

Company number: 05826545

**NOBLE FOODS LIMITED**

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**WRITTEN RESOLUTION**

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Circulation Date: **26** November 2009

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the following resolution be passed as a special resolution of the Company ("Resolution"):

**SPECIAL RESOLUTION**

the approval and adoption of the Articles of Association contained in the document attached to this resolution in substitution for and to the exclusion of the existing Articles of Association of the Company be approved with immediate effect.

**AGREEMENT**

Please read the notes at the end of this document before signifying your agreement to the Resolution.

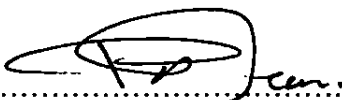
The undersigned, the persons entitled to vote on the Resolution on **26** November 2009 hereby irrevocably agree to the Resolution:

  
.....  
**MICHAEL JOHN RICHARD KENT**

**26 NOVEMBER 2009**  
.....  
Date

  
.....  
**PETER DONALD DEAN**

**26 NOVEMBER 2009**  
.....  
Date

  
.....  
for and on behalf of  
**DEAN FAMILY DISCRETIONARY SETTLEMENT**

**26 NOVEMBER 2009**  
.....  
Date



## NOTES

1. If you agree with the Resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company using one of the following methods:

**By Hand:** delivering the signed copy to a Director of the Company or by delivering to the registered office.

**Post:** returning the signed copy by post to the Directors of the Company at the registered office.

If you do not agree to the Resolution, you do not need to do anything: you will not be deemed to agree if you fail to reply.

2. Once you have indicated your agreement to the Resolution, you may not revoke your agreement.
3. If you are signing this document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document.

**Company No. 5826545**

**COMPANIES ACTS 1985 AND 2006  
COMPANY LIMITED BY SHARES  
ARTICLES OF ASSOCIATION  
OF  
NOBLE FOODS LIMITED**

COMPANIES HOUSE

**1. PRELIMINARY**

- 1.1 These articles together with the regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (as amended) ("Table A") shall apply to the Company save insofar as such regulations are excluded or varied by these articles.
- 1.2 The objects set out in the Company's Memorandum of Association that transferred to the Company's Articles pursuant to Section 28 of the Companies Act 2006 shall be deleted and shall not form part of the Company's Articles and accordingly the Company's objects are unrestricted in accordance with Section 31(1) of the Companies Act 2006 .

**2. DEFINITIONS AND INTERPRETATION**

- 2.1 In these articles the following words and expressions shall (except where the context otherwise requires) have the following meanings:

|                          |                                                                                                                                                                                                                                                                          |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| "A Director"             | a director of the Company appointed from time to time by the A Ordinary Shareholders under Article 4.7.1;                                                                                                                                                                |
| "A Dividend"             | a dividend paid to an A Ordinary Shareholder calculated in accordance with Article 4.1.2;                                                                                                                                                                                |
| "A Ordinary Share"       | an A ordinary share of 10p in the capital of the Company;                                                                                                                                                                                                                |
| "A Ordinary Shareholder" | a registered holder of any A Ordinary Shares;                                                                                                                                                                                                                            |
| "Accounting Group"       | the Company and its subsidiary undertakings from time to time (other than a subsidiary undertaking which under the provisions of the Companies Act is not required to be included and which is not included in the consolidated group accounts prepared by the Company); |
| "Accounting Period"      | an accounting reference period of the Company (currently being a period ending on the                                                                                                                                                                                    |

|                                 |                                                                                                                                                                                            |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                 | 30 September or such other date as is notified to the Registrar of Companies from time to time);<br>the Registrar of Companies from time to time);                                         |
| <b>"Accounts"</b>               | the audited consolidated accounts of the Accounting Group in respect of an Accounting Period;                                                                                              |
| <b>"Asset Sale"</b>             | the completion of any transaction or series of transactions whereby any person or group of persons purchases the whole or substantially the whole of the business and assets of the Group; |
| <b>"Auditors"</b>               | the auditors from time to time of the Company;                                                                                                                                             |
| <b>"B Director"</b>             | a director of the Company appointed from time to time by the B Ordinary Shareholders under Article 4.7.2;                                                                                  |
| <b>"B Dividend"</b>             | a dividend paid to a B Ordinary Shareholder calculated in accordance with Article 4.1.2;                                                                                                   |
| <b>"B Ordinary Share"</b>       | a B ordinary share of 10p in the capital of the Company;                                                                                                                                   |
| <b>"B Ordinary Shareholder"</b> | a registered holder of any B Ordinary Shares;                                                                                                                                              |
| <b>"Board"</b>                  | all the Directors of the Company from time to time;                                                                                                                                        |
| <b>"C Dividend"</b>             | the dividend payable to the C Ordinary Shareholders under Article 4.1.1;                                                                                                                   |
| <b>"C Ordinary Share"</b>       | a non-voting redeemable preferred C ordinary share of £1 in the capital of the Company;                                                                                                    |
| <b>"C Ordinary Shareholder"</b> | a registered holder of any the C Ordinary Shares;                                                                                                                                          |
| <b>"C Redemption Date"</b>      | shall have the meaning set out in Article 4.3.2;                                                                                                                                           |
| <b>"C Redemption Monies"</b>    | shall have the meaning set out in Article 4.3.3;                                                                                                                                           |
| <b>"Companies Act"</b>          | the Companies Act 2006 (as amended) ;                                                                                                                                                      |
| <b>"Connected Person"</b>       | shall have the meaning ascribed to it in section 839 of the Income and Corporation Taxes Act 1988;                                                                                         |
| <b>"credited as paid up"</b>    | amounts paid up or credited as paid up on the relevant share including any premium;                                                                                                        |
| <b>"Directors"</b>              | the directors from time to time of the Company;                                                                                                                                            |
| <b>"EEA"</b>                    | European Economic Area;                                                                                                                                                                    |

