005 between (1) the Lead Investor, (2) the Founders (as defined therein) (3) the Company and (4) AcquisitionCo as from time to time amended supplemented or novated;

"Transfer Notice" means a transfer notice given or deemed to be given pursuant to Article 11; and

"the Transfer Value" means the value attributable to the Relevant Securities comprised in any Transfer Notice determined as provided in Article 13.

1.4 In these Articles:

- 1.4.1** references to a document being executed include references to its being executed under hand or under seal or as a deed or by any other method;

- 1.4.2 references to writing include references to any visible substitute for writing and to anything partly in one form and partly in another form;
- 1.4.3 words denoting the singular number include the plural number and vice versa, words denoting the masculine gender include the feminine gender and words denoting persons include corporations;
- 1.4.4 words or expressions contained in the Articles bear the same meaning as in the Act but excluding any statutory modification thereof not in force at the date of adoption of the Articles;
- 1.4.5 subject to the preceding paragraph, references to any provision of any enactment or of any subordinate legislation (as defined by Section 21(1) of the Interpretation Act 1978) include any modification or re-enactment of that provision for the time being in force;
- 1.4.6 references to an "associated company" of a company or limited partnership shall mean a subsidiary or any holding company (direct or indirect) for the time being of such company or limited partnership or a subsidiary for the time being of such a holding company;
- 1.4.7 references to a connected person of any person shall mean any connected person thereof for the purposes of Section 839 of the Income and Corporation Taxes Act 1988;
- 1.4.8 references to the amount "paid up" on a share shall include all amounts credited as paid up thereon including any premium;
- 1.4.9 references to a "dormant subsidiary" of the Company are references to any subsidiary of the Company which at the relevant time is dormant for the purposes of Section 249AA(4) of the Act; and
- 1.4.10 the headings are inserted for convenience only and shall not affect the construction of the Articles.

2. SHARE CAPITAL

The authorised share capital of the Company as at the date of the adoption of these Articles is £100,000 divided into 8,037,653 A Shares, 1,462,347 B Shares and 500,000 C Shares. Save as otherwise provided herein the A Shares, the B Shares and the C Shares shall rank *pari passu* in all respects.

3. AUTHORITY TO ALLOT

Section 89(1) of the Act (which regulates the power to allot equity securities, as defined in section 91(1) of the Act) is excluded.

4. NEW ISSUES OF SHARES

- 4.1 Subject to the special rights of the respective classes of shares (including, without limitation, Articles 5.7.1 and 5.8.3) and as otherwise hereinafter provided, any unissued shares (whether forming part of the original share capital or not) or rights to subscribe for or convert securities into such shares shall, before they are issued, be offered as follows to the A Shareholders and the B Shareholders:

- 4.1.1 the offer shall be made by notice in writing to all the A Shareholders and the B Shareholders specifying the number or amount and class of shares (or rights to shares) on offer, the price at which they are being offered (the "Offer Price") and the terms upon which they are being offered and limiting the time (not being less than twenty-one days) within which the offer may be accepted;
 - 4.1.2 acceptances shall be given to the Company by notice in writing and in such acceptance the applicant shall state the number of the shares (or rights to shares) on offer which he is willing to subscribe for; and
 - 4.1.3 after the expiration of such offer period or after the Company shall have received notice of the acceptance or as the case may be refusal of such offer from every offeree (whichever shall be the earlier event) the Directors shall allot the shares (or rights to shares) amongst the A Shareholders and the B Shareholders accepting the offer and, to the extent there is competition between such applicants, as far as practicable pro-rata to the number of A Shares or B Shares of which they are respectively registered as holders, provided that no applicant shall be obliged to take more than the maximum number of offered shares (or rights to shares) specified by him in his application as aforesaid and provided further that any Equity Shares issued to a member by reference to a particular class of Equity Shares already held by him shall be issued as shares of the same class.
- 4.2 Any share or right not taken up under any offer made in accordance with Article 4.1 may, at any time up to 3 months after the expiry of the offer, be issued or granted by the Company at such price (not being less than the Offer Price), on such terms (being no less favourable to the Company than the terms offered to members), in such manner and to such persons as the Board (with Investor Consent) determines.
- 4.3 The provisions of Article 4.1 shall not apply to (and nothing in these Articles shall otherwise prevent the allotment of):
- 4.3.1 shares allotted pursuant to the express terms of the Subscription Agreement, including the issue of up to 500,000 C Shares to employees of the Group and/or any Employees Trust in accordance with the terms of the Subscription Agreement; and
 - 4.3.2 A Shares and B Shares allotted to remedy or assist in remedying any events or circumstances which have given rise to or contributed to a Default Period; provided that any shares so allotted shall be offered first to the A Shareholders and B Shareholders as far as practicable pro rata to the number of A Shares and B Shares of which they are registered as holders in accordance with clause 4.1; provided further that (a) the Board, at the direction of an Investor Director, may require as a condition of any such allotment that the offerees subscribe on substantially the same terms and conditions for a pro rata amount of any additional Loan Notes to be provided at or around the same time to remedy or assist in remedying any events or circumstances which have given rise to or contributed to a Default Period (b) the period within which the offer may be accepted shall be such number of days specified in writing by an Investor Director (provided it is not less than 2 business days) and (c) following the allotment of shares to remedy

the Default Period, the holdings of A Shares and B Shares shall, if necessary, be adjusted in the manner specified in the Subscription Agreement.

- 4.4 Save with Investor Consent and B Shareholder Consent, no shares shall be allotted on terms that the right to take up the shares allotted may be renounced in favour of, or assigned, to another person and no person entitled to the allotment of a share may direct that such share be allotted or issued to any other person.

5. RIGHTS ATTACHING TO SHARES

INCOME

- 5.1 Subject to the class rights attaching to any particular class of share in the Company, any profits resolved to be distributed in any financial year or period shall be distributed (save where the Company otherwise resolves and with both Investor Consent and B Shareholder Consent) amongst the holders of the A Shares and the B Shares, *pari passu* as if the same are one and the same class of share, *pro rata* to the number of A Shares and B Shares respectively held by them.
- 5.2 The C Shares do not entitle their holders to receive any distribution of profit.

RETURN OF CAPITAL

- 5.3 On a return of assets on liquidation or otherwise, the assets of the Company remaining after payment of its debts and liabilities and available for distribution to holders of Equity Shares shall be distributed (save where the Company otherwise resolves and with both Investor Consent and B Shareholder Consent) between the holders of the Equity Shares *pari passu*, as if the same are one and the same class of share, *pro rata* to the number of Equity Shares respectively held by them.

VOTING

- 5.4 Each holder of A Shares or B Shares present in person or by proxy or corporate representative shall be entitled on a show of hands to one vote and on a poll to one vote for every A Share or B Share of which he is the holder provided that where a meeting is held in a Default Period only the A Shareholders shall be entitled to attend and vote at the meeting.
- 5.5 Each holder of C Shares shall not be entitled, in respect of their holding of such shares, to receive notice of, attend, speak or vote at any general meeting of the Company.
- 5.6 Robert Nicholas Menzies alone shall be entitled to exercise the voting rights attaching to the shares that Wendy Machin and each of the Menzies Family Trusts hold from time to time and to give any consents required from Wendy Machin and each such Family Trust.