**"Encumbrance"**

a mortgage, charge, pledge, lien, option, restriction, equity, right to acquire, right of pre-emption, third party right or interest, other encumbrance or security interest of any kind or any other type of preferential arrangement (including, without limitation, a title transfer and retention arrangement) having similar effect;

**"Equity Dividend"**

the A Dividend and the B Dividend;

**"Equity Shares"**

the A Ordinary Shares and the B Ordinary Shares and all shares derived from them (and any of them) whether by conversion, consolidation or sub-division or by way of rights or bonus issue;

**"Family Trust"**

a trust (whether arising under a settlement inter vivos or a testamentary disposition made by any person or on an intestacy) under which the primary persons being (or capable of being) beneficiaries are MK, PD and/or their respective Privileged Relations, and no power of control over the voting powers conferred by Shares owned by such trust is for the time being exercisable by or subject to the consent of any person other than the trustees or MK, PD or their respective Privileged Relations;

**"FSMA"**

The Financial Services and Markets Act 2000 and every statutory modification or re-enactment of such Act for the time being in force;

**"Group"**

the Company and its subsidiary undertakings from time to time and references to a "member of the Group" or a "Group member" shall be construed accordingly;

**"Liquidation"**

the passing of a resolution for the winding-up of the Company;

**"Listing"**

- (a) the admission of all or any of the Equity Shares to trading on a market for listed securities operated by the London Stock Exchange plc, together with the admission of such Shares to the Official List of the UK Listing Authority; or
- (b) the admission of such Shares to the Alternative Investment Market of the London Stock Exchange plc; or
- (c) the admission of such Shares to or trading on NASDAQ, OFEX or markets in other EEA states;

and "listed" will be construed accordingly;

**"Listing Date"**

the date on which all or any of the Equity Shares are first listed (subject only (where relevant) to any announcement under rule 7.1 of the Listing Rules or under equivalent rules applicable in any other jurisdiction including the Aim Rules);

**"Member"**

a holder of any share in the capital of the Company as stated in its Register of Members from time to time;

**"MK"**

Michael Kent of A052 Le Memmo Centre, 4 Avenue des Guelfes, MC 98000, Monaco;

**"Official List"**

the Official List of the UK Listing Authority;

**"Original Member"**

shall have the meaning set out in Article 7.2.2;

**"PD"**

Peter Dean of Aspens Farm, Marsworth, Tring, Hertfordshire, HP23 4NE;

**"persons acting in concert"**

shall have the meaning ascribed to it in the City Code on Takeovers and Mergers;

**"Preference Share"**

a Preference Share of £1 in the capital of the Company;

**"Preference Shareholder"**

a registered holder of any Preference Shares;

**"Privileged Relation"**

in relation to a Member a parent or spouse of that Member and all brothers, sisters and cousins (and their children) and lineal descendants of that Member (including for this purpose any step-child, adopted child or illegitimate child of any such Member or his lineal descendants) or any person who is married to any such brother or sister or lineal descendent;

**"Proposing Transferor"**

shall have the meaning set out in Article 7.1.2;

**"PRs"**

shall have the meaning set out in Article 7.2.2;

**"Realisation"**

an Asset Sale, a Share Sale or a Listing whichever shall first occur;

**"Redeemable Shares"**

the Preference Shares and the C Ordinary Shares;

**"Redemption Date"**

shall have the meaning set out in Article 4.4.2;

**"Redeemable Dividend"**

shall have the meaning set out in Article 4.1.1;

**"Redemption Monies"**

shall have the meaning set out in Article 4.4.3;

|                                  |                                                                                                                                                                                                                                                                                 |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>"Sale Date"</b>               | the date of completion of a Share Sale or an Asset Sale;<br>Sale;                                                                                                                                                                                                               |
| <b>"Share"</b>                   | a share in the capital of the Company;                                                                                                                                                                                                                                          |
| <b>"Shareholder"</b>             | the holders of any Shares in the Capital of the Company;                                                                                                                                                                                                                        |
| <b>"Shareholders' Agreement"</b> | the agreement dated 23 June 2006 between PD, MK and the Company as varied from time to time;                                                                                                                                                                                    |
| <b>"Share Sale"</b>              | the completion of any transaction or series of transactions whereby any person or Connected Persons or group of persons acting in concert purchases or otherwise acquires or obtains not less than 100% in nominal value of the Equity Shares;                                  |
| <b>"SPA"</b>                     | the agreement dated 23 June 2006 between PD (and others) and the Company;                                                                                                                                                                                                       |
| <b>"Trustee in Bankruptcy"</b>   | shall have the meaning set out in Article 7.2.2;                                                                                                                                                                                                                                |
| <b>"UK Listing Authority"</b>    | the Financial Services Authority in its capacity as the competent authority for the purposes of Part VI of FSMA including, where the context so permits, any employee, officer or servant to whom any function of the UK Listing Authority may for the time being be delegated. |

2.2 In these articles, where the context admits:

- 2.2.1 words and phrases which are defined or referred to in or for the purposes of the Companies Act or Table A have the same meanings in these articles unless the context otherwise requires;
- 2.2.2 sections 5, 6, 8 and 9 and schedule 1 to the Interpretation Act 1978 apply in the same way as they do to statutes;
- 2.2.3 reference to a statutory provision includes reference to:
  - 2.2.3.1 any order, regulation, statutory instrument or other subsidiary legislation at any time made under it for the time being in force (whenever made);
  - 2.2.3.2 any modification, amendment, consolidation, re-enactment or replacement of it or provision of which it is a modification, amendment consolidation, re-enactment or replacement;
- 2.2.4 reference to a Regulation is to a regulation of Table A, and reference to an Article is to a provision of these articles;
- 2.2.5 reference to a gender includes the other genders, and reference to the singular includes the plural and vice versa;

2.2.6 headings are for ease of reference only and shall not affect the construction or interpretation of these articles;  
interpretation of these articles;

2.2.7 reference to any action or decision of the Directors shall refer to the resolution of a majority of the Directors present at a duly convened meeting of the board of directors of the Company from time to time and, if such action or decision concerns an interest in Shares held by a Director, then that Director shall not be entitled to vote on that action or decision but will be counted in any quorum.