INVESTOR CONSENT

- 5.7 Without prejudice to the restrictions contained in these Articles as to the modification of the rights attached to classes of shares, during the Investor Protection Period Investor Consent shall be required before the Company or any other member of the Group shall:

- 5.7.1 create or allot or issue any further shares or loan stock or grant or agree to grant to any person any option or right to subscribe for or convert into or otherwise to require the creation issue or allotment of any shares or loan stock, except to the Company or a wholly owned subsidiary thereof;
- 5.7.2 pass a resolution for the reduction or cancellation of its share capital or any class thereof or the reduction of any uncalled liability in respect thereof;
- 5.7.3 purchase or redeem the whole or any part of its share capital other than in accordance with the terms of issue of any class of share capital;
- 5.7.4 modify vary alter or abrogate its share capital or any of the rights privileges or restrictions attaching to its share capital or any class thereof;
- 5.7.5 sell transfer lease licence or otherwise dispose of the whole or any material part of its business undertaking or assets (other than individual tangible assets with an individual book value of not more than £100,000) whether by a single transaction or series of transactions related or not;
- 5.7.6 make or permit any material alteration (including cessation) to the general nature of the business of the Group (as a whole) carried on by it from time to time;
- 5.7.7 except for the mortgages and charges in existence at the date hereof, as disclosed to the Lead Investor in writing prior to the adoption of these Articles, create issue or enter into or allow to subsist or arise any debentures mortgages charges or other encumbrances whatsoever over any of its assets or undertaking or give any other form of security to any person firm or company, save for retention of title provisions in the case of stock and liens arising in each case in the ordinary course of business securing monies not yet due for payment but fully provided for;
- 5.7.8 acquire whether by formation or otherwise share or loan capital of another company wherever incorporated (other than by way of formation of a wholly owned subsidiary) or any business or undertaking or permit the disposal or dilution of its interest directly or indirectly in any subsidiary or subsidiary undertaking or business or undertaking;
- 5.7.9 enter into any partnership or joint venture arrangement or merger with any body corporate other than the Company or any wholly owned subsidiary thereof;
- 5.7.10 establish or adopt or operate any bonus or profit sharing or share option or other employee share ownership or similar scheme other than, subject to having first consulted the Board, a bonus scheme for hotel managers that is no more costly (subject to pro rata adjustments for the size of the Group's hotel portfolio) to the Group overall than the Menzies Hotels Limited (formerly Menzies Hotels plc) scheme in force

at completion of the Subscription Agreement (entitled "General Managers' Bonus Scheme - 1 February 2004 to 31 January 2005");

- 5.7.11 change its corporate name or any name under which it carries on its business or any part thereof;
- 5.7.12 make any alteration to its Memorandum and/or Articles of Association;
- 5.7.13 pass any resolution or seek any order or take any steps with a view to the liquidation, winding up or striking off dissolution or administration or receivership of any member of the Group (other than a dormant subsidiary with no assets of value to the Group and with no known liabilities (actual or contingent) outstanding) or the equivalent in any other jurisdiction;
- 5.7.14 approve or adopt its annual audited accounts or any subsequent modification thereto;
- 5.7.15 change its accounting reference date (except, in the case of a subsidiary, to conform with that of the Company);
- 5.7.16 declare or make any distribution by way of dividend or otherwise out of the profits or reserves of the Company;
- 5.7.17 seek to take any steps to achieve an Exit;
- 5.7.18 make or provide any loan or financial facility (other than (i) credit given in the ordinary course of business or (ii) loans to the Company or any wholly owned subsidiary thereof and (iii) loans not exceeding £3,000 in the aggregate to any individual director or employee by way of advance to cover reasonable business expenses);
- 5.7.19 give any guarantee suretyship or indemnity or similar liability in respect of the obligations of any person firm or company other than the Company or a wholly owned subsidiary thereof;
- 5.7.20 permit or allow or do anything whereby the borrowing powers of the Directors set out in these Articles will be exceeded;
- 5.7.21 save as expressly contemplated by the most recent Annual Business Plan, incur in any accounting period any capital and/or research and development expenditure or enter into any capital commitment (which expression shall include without limitation hire or hire purchase leasing factoring invoice discounting commitments and any conditional sale or deferred payment arrangements) exceeding (a) £150,000 in relation to a single item of expenditure or a single capital commitment or (b) in aggregate more than ten per cent. of the aggregate expenditure and commitments detailed in the most recent Annual Business Plan (or such other higher limit as may from time to time be approved by Investor Consent);
- 5.7.22 enter into any new borrowing facilities or similar facilities or vary or agree to any material variation in the extent or terms of its borrowings

and similar facilities or the extent or terms of any security given in respect thereof;

- 5.7.23 acquire develop dispose or close any property or premises (freehold or leasehold) or any interest therein;
- 5.7.24 except in the ordinary course of a hotel business enter into any agreement to occupy or permit any third party to occupy any property or premises or part thereof (whether freehold or leasehold) or vary any of the terms under which it occupies or permits any third party to occupy any property or premises or part thereof;
- 5.7.25 engage or dismiss or enter into any agreement of service or for services with or make any material change to the remuneration or benefits or other terms of employment of, or make payment by way of bonus or profit share (other than in accordance with the terms of any scheme approved with Investor Consent) to, any of its directors or any employee or proposed employee with a remuneration or proposed remuneration at an annual cost to the Group exceeding £60,000 ("a Senior Employee");
- 5.7.26 appoint or remove any director or any member of a committee of the board (other than an alternate director or an Investor Director pursuant to these Articles);
- 5.7.27 enter into or vary the terms of any collective bargaining or similar agreement with any trade union or employee body;
- 5.7.28 enter into any transaction which is not either properly ancillary to or in the normal and ordinary course of conducting the Group's business;
- 5.7.29 enter into any material transaction (and for these purposes "material" shall include any transaction with a monetary value in excess of £150,000) or dealing which is not on arm's length terms;
- 5.7.30 enter into or in any material respect vary the terms of or grant any material waiver in respect of an agreement or a transaction with a director or shareholder of the Company or connected person of a director or shareholder (save for an agreement or transaction in the ordinary course of its trade and which in the reasonable opinion of an Investor Director is not material to the Group as a whole);
- 5.7.31 remove its auditors or appoint any new or additional auditors, except in the case of a subsidiary or subsidiary undertaking of the Company to remove its auditors and appoint in their place the auditors of the Company;
- 5.7.32 save as provided by the Deed of Priority (as defined in the Subscription Agreement) do or permit anything contrary to the express rights attaching to the Loan Notes or exercise any of the Company's rights in relation to the repayment of or the launching of a tender offer for any of the Loan Notes;

- 5.7.33 make any claim pursuant to the Acquisition Agreements (including for breach of the warranties or under the tax covenant contained in the Managers Sale Agreement) or make any modification to, or waive any right or claim under, any of the Acquisition Agreements (as such capitalised terms are defined in the Subscription Agreement);
- 5.7.34 initiate or pursue any litigation, arbitration or mediation proceedings, except for debt collection conducted in the ordinary course of business;
- 5.7.35 adopt, amend, supplement or replace the Annual Business Plan; or
- 5.7.36 enter into any agreement, commitment or arrangement to do any of the foregoing.

Subject to compliance with any terms and conditions attached thereto, the consent of the Investor Directors and A Shareholders shall not be required in respect of any matter contained in or permitted by the then current Annual Business Plan in effect at such time.

'B' SHAREHOLDER CONSENT

- 5.8 Without prejudice to the restrictions contained in these Articles as to the modification of the rights attaching to classes of shares and subject always to Article 6.3, during the RNM Protection Period the consent of the B Shareholders shall be required before the Company or any other member of the Group shall, except as expressly provided in the Subscription Agreement
 - 5.8.1 make any alteration to these Articles which would result in the B Shares having inferior rights to those enjoyed as at the date of adoption of these Articles in relation to any class of share in the Company or (without prejudice to the generality of the foregoing) issue any particular class of share which has priority rights as to dividends;
 - 5.8.2 save where acquired by law, pass any resolution or seek any order or take any steps (other than a Disposal) with a view to the insolvent liquidation, winding up or striking off, dissolution or administration or receivership of any member of the Group (other than a dormant subsidiary with no assets of value to the Group and with no known liabilities (actual or contingent) outstanding) or the equivalent in any other jurisdiction;
 - 5.8.3 except during a Default Period (subject to compliance with Article 4.3.2), create, allot or issue any further shares or grant or agree to grant to any person any option or right to subscribe for or convert into or otherwise to require the creation, issue or allotment of any shares, except to the Company or a wholly-owned subsidiary thereof.
 - 5.8.4 give any guarantee suretyship or indemnity or similar liability in respect of or as security for the obligations of any person who is not a member of the Group;
 - 5.8.5 save as provided by the Deed of Priority (as defined in the Subscription Agreement) do or permit anything contrary to the express rights attaching to the Loan Notes;

- 5.8.6 voluntarily repay or redeem any of the Loan Notes or pay interest thereon unless it is repaid, redeemed or paid pro rata to all the holders of the Loan Notes at the same time;
- 5.8.7 other than debt finance issued on arms' length terms to a third party bank or financial institution not connected with or an associated company of any member of the Company, create or allot or issue any debt finance which ranks equal to or in priority to the Loan Notes, provided that this Article 5.7.7 shall not apply to any issue of debt finance in the form of additional Loan Notes raised during a Default Period in compliance with clause 4.4 of the Subscription Agreement; or
- 5.8.8 enter into any agreement, commitment or arrangement to do any of the foregoing.

6. VARIATION OF RIGHTS

- 6.1 Subject to Article 6.7 below, if at any time the share capital is divided into different classes of shares, the rights attached to any class may from time to time, whether or not the Company is being wound up, be varied modified abrogated or cancelled only with the approval of an Extraordinary Resolution passed at a separate class meeting of the holders of the issued shares of that class, or with the consent in writing of the holders of a majority in nominal value of the issued shares of that class (or such higher percentage as may be required by the Act).
- 6.2 To every separate general meeting referred to in Article 6.1 above the provisions of these regulations relating to general meetings of the Company or to proceedings at such general meetings shall apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy or corporate representative three quarters or more in nominal value of the issued shares of the class and that any holders of shares of the class present in person or by proxy may demand a poll and on a poll each share concerned shall carry one vote provided that where there is only one holder of the issued shares of the relevant class a quorum shall be that holder alone present in person or by proxy or corporate representative.
- 6.3 Except as provided below in this Article 6.3 or in Articles 5.7.3, 5.7.6, 5.7.7 or 5.7.8, nothing in these Articles or otherwise shall confer any special rights or privileges or class rights or entitlements on the holders of any shares which are not A Shares during any Default Period and nothing done in a Default Period for the purposes of a bona fide refinancing of the Group and/or to address the events or circumstances which have given rise or contributed to the Default Period (or thereafter as a necessary consequence of anything so done or any right or entitlement granted in connection therewith during a Default Period) by the Company or any member of the Group or any other shareholder thereof shall constitute or be deemed to constitute any variation modification or abrogation of the rights of or require any consent to be obtained from the holders of any shares which are not A Shares or from the holders of the Loan Notes or any of them, other than anything which enhances the rights of the holders of the A Shares (as a class) as compared to the rights of the holders of the B Shares (as a class) as enjoyed immediately prior to the Default Period or which imposes upon the holder of any such shares any liability greater than that to which the subscriber of the same was subject at the time of their issue or which treats any holder of Loan Notes otherwise than *pari passu* with all other holders of Loan Notes.

- 6.4 For the avoidance of doubt and subject to Article 6.3 above and Article 6.7 below, the variation modification abrogation or cancellation of this Article or of any provision of these Articles which contains or affects any class rights shall (save as expressly provided herein) require the consent aforesaid of the holders of shares of the class or classes concerned to be effective.
- 6.5 In exercising any class rights as the holder of any particular class of share such holder shall be entitled to exercise such rights in its absolute discretion as it sees fit including for the avoidance of doubt without regard to the interests of any other holder of the same class of shares or the rights of holders of that particular class as a whole.
- 6.6 Where in these Articles the consent of an Investor Director is required to any matter or thing or an Investor Director is given power to direct or require anything to be done such consent or direction or requiring may also be done by A Shareholders holding between them sufficient A Shares to give a valid Investor Consent.
- 6.7 In respect of each C Share, the only rights attaching thereto which may not be varied, modified, abrogated or cancelled without the approval of an Extraordinary Resolution passed at a meeting of the holders of the issued C Shares, or with the consent in writing of the holders of a majority in nominal value of the issued C Shares (or such higher percentage as may be required by the Act) shall be:
- 6.7.1 the right to a share on a return of assets as set out in Article 5.3; and
 - 6.7.2 the rights relating to the terms of mandatory transfer of the C Shares as set out in Articles 11.4, 11.5 and 13.10.

For the avoidance of doubt, all other rights attaching to the C Shares may be varied, modified, abrogated or cancelled by the Company with the approval of Investor Consent and, so long as Robert Nicholas Menzies is an employee or director of any member of the Group, B Shareholder Consent.

7. PART V COMPANIES ACT 1985

- 7.1 Subject to the provisions of Part V of the Act the Company may:
- 7.1.1 issue shares which are to be redeemed or are liable to be redeemed at the option of the Company or the shareholder;
 - 7.1.2 purchase its own shares (including any redeemable shares);
 - 7.1.3 make a payment in respect of the redemption or purchase, under section 160 or (as the case may be) section 162 of the Act and the relevant power under (a) or (b) above, of any of its own shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares to the extent permitted by Section 171 of the Act.
- 7.2 The powers of the Company under Article 7.1 may only be exercised with Investor Consent.

and of no effect whatsoever. In addition the Directors shall be at liberty by notice in writing to the registered holders thereof to disenfranchise any Relevant Securities which are the subject of a transfer not made in accordance with these Articles until such time as the Directors (acting reasonably) are satisfied that the provisions of these Articles relating to transfer of Relevant Securities or Loan Notes have been complied with.

- 9.4 Subject only to Article 9.5 below, the Directors shall be obliged to register a permitted transfer.
- 9.5 The Directors may in their absolute discretion and shall if required by any Investor Director, and without assigning any reason therefor, decline to register (i) any transfer of any Relevant Security over which the Company has a lien; (ii) any transfer to more than four transferees; (iii) any transfer comprising Relevant Securities of more than one class; (iv) any transfer of any Relevant Security which is not fully paid to a person of whom the Directors do not approve; or (v) any transfer to an infant bankrupt or person suffering from mental disorder as that expression is used in Article 31.3; (vi) any transfer which is not lodged at the office or at such other place as the Directors may appoint or which is not accompanied by the certificate for the shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer; or (vii) any transfer made in breach of the Subscription Agreement and/or any undertaking given to the Company or the A Shareholders or any of them by the transferor or beneficial owner of the Relevant Security concerned.
- 9.6 The transferor of any Relevant Security shall be deemed to remain the holder of the Relevant Security until the name of the transferee is entered in the register of the Relevant Securities concerned in respect thereof.
- 9.7 Notwithstanding any other provisions of these Articles, no member may transfer A Shares or B Shares unless they transfer a corresponding proportion of the Loan Notes held by them to the transferee of such A Shares or B Shares and no member may transfer Loan Notes unless they transfer, and are permitted by these Articles to transfer, a corresponding proportion of the A Shares and B Shares held by them to such transferee of Loan Notes.

10. TRANSFERS EXPRESSLY PERMITTED

- 10.1 Subject to Article 12, any Relevant Security may be transferred at any time by a member to any other person with the written consent of an Investor Director, which consent may be subject to conditions.
- 10.2 Without prejudice to Regulation 5 of Table A, any B Share or A Share held (in accordance with these Articles) by a member as bare nominee may be transferred to the beneficial owner of the B Share or A Share or to another nominee of the same beneficial owner provided that the transferor and transferee certifies to the Company and the Directors (including any Investor Director) that no beneficial interest in such B Share or A Share passed by reason of the transfer.
- 10.3 Any B Share may be transferred by a member or the personal or other legal representatives of a deceased member to a privileged relation of such member or to the trustees of a Family Trust of such member.