### 3. **SHARE CAPITAL AND ISSUES OF NEW SHARES**

3.1 The authorised share capital of the Company at the date of adoption of these articles is £24,073,400 divided into:

3.1.1 13,000,000 Preference Shares;

3.1.2 2,000 A Ordinary Shares;

3.1.3 2,000 B Ordinary Shares; and

3.1.4 11,073,000 C Ordinary Shares.

3.2 Sections 561 and 562 of the Companies Act shall not apply to the Company.

### 4. **SHARE RIGHTS**

Regulation 2 shall not apply to the Company. The rights and restrictions attaching to the Preference Shares, the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares shall be as follows.

#### 4.1 **As Regards Income**

In respect of any Accounting Period, the Company shall declare a dividend of at least 35% of the profits of the Company which are available for lawful distribution in respect of such Accounting Period (as shown in the audited Accounts of the Company) which shall, subject to the prior application of Articles 4.1.3 - 4.1.7, be distributed to the Shareholders as follows:

4.1.1 In paying to the C Ordinary Shareholders and the Preference Shareholders (on a pro-rata basis as if they constituted one class) a non-cumulative cash dividend ("Redeemable Dividend") calculated in accordance with Article 4.1.5.1 on the amounts from time to time credited as paid up on the Redeemable Shares in issue for the time being such dividend (if any) to be paid within 30 days after the annual general meeting at which the Accounts for the relevant Accounting Period are presented to the Company in general meeting;

4.1.2 Subject to Articles 4.1.6 and 4.1.7:

4.1.2.1 in paying to the A Ordinary Shareholders as a class an amount equal to 49% of the Equity Dividend (calculated pursuant to Article 4.1.5 below) and in paying to the B Ordinary Shareholders an amount equal to 51% of the Equity Dividend (calculated pursuant to Article 4.1.5 below)

As between shareholders of the relevant class any dividend shall be distributed pro rata to the amounts paid up or credited as paid up on the shares of that class from time to time;

4.1.3 No Redeemable Dividend or Equity Dividend will be declared or paid in respect of any Accounting Period unless and until any and all Redeemable Shares due for redemption have been redeemed in full pursuant to Articles 4.3 and 4.4 at that time. Any dividends declared shall be paid within 30 days of the Annual General Meeting at which the Accounts for the relevant Accounting Period are presented to the Company in general meeting;

4.1.4 Any amount of Redeemable Dividend, A Dividend or B Dividend payable under these Articles or any dividend payable under Articles 4.1.6 or 4.1.7 below shall belong to and be paid to the holders of the relevant Shares pro rata according to their holdings of such Shares;

4.1.5 Subject to Articles 4.1.6 and 4.1.7 all dividends shall be payable in accordance with the following formulae:

4.1.5.1 in respect of the Redeemable Dividend:

$$\frac{\text{RS Value}}{\text{RS Value} + \text{£40 million}} \times D$$

4.1.5.2 in respect of the Equity Dividend:

$$\frac{\text{£40 million}}{\text{RS Value} + \text{£40 million}} \times D$$

Where:

"D" is the total dividend declared for an Accounting Period (excluding any dividend payable under Articles 4.1.6 or 4.1.7 below); and

"RS Value" is the aggregate nominal value (and any premium thereon) of the Redeemable Shares in issue at the end of the Accounting Period by reference to which the dividend is declared in accordance with these Articles;

4.1.6 In the event of PD's death the A Ordinary Shareholders as a class shall be entitled, in priority to any other dividends or distributions of the Company payable under this Article 4, to receive by way of dividend an annual sum of £500,000 which sum shall be payable to them in equal monthly instalments in the 12 months following the AGM at which Accounts for a relevant Accounting Period are presented. For the avoidance of doubt the other provisions of Articles 4.1.1 to 4.1.5 inclusive shall not apply to any dividends payable under this Article 4.1.6. Any dividends that become payable but are not paid when due under this Article shall accumulate and accrue on a monthly basis and be paid in arrears together with the then current dividend as soon as possible and in priority to any other dividends;

- 4.1.7 In the event of MK's death the B Ordinary Shareholders shall be entitled, in priority to any other dividends or distributions of the Company payable under this Article 4, to receive by way of dividend an annual sum of £500,000 which shall be payable to them in equal monthly instalments in the 12 months following the AGM at which Accounts for a relevant Accounting Period are presented. For the avoidance of doubt the other provisions of Articles 4.1.1 to 4.1.5 inclusive shall not apply to any dividends payable under this Article 4.1.7. Any dividends that become payable but are not paid when due under this Article shall accumulate and accrue on a monthly basis and be paid in arrears together with the then current dividend as soon as possible and in priority to any other dividends.