8. LIEN

- 8.1 The Company shall have a first and paramount lien on all shares standing registered in the name of any person indebted or under liability to the Company and a right of set off against all moneys payable by the Company on or in respect of the same, whether he shall be the sole registered holder thereof or shall be one of two or more joint holders, for all moneys presently payable by him or his estate to the Company whether in respect of those shares or otherwise.
- 8.2 If any PAYE or employees or (to the extent permitted by law) employers national insurance contribution (or any similar or substituted tax) liability and/or related interest penalties fines costs and expenses (together "employee related tax liability") becomes payable by the Company and/or any subsidiary thereof as a consequence of the subscription, holding or disposal of any shares by any member (even if the employee or director or former employee or director of the Company or other relevant member of the Group by reference to which the relevant employee related tax liability arises or arose is a person other than that member) the member concerned shall be liable on demand by an Investor Director and without right of reimbursement from the Group, to make payment to the Company of such amount as on an after tax basis will meet the employee related tax liability concerned provided that where any employee related tax liability becomes payable notwithstanding that the relevant employee or director or former employee or director and relevant member of the Group made an election under section 431(1) of the Income Tax (Earning and Pensions) Act 2003 at the time, or within the prescribed period following the time, that they subscribed for or acquired the relevant shares, the member shall not be obliged to make a payment in respect of any employer national insurance contributions which shall be for the account of the relevant member of the Group. The lien referred to in Article 8.1 shall extend as security for any amount payable by the member under this Article to the shares concerned and to any proceeds of sale or other disposal thereof.
- 8.3 As part of any Sale or Flotation arrangements the Company shall without limitation be hereby irrevocably appointed as attorney and authorised on behalf of any such member to make such arrangements as are necessary for any such amounts payable by him under Article 8.2 to be directly paid to the Company or relevant member of the Group out of any proceeds of sale which are payable for such shares on such Sale or under the Flotation arrangements.

9. TRANSFERS - GENERAL

- 9.1 No Relevant Securities shall be transferred and the Directors shall not register any such transfer except in circumstances where the transfer is permitted by this Article and Articles 10 to 13 (inclusive) ("a permitted transfer").
- 9.2 For the purposes of the provisions of these Articles relating to transfer of Relevant Securities or Loan Notes, a transfer of Relevant Securities or Loan Notes includes a renunciation of any allotment of Relevant Securities or Loan Notes or of any rights to subscribe for or receive an allotment of Relevant Securities or Loan Notes and any other disposition of any interest in any Relevant Security or Loan Notes whether legal beneficial or otherwise and whether or not for consideration or by written disposition or otherwise.
- 9.3 Any transfer or purported transfer of any Relevant Security or Loan Notes or of any interest therein made otherwise than in accordance with these Articles shall be void

- 10.4 Any B Share in the name or names of the trustees of a Family Trust may be transferred to a beneficiary of that Family Trust or to the person who originally transferred the B Share to the Family Trust and whose Family Trust it is or to any of such person's privileged relations.
- 10.5 Any B Share in the name or names of the trustees of a Family Trust may be transferred to new or continuing trustees of that Family Trust.
- 10.6 Any A Shareholder may transfer all or any of its Relevant Securities to another A Shareholder or to a related transferee. A related transferee for these purposes shall mean:
 - 10.6.1 any member for the time being of the same Investor Group as the transferor;
 - 10.6.2 any body corporate controlled by the A Shareholder or another member of its Investor Group or which immediately following such transfer will be such a body corporate;
 - 10.6.3 any investment fund or trust or partnership controlled or managed or advised (in terms of investment advice) by the A Shareholder or another member of its Investor Group;
 - 10.6.4 any trustee or manager or beneficiary or partner of any investment fund or trust or partnership referred to in Article 10.6.3 above or which is already an A Shareholder;
 - 10.6.5 any directors or employees of the A Shareholder or of another member of its Investor Group or to any entity which is to hold shares for such directors or employees; or
 - 10.6.6 a nominee for or trustee(s) of any trusts established for the benefit of any of the foregoing.
- 10.7 A C Share may only be transferred in accordance with Article 10.1 or when required pursuant to Articles 10.9, 11.4, 11.5, 11.7 or 12.4.
- 10.8 Notwithstanding the other provisions of these Articles and subject only to Articles 12.1 and 9.7, the members of the Lead Investor Group may from time to time transfer Relevant Securities to any person.
- 10.9 Any C Shares may be transferred to an Employee Trust or by an Employee Trust to any employee or future employee of any member of the Group and the Employee Trust may grant options in favour of any such directors or employees, provided in any such case such transfer or option is effected or granted in accordance with terms and to such persons approved by Investor Consent and, so long as Robert Nicholas Menzies is an employee or director of any member of the Group, B Shareholder Consent.

11. MANDATORY TRANSFERS

11.1

- 11.1.1 Where Relevant Securities have been transferred under Article 10.6 (whether directly or by a series of transfers thereunder) from an A

Shareholder ('the transferor company' which expression shall not include a second or subsequent transferor in such a series of transfers) to a member of the same Investor Group ('the transferee company') and subsequently the transferee company ceases to be a member of the same Investor Group then the transferee company shall forthwith transfer the Re-transferable Securities (as hereinafter defined) and a corresponding proportion of Loan Notes to the transferor company or a continuing member of its Investor Group; and failure so to transfer such Relevant Securities and Loan Notes within 28 days of the transferee company ceasing to be a member of the same Investor Group as the transferor company as aforesaid shall result in a Transfer Notice being deemed immediately to be given in respect of the Re-transferable Securities and Loan Notes and the provisions of Article 13 shall apply to any transfer of the Re-transferable Securities and Loan Notes.

11.1.2 For the purposes of this Article 11.1 the expression 'Re-transferable Securities' means and includes (so far as the same remain from time to time held by the transferee company) the Relevant Securities originally transferred to the transferee company and any additional shares issued or transferred to the transferee company by virtue of the holding of the Relevant Securities or any of them.

- 11.2 In the event of a Family Trust ceasing for any reason to be a Family Trust any Relevant Securities and Loan Notes held by such trust (whether as a result of a direct issue or as a result of a transfer under Article 10.3) and any shares or other securities deriving therefrom or which are attributable or have accrued to the same shall be transferred (either directly or upon trust) to the original member whose Family Trust it is or to privileged relation(s) of that member within fourteen days of that event failing which the trustees shall be deemed to have given a Transfer Notice at such time as an Investor Director shall think fit in respect of all such Relevant Securities and Loan Notes and the provisions of these Articles will apply accordingly.
- 11.3 If any person holding Relevant Securities and Loan Notes as a bare nominee as contemplated by Article 10.2 above ceases to be such a nominee and shall fail within seven days of such event to transfer all the Relevant Securities and Loan Notes concerned to a continuing nominee of the beneficial owner or the beneficial owner then such person shall be deemed on the expiry of such seven day period to have given a Transfer Notice in respect of such Relevant Securities and Loan Notes.
- 11.4 In the event of the termination for whatever reason of the employment or directorship of any person who is an employee or director of any member of the Group (in circumstances where he does not remain or become a director or employee of any other member of the Group) ("a leaving employee/director") the leaving employee/director and any related persons shall, if required by any Investor Director by notice in writing given to the leaving employee/director (or his personal representative, as appropriate) and any relevant persons at any time during the period of twelve months after the date on which the person became a leaving employee/director ("the Leaving Date"), give a Transfer Notice in respect of all of the Relevant Securities and Loan Notes registered, at the time the notice from an Investor Director is given, in the name of the leaving employee/director and in the name of any relevant person. Relevant person for the purposes of this clause means any person to whom the leaving employee/director could transfer shares pursuant to Articles 10.2 to 10.5 (inclusive) and any person from whom such shares could be

transferred to the leaving employee/director pursuant to such Articles. For the avoidance of doubt, Wendy Machin and each of the Menzies Family Trusts are relevant persons of Robert Nicholas Menzies.

- 11.5 If any leaving employee/director shall, after ceasing to be such an employee or director, become registered or unconditionally entitled to be registered as the holder of any Relevant Securities and Loan Notes pursuant to a right or opportunity made available to him prior to ceasing to be so employed or a director (which shall include without limitation the options referred to in Article 4.3.1, in the case of each grantee thereof) he shall upon becoming so registered or entitled be deemed (unless otherwise agreed by the Directors with Investor Consent) to have served a Transfer Notice in respect of all such Relevant Securities and Loan Notes whereupon the provisions of these Articles shall apply accordingly.
- 11.6 For the purpose of ensuring that a transfer of Relevant Securities and Loan Notes is in accordance with the provisions of these Articles and duly authorised hereunder or that no circumstances have arisen whereby a Transfer Notice is required to be given hereunder the Directors may (and shall if required by an Investor Director) from time to time require any member or past member (including any one or more of joint holders of Relevant Securities or Loan Notes) or the legal personal representatives or the trustee in bankruptcy of any member or noteholder or any person named as a transferee in any instrument of transfer lodged for registration, to furnish to the Company such information and evidence as the Directors (including any Investor Director) may reasonably think fit regarding any matter which they may reasonably deem relevant to such purpose. Failing such information or evidence being furnished to the reasonable satisfaction of the Directors (including any Investor Director) within a reasonable time after request, the Directors may (and will if required by any Investor Director) refuse to register the transfer in question or (in case no transfer is in question) require by notice in writing that a Transfer Notice be given in respect of the Relevant Securities and Loan Notes concerned. If such information or evidence discloses that in the reasonable opinion of the Directors a Transfer Notice ought to have been given in respect of any Relevant Securities or Loan Notes the Directors may (and will if required by any Investor Director) by notice in writing require that a Transfer Notice is given pursuant to these Articles in respect of the Relevant Securities and Loan Notes concerned.
- 11.7 In any case where under the provisions of these Articles a Transfer Notice is required to be given in respect of any Relevant Securities or Loan Notes a Transfer Notice shall if not actually given within a period of fourteen days of demand therefor being made or within any other period specified, be deemed to have been given on the fourteenth day after such demand is made or at the end of the relevant specified period, as appropriate.
- 11.8 In the event that Robert Nicholas Menzies is convicted of a criminal offence (other than one notified in writing to the Company prior to the adoption of these Articles) and receives an immediate custodial sentence in relation thereto, he and any relevant person referred to below shall, if required by any Investor Director by notice in writing given to him and any relevant persons at any time during the period of one month after the date on which he commences his custodial sentence, give a Transfer Notice in respect of 50 per cent. of the Relevant Securities and Loan Notes registered, at the time the notice from an Investor Director is given, in his name and in the name of any relevant person. Relevant person for the purposes of this Article means any person to whom Robert Nicholas Menzies could transfer shares pursuant to Articles

10.2 to 10.5 (inclusive) and any person from whom such shares could be transferred to Robert Nicholas Menzies pursuant to such Articles. For the avoidance of doubt, Wendy Machin and each of the Menzies Family Trusts are relevant persons of Robert Nicholas Menzies.

12. LIMITATION ON TRANSFER OF CONTROL

12.1 No sale or transfer of any shares ("the Specified Shares") shall be made which would result if made and registered in members of the Lead Investor Group together ceasing to hold a Controlling Interest in the Company or thereafter reducing their interest unless the proposed transferee or transferees or his or their nominees (a) is/are bona fide third party/parties acting on an arm's length basis and (b) has or have made an offer to each of the other holders of A Shares and B Shares to acquire a proportion of the A Shares and B Shares and/or Loan Notes held by such holder equal to:

12.1.1 if such a transfer occurs before the second anniversary of Completion, the number of shares sold or transferred by members of the Lead Investor Group (excluding transfers between members of the Lead Investor Group) since Completion as a proportion of the total number of shares held by them at Completion; and

12.1.2 if the transfer occurs on or after the second anniversary of Completion, the proportion of the Minority Interest being sold by members of the Lead Investor Group,

at the Specified Price.

12.2 For the purpose of this Article:

12.2.1 "Controlling Interest" means an interest (within the meaning of Schedule 13 Part 1 and Section 324 of the Act) in shares conferring in the aggregate fifty per cent. or more of the total voting rights conferred by all the shares in the equity share capital of the Company for the time being in issue;

12.2.2 "Minority Interest" means those shares in the equity share capital of the Company held by members of the Lead Investor Group which confer in aggregate less than fifty per cent. of the total voting rights conferred by all the shares in the equity share capital of the Company; and

12.2.3 the expression "the Specified Price" shall mean in the case of an Equity Share a price per share and in the case of a Loan Note a price per Loan Note at least equal to that offered or paid or payable by the proposed transferee or transferees or his or their nominees respectively for the Specified Shares or Loan Notes to the holder or holders thereof plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holder or holders of the Specified Shares or Loan Notes which having regard to the substance of the transaction as a whole can reasonably be regarded as in addition to the price paid or payable for the Specified Shares or Loan Notes.

- 12.3 In the event of disagreement as to the calculation of the Specified Price for the purposes of this Article any such disagreement shall be referred to the Determining Accountant appointed in the manner and on the terms described in Article 13.11 (save that the period of 28 days referred to in Article 13.11 shall be the period commencing on the day that the sale or transfer of the Controlling Interest or further reduction of interest is first notified to the holders of A Shares and B Shares) whose decision shall be final and binding (in the absence of manifest error) and the costs of the Determining Accountant shall be borne as he shall direct or, in default of such a direction, equally by the parties to the dispute or disagreement.
- 12.4 Notwithstanding the other provisions of these Articles, if any offer is made by any person (the "Transferee") to acquire a Controlling Interest ("Drag Along Offer"), which is approved by Investor Consent (even if including the purchaser or any persons connected with it or acting in concert with it), from holders of Equity Shares ("the accepting shareholders") then each of the holders of the other Equity Shares and Loan Notes shall, if so required in writing by the accepting shareholders, transfer all their shares and Loan Notes to the Transferee on terms no less favourable than those applying under the Drag Along Offer and if they shall fail to do so within five days of being so required, shall be deemed hereby to accept the same and to authorise the Company to execute such documents on their behalf to effect the sale of their shares and Loan Notes pursuant thereto, and Article 13.7 shall apply mutatis mutandis for these purposes.

13. MANDATORY TRANSFER MECHANICS

- 13.1 A Transfer Notice given or deemed to be given under Article 11 shall specify the number and type or class of Relevant Securities and Loan Notes which the member(s) transferring the Relevant Securities and Loan Notes (the "Proposed Transferor(s)") are required to transfer.
- 13.2 A Transfer Notice shall constitute the Company the agent of the Proposed Transferor(s) to sell the Relevant Securities and Loan Notes which are the subject of the Transfer Notice (the "Offered Securities") in accordance with the provisions hereinafter in this Article at their Transfer Value.
- 13.3 Upon the expiry of seven days after determination of the price of the Offered Securities (being the "Transfer Value") as provided in Article 13.9 below, the Directors shall forthwith by notice in writing inform those persons to whom the Offered Securities may be allocated in accordance with Article 13.5 of the number of and the Transfer Value of the Offered Securities and invite such persons to apply in writing to the Company within twenty one days of the date of despatch of the notice (which shall be specified therein) for such maximum number of the Offered Securities offered to it or him (being all or any thereof) as it or he shall specify in such application.
- 13.4 The Directors shall within seven days after the expiration of the twenty one day period referred to in Article 13.3 notify the Proposed Transferor(s) of the number or amount and type of Offered Securities (if any) for which they have found a purchaser or purchasers pursuant to that Article provided that the Proposed Transferor(s) shall not transfer their Offered Securities if the Directors have found such a purchaser or purchasers in respect of some only of the Offered Securities.