#### **4.2 As Regards Capital**

- 4.2.1 On a return of assets whether in a Liquidation or reduction of capital or otherwise (except in the case of the redemption of shares of any class or the purchase by the Company of its own shares) the assets and retained profits of the Company available for distribution among the Members shall, subject to the prior payment of any unpaid dividends due pursuant to Articles 4.1.6 or 4.1.7, be applied as follows:
- 4.2.1.1 first, in paying to the Redeemable Shareholders (on a pro rata basis according to the amounts paid up or credited as paid including any premium) any arrears of declared but unpaid Redeemable Dividend;
  - 4.2.1.2 secondly, in paying to the Preference Shareholders (on a pro rata basis according to the amounts paid up or credited as paid including any premium) the amounts credited as paid up on the Preference Shares calculated up to and including the date on which the return of capital is made;
  - 4.2.1.3 thirdly, in paying to the C Ordinary Shareholders (on a pro rata basis according to the amounts paid up or credited as paid including any premium) the amounts credited as paid up on the C Ordinary Shares calculated up to and including the date on which the return of capital is made;
  - 4.2.1.4 fourthly, in paying to the holders of the Equity Shares a sum equal to any arrears of declared but unpaid Equity Dividend;
  - 4.2.1.5 fifthly, in paying to the A Ordinary Shareholders and the B Ordinary Shareholders(as if they constitute one class) the amounts credited as paid up on the A Ordinary Shares and the B Ordinary Shares calculated up to and including the date on which the return of capital is made;
  - 4.2.1.6 sixthly, in distributing to the A Ordinary Shareholders as a class 49% and to the B Ordinary Shareholders as a class 51% of the balance of such assets and retained profits such distribution to be apportioned among the holders of a class pro rata to the amounts credited as paid up on the B Ordinary Shares and A Ordinary Shares held by them respectively.
- 4.2.2 The Redeemable Shares shall not confer any further rights of participation in the profits or assets of the Company.

#### **4.3 As Regards Redemption of the C Ordinary Shares**

- 4.3.1 The payments specified in this Article 4.3 shall be subject to compliance with the provisions of the Companies Act;
- 4.3.2 Subject to Article 4.3.9 the Company shall redeem for cash at a redemption price of £1 per share the C Ordinary Shares as to:
- 4.3.2.1 1,608,904 of the C Ordinary Shares then in issue on 28 April 2009;
  - 4.3.2.2 946,410 of the C Ordinary Shares then in issue on 31 May 2010;
  - 4.3.2.3 946,410 of the C Ordinary Shares then in issue on 30 June 2010;
  - 4.3.2.4 946,410 of the C Ordinary Shares then in issue on 31 July 2010;
  - 4.3.2.5 946,410 of the C Ordinary Shares then in issue on 30 April 2011;
  - 4.3.2.6 946,410 of the C Ordinary Shares then in issue on 31 May 2011;
  - 4.3.2.7 946,410 of the C Ordinary Shares then in issue on 30 June 2011;
  - 4.3.2.8 946,410 of the C Ordinary Shares then in issue on 31 July 2011;
  - 4.3.2.9 946,410 of the C Ordinary Shares then in issue on 31 May 2012;
  - 4.3.2.10 946,410 of the C Ordinary Shares then in issue on 30 June 2012;
  - 4.3.2.11 all remaining C Ordinary Shares then in issue on 31 July 2012;
- (or as soon thereafter in each case as the Company shall be able to comply with the provisions of the Companies Act) (each a "C Redemption Date").
- 4.3.3 On each C Redemption Date, subject to Article 4.3.9, the redemption price referred to in Article 4.3.2 (each the "C Redemption Monies") shall become a debt due and payable by the Company to the C Ordinary Shareholders and on each C Redemption Date the Company shall, subject to receipt of the relevant share certificate or an indemnity in lieu of the share certificate in a form reasonably satisfactory to the Company, pay the C Redemption Monies as appropriate to the relevant C Ordinary Shareholders.
- 4.3.4 On each C Redemption Date each of the C Ordinary Shareholders whose shares are to be redeemed shall deliver to the Company the share certificate(s) for such shares and the Company shall cancel the same. If any certificate so delivered to the Company includes any C Ordinary Shares not falling to be redeemed on the relevant C Redemption Date the Company shall without charge issue a certificate for the balance of any unredeemed C Ordinary Shares or to the holder or holders of such shares.
- 4.3.5 As from each C Redemption Date the C Dividend shall cease to accrue in respect of any shares redeemed on that date unless on presentation of the share certificate or an indemnity in lieu of the share certificate the Company fails to make payment of the C Redemption Monies, in which case the C Dividend shall continue to accrue until the date of payment of the C Redemption Monies.

- 4.3.6 A redemption of some but not all of the C Ordinary Shares shall be made amongst the holders thereof pro rata as nearly as possible to their then holdings of C the holders thereof pro rata as nearly as possible to their then holdings of C Ordinary Shares.
- 4.3.7 All of the C Ordinary Shares not previously redeemed shall, subject as otherwise provided in this Article 4.3.7, be redeemed immediately upon the occurrence of a Realisation and the provisions of Articles 4.3.3 to 4.3.6 shall have effect mutatis mutandis to such redemption (except that the C Redemption Date shall be the Sale Date or Listing Date). Provided always that in the case of a Share Sale the Company shall not be obliged to redeem the C Ordinary Shares if at the time of such Share Sale an offer has been accepted by the holders of all the C Ordinary Shares then in issue to purchase all of their C Ordinary Shares at a price per share which is not less than the C Redemption Monies which would otherwise have been payable on redemption at such time.
- 4.3.8 The Company may, with the prior sanction of an ordinary resolution obtained in accordance with the provisions of these Articles at any time redeem all or any of the C Ordinary Shares for the time being outstanding and credited as paid up, by serving notice on the C Ordinary Shareholders specifying a date (being not less than fourteen and not more than thirty days after the date of the notice) and the particular C Ordinary Shares to be redeemed, and the provisions of Articles 4.3.3 to 4.3.6 shall have effect mutatis mutandis to such redemption save that the C Redemption Date shall be the date specified in such notice.
- 4.3.9 In the event of the death of MK whilst any C Ordinary Shares remain in issue then the provisions of Article 4.3.2 shall cease to apply and no C Ordinary Share shall be redeemed other than in accordance with and as contemplated in Article 4.3.7.
- 4.3.10 The Company may, if required by the provisions of clause 6 of the SPA redeem the requisite number of C Ordinary Shares for the aggregate sum of £1 and the obligations of the Company pursuant to Article 4.3.2 shall be reduced accordingly on the basis that any C Ordinary Shares redeemed pursuant to this Article 4.3.10 shall be applied against the first C Redemption Date falling due after such redemption.