13.5 If the said persons shall within the period of twenty-one days referred to in Article 13.3 apply for all of the Offered Securities the Directors shall allocate the Offered Securities:

13.5.1 where the Offered Securities comprise A Shares:

- (a) first, to and amongst the A Shareholders (other than any member of the Investor Group in respect of which a Transfer Notice has been deemed to be served under Article 11.1), and to the extent there is competition between such applicants, pro rata to the number of A Shares of which they are respectively registered holders; and
- (b) secondly, (if any such Offered Securities offered remain after such applicants have been satisfied in full) to the B Shareholders and to the extent there is competition between them, pro rata to the number of B Shares of which they are respectively registered holders;

13.5.2 where the Offered Securities comprise B Shares:

- (a) except where the offer is made or deemed to be made pursuant to Articles 11.4, 11.5, 11.7 or 11.8, first to and amongst the B Shareholders and to the extent there is competition between such applicants, pro rata to the number of B Shares of which they are respectively registered holders; and
- (b) secondly (where an offer is made or deemed to be made pursuant to Articles 11.4, 11.5, 11.7 or 11.8 or if any Offered Securities remain after an offer has been made and satisfied in full under Article 13.5.2(a)) to the A Shareholders and to the extent there is competition between them pro rata to the number of A Shares of which they are respectively registered holders;

13.5.3 where the Offered Securities comprise C Shares, to and amongst such employees or proposed employees of the Group and/or any Employees Trust and in such proportions as the Directors shall agree with Investor Consent and, for so long as Robert Nicholas Menzies is an employee or director of any member of the Group, B Shareholder Consent; and

13.5.4 where the Offered Securities comprise Loan Notes, to such persons to whom the shares in respect of which the Loan Notes become Offered Securities, are allocated,

provided that (a) no applicant shall be obliged to take more than the maximum number of Offered Securities specified by him as aforesaid (b) all requisite adjustments shall be made in the event that any applicant allocated Offered Securities shall fail to complete the purchase of the same when required in accordance with this Article and (c) any Equity Shares transferred to a member holding shares of a particular class shall be converted into shares of the same class as the class already held by it or him (in respect of Robert Nicholas Menzies, any C Shares transferred to him shall remain C Shares and any A Shares or B Shares transferred to him shall be converted into or remain B Shares).

13.6 The Directors shall forthwith give notice in writing of the allocations of Offered Securities made pursuant to Article 13.5 (hereinafter called an "Allocation Notice")

to the Proposed Transferor(s) and to the persons to whom Offered Shares have been allocated and (provided that the aggregate number or amount and type of Offered Securities so allocated coincides with the number or amount and type of Offered Securities notified to the Proposed Transferor pursuant to Article 13.4) the Proposed Transferor(s) shall thereupon be bound to transfer the Offered Securities allocated upon payment of the Transfer Value thereof. An Allocation Notice shall state the names and address of the purchasers and the number or amount and type of Offered Securities agreed to be purchased by them respectively and the purchases shall be completed at such place and such time as shall be specified by the Investor Directors in such Allocation Notice being not less than seven days nor more than twenty eight days after the date of such notice.

- 13.7 If in any case the Proposed Transferor having become bound as aforesaid makes default in accepting payment of the purchase price for any Offered Security or as the case may be in transferring the same the Directors or any Investor Director may receive such purchase money and may nominate some person to execute an instrument of transfer of such Offered Security in the name and on behalf of the Proposed Transferor(s) and thereafter when such instrument has been duly stamped (if stampable) the Directors shall cause the name of the purchaser to be entered in the relevant Register as the holder of such Offered Security and where applicable shall hold the purchase money in trust without interest for the Proposed Transferor(s). The receipt of the Directors or any Investor Director for the purchase money shall be a good discharge to the purchaser (who shall not be bound to see to the application thereof) and after his name has been entered in the relevant Register in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person.

- 13.8 For the purposes of these Articles:

"Bad Leaver" means a leaving employee/director who (a) ceases to be an employee or director of any member of the Group due to his voluntary resignation (which, for the avoidance of doubt, will not include retirement due to ill health) within the first two years from completion of the Subscription Agreement or (b) any time is dismissed by the relevant member of the Group for reasons relating to fraud or dishonesty on his part; and

"Good Leaver" means a leaving employee/director who ceases to be an employee or director of any member of the Group in circumstances where he is not a Bad Leaver.

- 13.9 Subject to clause 13.10, the Transfer Value per Offered Security to be transferred pursuant to the provisions of these Articles shall, subject as provided below, be such sum as may be agreed between the Proposed Transferor(s) and a Majority of the A Shareholders within twenty-eight days of the service or deemed service upon the Company of a Transfer Notice in which the Offered Securities are comprised or in default of such agreement such sum as a Chartered Accountant appointed in the manner described below ("the Determining Accountant") shall report in writing as being in his opinion:

- 13.9.1 where the Offered Securities comprise A Shares, the fair value thereof on the basis of a sale as between a willing vendor and a willing purchaser of all of the Equity Shares in the open market ranking the A Shares and the B Shares *pari passu* in all respects and without adding any premium to the value of the Equity Shares comprised in the Offered Securities if they represent a majority interest or discounting

the value of any Equity Shares comprised in the Offered Securities if they represent a minority interest; and

13.9.2 where the Offered Securities comprise B Shares:

- (a) in the case of a Good Leaver or a transfer or deemed transfer pursuant to Articles 11.2 or 11.3, the fair value thereof on the basis of a sale as between a willing vendor and a willing purchaser of all of the Equity Shares in the open market ranking the A Shares and the B Shares *pari passu* in all respects and without adding any premium to the value of the Equity Shares comprised in the Offered Securities if they represent a majority interest or discounting the value of any Equity Shares comprised in the Offered Securities because they represent a minority interest (the "Fair Value");
- (b) in the case of a Bad Leaver, the lower of the Fair Value and the price paid on subscription of the B Shares;
- (c) in the case of transfer or deemed transfer pursuant to Article 11.8, the nominal value of the B Shares;

13.9.3 where the Offered Securities comprise Loan Notes and:

- (a) the Loan Notes are Loan Notes held by a person who also holds A Shares, the fair value thereof having regard to its interest and redemption rights and the expected timing and prospects of its redemption (the "Note Fair Value"); and
- (b) the Loan Notes are Loan Notes held by a person who also holds B Shares:
 - (1) in all cases (other than in the case of a Bad Leaver or as a result of the application of Article 11.8) the Note Fair Value;
 - (2) in the case of a Bad Leaver, the lower of the Note Fair Value and the price paid on subscription of the Notes;
 - (3) in the case of the application of Article 11.8, the lower of the Note Fair Value and the aggregate of the principal and accrued but unpaid interest in respect of the Loan Notes.

13.10 Where the offered securities comprise C Shares, the Transfer Value per C Share to be transferred shall be the price paid by the Proposed Transferor on subscription.

13.11 Where a Transfer Notice is given or deemed given pursuant to Articles 11.4 or 11.5 or in circumstances which it could be deemed so given, the valuation under Article 13.9 shall be determined as of the Leaving Date.