#### **4.4 As Regards Redemption of the Preference Shares**

- 4.4.1 The payments specified in this Article 4.4 shall be subject to compliance with the provisions of the Companies Act.
- 4.4.2 Subject to Article 4.4.9 the Company shall redeem for cash at a redemption price of £1 per share the Preference Shares as to:
- 4.4.2.1 160,770 of the Preference Shares then in issue on 24 June 2009;
- 4.4.2.2 160,770 of the Preference Shares then in issue on 24 June 2010;
- 4.4.2.3 214,363 of the Preference Shares then in issue on 24 June 2011; and
- 4.4.2.4 all remaining Preference Shares then in issue on 24 June 2012,
- (or as soon thereafter in each case as the Company shall be able to comply with the provisions of the Companies Act) (each a "Redemption Date").

- 4.4.3 On each Redemption Date, subject to Article 4.4.9, the redemption price referred to in Article 4.4.2 (each the "Redemption Monies") shall become a debt due and payable by the Company to the Preference Shareholders and on each Redemption Date the Company shall, subject to receipt of the relevant share certificate or an indemnity in lieu of the share certificate in a form reasonably satisfactory to the Company, pay the Redemption Monies as appropriate to the relevant Preference Shareholders.
- 4.4.4 On each Redemption Date each of the Preference Shareholders whose shares are to be redeemed shall deliver to the Company the share certificate(s) for such shares and the Company shall cancel the same. If any certificate so delivered to the Company includes any Preference Shares not falling to be redeemed on the relevant Redemption Date the Company shall without charge issue a certificate for the balance of any unredeemed Preference Shares or to the holder or holders of such shares.
- 4.4.5 As from each Redemption Date the Preference Dividend shall cease to accrue in respect of any shares redeemed on that date unless on presentation of the share certificate or an indemnity in lieu of the share certificate the Company fails to make payment of the Redemption Monies, in which case the Preference Dividend shall continue to accrue until the date of payment of the Redemption Monies.
- 4.4.6 A redemption of some but not all of the Preference Shares shall be made amongst the holders thereof pro rata as nearly as possible to their then holdings of Preference Shares.
- 4.4.7 All of the Preference Shares not previously redeemed shall, subject as otherwise provided in this Article 4.4.7, be redeemed immediately upon the occurrence of a Realisation and the provisions of Articles 4.4.3 to 4.4.6 shall have effect mutatis mutandis to such redemption (except that the Redemption Date shall be the Sale Date or Listing Date). Provided always that in the case of a Share Sale the Company shall not be obliged to redeem the Preference Shares if at the time of such Share Sale an offer has been accepted by the holders of all the Preference Shares then in issue to purchase all of their Preference Shares at a price per share which is not less than the Redemption Monies which would otherwise have been payable on redemption at such time.
- 4.4.8 The Company may, with the prior sanction of an ordinary resolution obtained in accordance with the provisions of these Articles at any time redeem all or any of the Preference Shares for the time being outstanding and credited as paid up, by serving notice on the Preference Shareholders specifying a date (being not less than fourteen and not more than thirty days after the date of the notice) and the particular Preference Shares to be redeemed, and the provisions of Articles 4.4.3 to 4.4.6 shall have effect mutatis mutandis to such redemption save that the Redemption Date shall be the date specified in such notice.
- 4.4.9 In the event of the death of MK whilst any Preference Shares remain in issue then the provisions of Article 4.4.2 shall cease to apply and no Preference Share shall be redeemed other than in accordance with and as contemplated in Article 4.4.7.
- 4.4.10 The Company may, if required by the provisions of clause 6 of the SPA redeem the requisite number of Preference Shares for the aggregate sum of £1 and the

obligations of the Company pursuant to Article 4.4.2 shall be reduced accordingly on the basis that any Preference Shares redeemed pursuant to this Article 4.4.10 on the basis that any Preference Shares redeemed pursuant to this Article 4.4.10 shall be applied against the first Redemption Date falling due after such redemption.

4.4.11 4.4.11.1 Notwithstanding any other provision in these Articles of Association, the Company may, subject to the provisions of the Companies Act, with the prior consent of all the holders of the Preference Shares, redeem all or any of the Preference Shares for the time being outstanding or credited as paid up on or before 28 February 2009 for cash at a redemption price of £0.94769174 per Preference Share ("Early Redemption Price") by serving written notice on all the holders of the Preference Shares specifying the date of such redemption ("Early Redemption Date"), being not less than 7 nor more than 14 days after the date of such notice.

4.4.11.2 On the Early Redemption Date, the Early Redemption Price shall become a debt due to the relevant holders of Preference Shares payable by the Company and, on such Early Redemption Date, the Company shall, subject to receipt of the relevant share certificate or indemnity in lieu of a lost certificate in a form reasonably acceptable to the Company, pay the Early Redemption Price as appropriate to the relevant holders of Preference Shares. The provisions of Article 4.4.4 and 4.4.6 shall have effect mutatis mutandis to such redemption save that the Redemption Date shall be the Early Redemption Date and the Redemption Monies shall be the Early Redemption Price.

4.4.11.3 The Preference Dividend shall cease to be payable in respect of any such redeemed Preference Shares and shall only accrue prior to such redemption in respect of such shares if and to the extent that a Preference Dividend has been declared prior to the Early Redemption Date.