13.12 The Determining Accountant shall be a partner or other representative of the Auditors of the Company willing so to act as such or, if no such partner or representative is so willing, or if the Proposed Transferor(s) or Investor Consent shall so require prior to

the expiration of the period of twenty-eight days referred to above such chartered accountant as is appointed by agreement between such parties within seven days following the expiration of the period of twenty-eight days referred to above or, failing agreement, as shall be appointed on the application of the Proposed Transferor(s) or with Investor Consent by the President for the time being of the Institute of Chartered Accountants in England and Wales. In reporting under Article 13.9 the Determining Accountant shall be deemed to be acting as an expert and not as arbitrator and his Report shall be in writing addressed and produced to the Proposed Transferor(s), the A Shareholders and the Company and shall be final and binding, in the absence of manifest error therein. The Directors shall procure that any Report required hereunder is obtained with due expedition and the costs of the Determining Accountant shall be borne as he shall direct or, in the fault of such a direction, equally by the parties to the dispute or disagreement.

14. GENERAL MEETINGS

- 14.1 A general meeting or a meeting of any class of members of the Company may consist of a conference between members some or all of whom are in different places provided that each member who participates is able:

14.1.1 to hear each of the other participating members addressing the meeting;
and

14.1.2 if he so wishes, to address all of the other participating members simultaneously,

whether directly, by conference telephone or by any other form of communications equipment (whether in use when these articles are adopted or not) or by a combination of those methods.

- 14.2 A quorum is deemed to be present if those conditions are satisfied in respect of at least the number of members required to form a quorum.

- 14.3 A meeting held in this way is deemed to take place at the place where the largest group of participating members is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates.

- 14.4 A resolution put to the vote of a meeting shall be decided by each member indicating to the chairman (in such manner as the chairman may direct) whether the member votes in favour of or against the resolution or abstains.

- 14.5 References in this Article to members shall include their duly appointed proxies and, in the case of corporate members, their duly authorised representatives.

15. All general meetings of the Company shall be held within the United Kingdom. During a Default Period any A Shareholders may convene a general meeting by such notice as is required by the Act and these Articles, as if such holder had full and immediate authority on behalf of the Board for that purpose. The Company shall be provided with a copy of the notice convening the meeting at the same time as it is sent to the members entitled to receive the same.

16. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business and at all times throughout the meeting thereafter; save as herein otherwise provided two members present in person or by proxy (or,

being a corporation, by representative) shall be a quorum provided that (i) one such member must be a holder of A Shares present in person or by proxy or corporate representative and (ii) if the holders of B Shares are entitled to attend and vote thereat, one such member must be a holder of B Shares present in person or by proxy. If at an adjourned meeting a quorum for the purposes of the foregoing provisions of this Article is not present within half an hour from the time appointed for the meeting, the meeting shall be dissolved, unless the meeting was adjourned for fourteen days or more and due notice of such adjournment was given within seven days of the adjournment, whereupon the quorum at any such adjourned meeting shall be any two members present in person or by proxy (or, being a corporation, by representative) of whom at least one shall be or represent a holder of A Shares. Regulation 41 of Table A shall be read and construed accordingly.

17. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before, or on the declaration of the result of, the show of hands) demanded by the Chairman or by any member present in person or by proxy. On a show of hands votes may be given either personally or by proxy. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall not be entitled to a second or casting vote.
18. Unless a poll is demanded as provided in Article 17, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the Minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.
19. Subject to the Act, a resolution in writing signed by all the members for the time being entitled to vote shall be as effective for all purposes as a resolution duly passed at a general meeting of the Company duly convened and held, and may consist of several documents in the like form each signed by one or more members. In the case of a corporation the resolution may be signed on its behalf by a Director thereof or by its duly appointed or duly authorised representative.

DIRECTORS

20. Subject to the Act and unless and until the Company by Special Resolution shall otherwise determine, there shall be no maximum number of Directors and there shall be a minimum of two Directors.
21. The quorum necessary for the transaction of business of the Directors shall be two, at least (i) one of whom shall (if in office or unless he or they otherwise agree in writing) be an Investor Director and (ii) other than during a Default Period, one of whom shall during the RNM Protection Period (so long as the right to appoint B Directors under Article 35 subsists) be the B Director or his alternate provided that where not less than seven days prior notice of any proposed meeting of Directors has been given in writing (or by cable telex or other form of visible communication) to each Director or his alternate (unless absent from the United Kingdom and he has failed to leave an address at which he may be contacted by telex or other visible communication) setting out in reasonable detail the matters proposed to be considered thereat and at such proposed meeting no B Director is present as required by the foregoing, any two Directors present in person or by alternate of whom at least one is an Investor Director (if in office or unless he or they otherwise agree in writing) shall constitute a quorum.

22. The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit provided that unless otherwise agreed by all the Directors at the time as regards the meeting concerned all meetings of the Directors shall be held within the United Kingdom. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors. Save in the case of an emergency and unless all the Directors (or their duly appointed alternates) shall agree to the holding of a meeting by shorter notice, at least seven days' notice of every meeting of Directors shall be given either in writing or by cable or telex or facsimile or other similar means of visible communication to each Director, unless absent from the United Kingdom and he has failed to leave an address at which he may be contacted by cable telex facsimile or other similar visible communication.
23. Any Director enabled to participate in the proceedings of a meeting by means of a communication device (including a telephone) which allows all the other Directors present at such meeting whether in person or by means of such type of communication device, to hear at all times such Director and such Director to hear at all times all other Directors present at such meeting (whether in person or by means of such type of communication device) shall be deemed to be present at such meeting and shall be counted when reckoning a quorum. A meeting held in this way is deemed to take place at the place where the largest group of participating directors is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates.
24. A person may be appointed a Director notwithstanding that he shall have attained the age of seventy years and no Director shall be liable to vacate office by reason of his attaining that or any other age.
25. At any meeting of the Directors or committee thereof each Director (or his alternate Director if the Director himself is not present) present at the meeting shall be entitled to one vote. In the case of an equality of votes at any such meeting the Chairman of such meeting shall not be entitled to a second or casting vote. Regulation 88 of Table A shall be modified accordingly.
26. Subject to the provisions of Section 317 of the Act a Director (including an alternate Director) may contract with and participate in the profits of any contract or arrangement with the Company as if he were not a Director. A Director shall also be capable of voting in respect of such contract or arrangement, where he has previously disclosed his interest to the Company, or in respect of his appointment to any office or place of profit under the Company or of the arrangement of the terms thereof and may be counted in the quorum at any meeting at which any such matter is considered.
27. In Regulation 79 of Table A the last two sentences shall be deleted.
28. A resolution in writing signed by all the Directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as effective for all purposes as a resolution passed at a meeting of the Directors or (as the case may be) a committee of directors duly convened and held, and may consist of several documents in the like form, each signed by one or more of the Directors, but so that the expression "Director" in this Article shall not include an alternate Director.
29. Except with Investor Consent, the Board shall not operate through any remuneration committee except one on which an Investor Director (or Special Representative) is an appointee with one other director.
30. A Director and an alternate Director shall not require a share qualification, but nevertheless shall be entitled to attend and speak at any general meeting of the Company.

31. The office of a Director shall be vacated if:

- 31.1 he ceases to be a Director by virtue of any provision of the Act or he becomes prohibited by law from being a Director; or
- 31.2 he becomes bankrupt or insolvent or makes any arrangement or composition with his creditors; or
- 31.3 he is, or may be, suffering from mental disorder and either:
 - 31.3.1 he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
 - 31.3.2 an order is made by a Court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
- 31.4 (not being precluded from so doing by the terms of any contract with the Company) by notice in writing he resigns the office of Director; or
- 31.5 subject to Articles 32.6 and 35.5 and in accordance with these Articles, he is removed from office by a resolution duly passed pursuant to Section 303 of the Act or by Extraordinary Resolution (but without prejudice to any right he may have to damages by reason of such removal); or
- 31.6 he shall for more than six consecutive months have been absent without permission of the Directors from meetings of the Directors held during that period and the Directors resolve that his office is vacated; or
- 31.7 being an Investor Director, he is removed from office pursuant to Article 32; or
- 31.8 during a Default Period, he is removed from office in the same manner as is prescribed in Article 32 as if he were an Investor Director.