#### 4.5 As Regards Voting

4.5.1 Subject to Articles 4.6.2, 4.6.3 and 4.6.4 and the provisions of Article 11, on a show of hands every Member who (being an individual) is present in person or (being a corporation) is present by a duly authorised representative shall have one vote, and on a poll every Member who is present in person or by proxy or (being a corporation) is present by a duly authorised representative shall have one vote for every Share of which he is a holder. Regulation 54 shall not apply to the Company.

4.5.2 Redeemable Shares shall not confer any right to receive notice of, to attend, to speak or to vote at general meetings of the Company.

4.5.3 In the event of MK's death, then at any general meeting of the Company the number of votes attaching to the A Ordinary Shares as a class shall represent 51% of the voting rights attaching to all Equity Shares and the number of votes attaching to the B Ordinary Shares as a class shall represent 49% of the total voting rights attaching to all the Equity Shares.

4.5.4 In the event of PD's death, then at any general meeting of the company the number of votes attaching to the A Ordinary Shares as a class shall represent 49% of the voting rights attaching to all Equity Shares and the number of votes attaching to the B Ordinary Shares as a class shall represent 51% of the total voting rights attaching to all the Equity Shares.

4.5.5 On a Realisation, (such effect to be considered to take place immediately prior to the Realisation) then at any general meeting of the Company the number of votes attaching to:

4.5.5.1 the A Ordinary Shares as a class shall represent 49% of the voting rights attaching to all Equity Shares and

the number of votes attaching to the B Ordinary Shares as a class shall represent 51% of the total voting rights attaching to all the Equity Shares.

#### **4.6 As Regards Directors**

4.6.1 A Ordinary Shareholders shall have the right to appoint two A Directors and subject to section 168 of the Companies Act on any resolution to remove an A Director the A Ordinary Shares shall together carry one vote in excess of fifty per cent of all the other votes exercisable at the general meeting at which such resolution is to be proposed.

4.6.2 B Ordinary Shareholders shall have the right to appoint two B Directors and subject to section 168 of the Companies Act on any resolution to remove a B Director the B Ordinary Shares shall together carry one vote in excess of fifty per cent of all the other votes exercisable at the general meeting at which such resolution is to be proposed.

#### **5. MODIFICATION OF RIGHTS**

5.1 The special rights attached to the Preference Shares, the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares may, in each case, be altered or abrogated (whether or not the Company is being wound up) with the written consent of the holders of 80% in nominal value of the issued Shares of that class, or with the sanction of 75% in nominal value of the holders of such Shares passed at a general meeting;

5.2 To any such separate general meeting as specified in Article 5.1.1 above all the provisions of these articles as to general meetings of the Company shall apply mutatis mutandis.

#### **6. GENERAL PROVISIONS ON TRANSFERS OF SHARES**

6.1 The Directors shall not register any transfer of Shares other than a transfer permitted by Articles 7 or 8.

6.2 The first sentence of Regulation 24 shall not apply to the Company. Without prejudice to the remaining provisions of Regulation 24 the Directors shall not register any transfer of Shares to any person who is a minor, or who for any other reason does not have legal capacity to transfer Shares or otherwise, except pursuant to a transfer permitted by the following provisions of these Articles.

- 6.3 ~~For the purposes of ensuring that a transfer of Shares is permitted under these Articles, or the Directors may from time to time require any Member, the PRs of any deceased~~ the Directors may from time to time require any Member, the PRs of any deceased Member, the trustee in bankruptcy of any Member, the receiver, administrative receiver or liquidator of any corporate Member, or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the majority of Directors may reasonably think fit regarding any matter which they may deem relevant to such purpose. Failing such information or evidence being furnished to the satisfaction of the Directors within fourteen clear days after request the Directors shall be entitled to refuse to register the transfer in question.

## **7. PERMITTED TRANSFERS OF SHARES**

### **7.1 To Nominated Privileged Relations**

Any shares may be transferred by PD to Susan Dean or by MK to Tracey Kent.

### **7.2 To Trustees**

- 7.2.1 Any Shares may be transferred by a Shareholder to trustees to be held upon his Family Trust.

- 7.2.2 Where any Shares have been transferred to trustees pursuant to Article 7.2.1 the trustees may transfer any such Shares to a person or persons shown to the reasonable satisfaction of a majority of the Directors to be:

7.2.2.1 the trustees for the time being (on a change of trustee) of the Family Trusts in question and/or;

7.2.2.2 Susan Dean (in the case of A Ordinary Shares and Redeemable Shares) and Tracey Kent (in the case of B Ordinary Shares) and/or;

7.2.2.3 the transferor Shareholder under Article 7.2.1.

In any case where a Member proposing to transfer Shares under this Article 7.2 (the "Proposing Transferor") holds those Shares as a result of an earlier transfer authorised under this Article 7.2 from another Member ("the Original Member") the Proposing Transferor may only transfer those Shares to a person to whom the Original Member could have transferred such Shares under this Article 7.2.

- 7.2.3 Where Shares are held by trustees on a Family Trust and any such Shares cease to be held upon Family Trusts (otherwise than in consequence of a transfer authorised under Article 7.2.2) the trustees shall forthwith transfer such Shares to a transferee permitted under Article 7.2.2.

### **7.3 On Death**

- 7.3.1 On the death of any of the Shareholders any Shares or any interest in any Shares may be transferred to a Family Trust or a Privileged Relation.

- 7.3.2 Without prejudice to Article 7.3.1 if the Directors unanimously resolve they may at any time give notice to the legal personal representatives of a deceased member ("PRs") or the trustee in bankruptcy of a Member ("Trustee in Bankruptcy") requiring such person to elect either to be registered himself or to require him to

transfer such Shares to which he/they become entitled in consequence of the death or bankruptcy of any Member in accordance with Article 7.3.1. If such notice is or bankruptcy of any Member in accordance with Article 7.3.1. If such notice is not complied with within 14 days from the date of such notice the Directors may authorise some person to execute and deliver a transfer of the Shares concerned to some person appointed by the Directors as a nominee for the PRs or Trustee in Bankruptcy and the Company may give a good receipt for the purchase price of such Shares, register the purchaser or purchasers as the holders of them and issue to them certificates for the same whereupon the purchaser or purchasers shall become indefeasibly entitled to such Shares. In any such case the PRs or Trustee in Bankruptcy shall be bound to deliver up the certificates for the Shares concerned to the Company whereupon they shall become entitled to receive the purchase price which shall in the meantime be held by the Company on trust for such person or persons but without interest.

#### **7.4 To any Party with Consent**

Shares may be transferred to any party with the prior written consent (subject to such conditions as they may see fit) of MK and PD provided that in the event of a proposed transfer to a Privileged Relation, consent shall not be unreasonably withheld or delayed.

### **8. DRAG ALONG AND TAG ALONG RIGHTS**

#### **8.1 Drag Along**

8.1.1 In these articles a "Qualifying Offer" shall mean an offer (in respect of any form of consideration) in writing by or on behalf of any person on an arm's length basis not being a Connected Person in relation to any Shareholder (the "Offeror") to the holders of at least 51% in the nominal value of the Equity Shares in the Company then in issue, to acquire all of their share capital.

8.1.2 If all the holders of (a) the B Ordinary shares then in issue (during the lifetime of MK) or (b) the A Ordinary Shares then in issue (in the event of MK's death at a time when PD is still alive) (the relevant shareholders being "Accepting Shareholders") wish to accept the Qualifying Offer, then the provisions of this article shall apply.

8.1.3 The Accepting Shareholders shall give written notice to the remaining holders of the Equity Shares (the "Remaining Shareholders") of their wish to accept the Qualifying Offer and to transfer their Shares to the Offeror (or his nominee) with full title guarantee on the date specified by the Accepting Shareholders (such date to be not less than six (6) days after the Remaining Shareholders receive such written notice) and requiring that the Remaining Shareholders transfer all their Equity Shares' to the Offeror (or his nominee) with full title guarantee on the same terms as the Accepting Shareholders and by the same date.

8.1.4 For the purpose of ensuring that an Offeror is not connected with any Shareholder the Remaining Shareholders shall be entitled to be provided with such information as they may reasonably require regarding the identity and/or ownership of the Offeror.

8.1.5 Subject to the provisions of article 8.1.4, if any Remaining Shareholders shall not, within five (5) Business Days of being required to do so, have executed and

delivered transfers in respect of the Equity Shares held by them and deliver the ~~certificate (s) in respect of the same (or in the event of lost certificates a suitable~~ certificate (s) in respect of the same (or in the event of lost certificates a suitable indemnity in lieu thereof) and execute any relevant agreement or other document which the Accepting Shareholders are entering into so as to comply with Article 8.1.3, then any Director of the Company may, acting upon the instructions of any Accepting Shareholder, be entitled to execute, and shall be entitled to authorise and instruct such person as they think fit to execute the necessary transfer(s) and indemnities on the Remaining Shareholders' behalf and, against receipt by the Company (on trust for such Shareholder) of the consideration payable for the relevant Shares, deliver such transfer(s) and certificate(s) or indemnities and agreements and documents to the Offeror (or his nominee) and register such Offeror (or his nominee) as the holder thereof and, after such registration, the validity of such proceedings shall not be questioned by any person.

## 8.2 Tag Along

- 8.2.1 If at any time (a) during MK's lifetime one or more the B Ordinary Shareholders ("Proposed B Sellers") propose to sell, in one or a series of related transactions, all of the B Ordinary Shares then in issue or (b) in the event of MK's death at a time when PD is still alive one or more of the A Ordinary Shareholders ("Proposed A Sellers") propose to sell in one or a series of related transactions all of the A Ordinary Shares then in issue (the relevant holding being referred to as the "Majority Holding") to any person (not being an Offeror for the purpose of Article 8.1) other than pursuant to Article 7, the Proposed A Sellers or Proposed B Sellers (as the case may be) may only sell the Majority Holding if they comply with the provisions of this article.
- 8.2.2 The Proposed A Sellers or Proposed B Sellers (as the case may be) shall give written notice (the "Proposed Sale Notice") to the holders of the B Ordinary Shares or A Ordinary shares (as the case may be) in the Company of such intended sale at least ten (10) Business Days prior to the date thereof. The Proposed Sale Notice shall set out, to the extent not already described in any accompanying documents, the identity of the proposed buyer (the "Proposed Buyer"), the purchase price and other terms and conditions of payment, the proposed date of sale (the "Proposed Sale Date") and the number of Shares proposed to be purchased by the Proposed Buyer (the "Proposed Sale Shares").
- 8.2.3 Any other holder of Equity Shares in the Company shall be entitled, by written notice given to the Proposed Sellers within five (5) Business Days of receipt of the Proposed Sale Notice, to require the Proposed A Sellers or Proposed B Sellers (as the case may be) to procure the sale of all of his Equity Shares to the Proposed Buyer on the same terms and conditions as those set out in the Proposed Sale Notice.
- 8.2.4 If any other holder of Equity Shares in the Company is not given the rights accorded to him by the provisions of this article, the Proposed A Sellers or Proposed B Sellers (as the case may be) shall be required not to complete their sale and the Company shall be bound to refuse to register any transfer intended to carry such a sale into effect.

## **9. SHARE CERTIFICATES**

Share Certificates may be sealed or otherwise executed by the Company in accordance with the provisions of section 44 of the Companies Act. The second sentence of Regulation 6 shall be modified accordingly.