32. **INVESTOR DIRECTORS**

- 32.1 The holders of a Majority of the issued A Shares shall be entitled to appoint a minimum of two persons as Directors of the Company and to appoint up to such maximum number as will give the Investor Directors voting control of the Board and to remove from office any person so appointed (and subject to removal) to appoint another person in his place. Any directors above the minimum number of two shall be at no additional cost to the Group above the annual fee and expenses payable to the first two directors pursuant to the Subscription Agreement.
- 32.2 An Investor Director appointed pursuant to Article 32.1 shall not be required to hold any share qualification.
- 32.3 Any appointment or removal of an Investor Director under this Article shall be by instrument in writing signed by the relevant appointor(s) served on the Company and shall take effect on and from the date on which such instrument is lodged or deposited at the registered office of the Company.

- 32.4 An Investor Director appointed under this Article may appoint any person as an alternate pursuant to Article 34 without the approval of a resolution of the Directors.
- 32.5 An Investor Director shall be entitled to be a member of any committee of the Board and also to be appointed to the boards and committees of any such boards of such of the other members of the Group as he shall require (but without any increase in any annual fee payable to him).
- 32.6 For so long as the right to appoint an Investor Director under this Article subsists, upon a poll being taken in connection with a resolution of the Company in General Meeting to remove an Investor Director or to restrict or delete this Article, the A Shareholders entitled to appoint the same (or any nominees therefor holding shares in the Company) shall be entitled to exercise such total number of votes in respect of their holdings of A Shares as shall equal twice the total number of votes cast on such resolution by all other shareholders of the Company.
- 32.7 For so long as the right to appoint an Investor Director under this Article subsists the holders of the issued A Shares entitled to appoint the same may in the same manner as provided above nominate a representative (a "Special Representative") to fulfil the role of an Investor Director (in lieu of any such Investor Director). A Special Representative shall be entitled to all the rights of an Investor Director (other than to vote at meetings of the Board although he may vote as a member of any remuneration committee thereof) but shall not by virtue of such nomination become a director or alternate director of the Company. A Special Representative shall be automatically deemed to have been removed from office if his appointors appoint an Investor Director.

33. BORROWING POWERS OF DIRECTORS

Subject as otherwise provided in these Articles, the Directors may exercise all the powers of the Company to borrow money, whether in excess of the nominal amount of the share capital of the Company for the time being issued or not, and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and, subject to the provisions of these Articles and of the Act, to issue debentures, debenture stocks and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

34. ALTERNATE DIRECTORS

- 34.1 An Investor Director may appoint any person and any other Director shall have the power at any time to appoint as an alternate Director either another Director or any other person approved for that purpose by a resolution of the Directors (such approval not to be unreasonably withheld) to be an alternate director, and, at any time, to terminate such appointment. Every appointment and removal of an alternate Director shall be in writing signed by the appointor and (subject to any approval required) shall (unless all the Directors agree otherwise) only take effect upon receipt of such written appointment or removal at the registered office of the Company.
- 34.2 An alternate Director so appointed shall not be entitled as such to receive any remuneration from the Company except only 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, but shall otherwise be subject to the provisions of these Articles with respect to Directors. An alternate Director shall during his

appointment be an officer of the Company and shall not be deemed to be an agent of his appointor.

- 34.3 An alternate Director shall (subject to his giving to the Company an address at which notices may be served upon him) be entitled to receive notices of all meetings of the Directors and of any committee of the Directors of which his appointor is a member and to attend and to vote as a Director at any such meeting at which his appointor is not personally present and generally in the absence of his appointor to perform and exercise all functions, rights, powers and duties as a Director of his appointor and to receive notice of all General Meetings.
- 34.4 The appointment of an alternate Director shall automatically determine on the happening of any event which if he were a Director would cause him to vacate such office or if his appointor shall cease for any reason to be a Director otherwise than by retiring and being re-appointed at the same meeting.
- 34.5 A Director or any other person may act as alternate Director to represent more than one Director and an alternate Director shall be entitled at meetings of the Directors or any committee of the Directors to one vote for every Director whom he represents in addition to his own vote (if any) as a Director, but he shall count as only one for the purpose of determining whether a quorum is present.

35. B DIRECTOR

- 35.1 The holders of a Majority of the issued B Shares (provided they are Menzies Family Members and they together hold not less than one per cent in nominal value of the issued equity share capital of the Company) shall be entitled provided there is no Default Period outstanding and for so long as Robert Nicholas Menzies (a) remains in compliance with the Subscription Agreement in all material respects and (b) is employed by any member of the Group to appoint one director of the Company (subject to his approval to the extent required under the Subscription Agreement) and to remove from office any person so appointed (and subject to removal and approval aforesaid) to appoint another person in his place.
- 35.2 A Director appointed pursuant to this Article shall not be required to hold any share qualification.
- 35.3 Any appointment or removal of a B Director under this Article shall be by instrument in writing signed by the relevant appointor(s) served on the Company and shall take effect on and from the date on which such instrument is lodged or deposited at the registered office of the Company.
- 35.4 A B Director shall be entitled to be a member of any committee of the Board and also to be appointed to the boards of such of the other members of the Group as he shall require.
- 35.5 For so long as the right to appoint a B Director under this Article subsists, upon a poll being taken in connection with a resolution of the Company in General Meeting to remove an B Director or to restrict or delete this Article, the holders of the B Shares entitled to appoint the same (or any nominees therefor holding shares in the Company) shall be entitled to exercise such total number of votes in respect of their holdings of B Shares as shall equal twice the total number of votes cast on such resolution by all other shareholders of the Company.

- 35.6 For so long as the right to appoint a B Director under this Article subsists (or would subsist but for a Default Period) the holders of the issued B Shares entitled to appoint the same may in the same manner and subject to the approval required as provided above nominate a representative (a "Special B Representative") to fulfil the role of the B Director (in lieu of any such B Director). A Special B Representative shall be entitled to all the rights of a B Director (other than to vote at meetings of the Board although he may vote as a member of any remuneration committee thereof) but shall not by virtue of such nomination become a director or alternate director of the Company. A Special B Representative shall be automatically deemed to have been removed from office if his appointors appoint a B Director.
- 35.7 If the right to appoint a director under this Article shall cease (albeit temporarily) the A Shareholders may by written notice to the appointee in office and the Company remove him from office and the Appointors shall indemnify the A Shareholders and the Group against any claim or liabilities arising out of such a removal.

NOTICES

36. Every Director of the Company and every alternate Director shall, upon supplying the Company with an address for the giving of notices therefor, be entitled to receive notices of general meetings, provided always that non-receipt of any such notice by any Director or alternate Director shall not invalidate the proceedings at the general meeting convened by such notice.
37. A notice may be given (i) by the Company to any member or Director either personally or by sending it by first class post (airmail if abroad) or Royal Mail Special Delivery post or by telex or other means of visible communication to him or to his registered address or to the address supplied by him to the Company for the giving of notice to him or (ii) to the Company for the purpose of these Articles by like method at its registered office for the time being. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, preparing and posting a letter containing the notice, and to have been effected at the expiration of forty-eight hours after the letter containing the same is posted. Where a notice is sent by telex or other means of visible communication, service of the notice shall be deemed to be effected forthwith. Notwithstanding anything else provided in these Articles, any Director who has not given an address for service to the Company shall not be entitled to notices hereunder.
38. If more than one member of an Investor Group holds any shares in the Company, service of notice on the member of the Investor Group holding the largest number of shares shall be deemed to be sufficient and proper service on and notice to each member of that Investor Group.

INDEMNITY

39. Every Director or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under Sections 144 and 727 of the Act, in which relief is granted to him by the Court, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by Section 310 of the Act.