## **10. PROCEEDINGS AT GENERAL MEETINGS**

- 10.1 For a general meeting to be quorate there must be at least one A Ordinary Shareholder and one B Ordinary Shareholder present.
- 10.2 A poll may be demanded by the Chairman or by any Member present in person or by proxy and entitled to vote at the meeting and Regulation 46 shall be modified accordingly.
- 10.3 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman shall not be entitled to a casting vote in addition to any other vote which he may have..
- 10.4 Regulation 59 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 of the meeting."
- 10.5 Regulation 62 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 penultimate paragraph after the word "invalid" of the words "unless a majority of the Directors resolve otherwise".
- 10.6 A general meeting of the Company (other than an adjourned meeting) must be called by notice of at least 14 days in accordance with Clause 307(1) of the Companies Act. Regulation 38 of Table A shall be modified accordingly.

## **11. ALTERNATE DIRECTORS**

- 11.1 An alternate director's appointment will determine if he resigns by written notice left at or sent to the registered office of the Company.
- 11.2 An alternate director will be entitled to be reimbursed by the Company such expenses as might properly be reimbursed to him if he were a Director.

## **12. DIRECTORS**

- 12.1 Unless and until otherwise determined by ordinary resolution of the Company the number of the Directors shall have no maximum and shall not be less than one.
- 12.2 No person shall be disqualified from being appointed a Director and no Director shall be required to vacate that office by reason only of the fact that he has attained the age of 70 years or any other age.
- 12.3 Regulation 68 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."

- 12.4 A Director shall not retire by rotation and a Director appointed to fill a vacancy or as an addition to the Board shall not retire from office at the Annual General Meeting next addition to the Board shall not retire from office at the Annual General Meeting next following his appointment. Regulations 76 to 79 (inclusive) shall not apply to the Company.
- 12.5 The office of Director shall be vacated if the Director in the reasonable opinion of all his co-Directors becomes incapable by reason of mental disorder of discharging his duties as Director, and Regulation 81 shall be modified accordingly.
- 12.6 Subject to the requirements of the Companies Act no Director or alternate director may as a director vote at any meeting of the board in respect of any contract or arrangement in which he or any Member by whom he is nominated is interested unless such interest is previously disclosed to the board. If it is so disclosed his vote will be counted and he will be reckoned in the quorum present at the meeting. Regulations 94 to 98 (inclusive) will not apply to the Company.
- 12.7 Except in respect of PD or MK or any A Director or B Director to which Article 4.7 shall apply, the holders of not less than one half in nominal value of the Shares giving the right to attend and vote at general meetings of the Company may, at any time and from time to time, remove any Director from office or appoint any person to be a Director. Such removal or appointment shall be effected by notice to the Company signed by or on behalf of such holder or holders (which notice may consist of several documents in the like form each signed by or on behalf of one or more holders) and left at or sent by post or facsimile transmission to the office or such other place designated by the Directors for the purpose. Such removal or appointment shall take effect immediately upon receipt of the notice or on such later date (if any) as may be specified in the notice. This Article 12.7 is not to be taken as depriving a person removed under it of compensation or damages payable to him in respect of the termination of his appointment as Director or of any appointment terminating with that as Director.

13. **BORROWING POWERS**

The Directors may exercise all the powers of the Company (whether express or implied) to borrow and/or secure the payment of money, to guarantee the payment of money, the fulfilment of obligations and the performance of contracts and to mortgage or charge the property, assets and uncalled capital of the Company, and (subject to section 551 of the Companies Act) to issue debentures, debenture stock and all other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

14. **PROCEEDINGS OF DIRECTORS**

- 14.1 In the case of an equality of votes, the Chairman shall not have a second or casting vote. Regulation 88 shall be modified accordingly.
- 14.2 The quorum necessary for the transaction of business at any meeting of the Directors shall be one and Regulation 89 shall be modified accordingly. If any meeting of the Directors shall be inquorate then it shall be adjourned for the consideration of the same business until the same time and place the next following week where the provisions of this Article will apply to determine if there is a quorum present.

- 14.3 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 his alternate 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 proxy 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.

## 15. INDEMNITIES

- 15.1 Subject to and to the extent permitted by the Companies Act, but without prejudice to any indemnity to which he may otherwise be entitled:

- 15.1.1 every director shall be entitled to be indemnified out of the assets of the Company against all costs and liabilities incurred by him in relation to any proceedings (whether criminal or civil) which relate to anything done or omitted or alleged to have been done or omitted by him as a director save that no director shall be entitled to be indemnified:

15.1.1.1 for any fine imposed in criminal proceedings;

15.1.1.2 for any liability incurred by him to the Company or any associated company of the Company (as defined by the Companies Act for these purposes);

15.1.1.3 for any sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature howsoever arising;

15.1.1.4 for any costs for which he has become liable in defending any criminal proceedings in which he is convicted and such conviction has become final;

15.1.1.5 for any costs for which he has become liable in defending any civil proceedings brought by the Company or an associated company in which a final judgment has been given against him; and

15.1.1.6 for any costs for which he has become liable in connection with any application under sections 661(3) or (4) or 1157 of the Companies Act in which the court refuses to grant him relief and such refusal has become final.

- 15.1.2 every director shall be entitled to have funds provided to him by the Company to meet expenditure incurred or to be incurred in any proceedings (whether civil or criminal) brought by any party which relate to anything done or omitted or alleged to have been done or omitted by him as a director, provided that, if the director is not entitled to be indemnified out of the assets of the Company under Article 15.1 he will be obliged to repay such amounts no later than:

15.1.2.1 in the event he is convicted in proceedings, the date when the conviction becomes final;

- 15.1.2.2 in the event of judgement being given against him in proceedings, the ~~date when the judgement becomes final; or~~ date when the judgement becomes final; or
- 15.1.2.3 in the event of the court refusing to grant him relief on any application under 661(3) or (4) or 1157 of the Companies Act, the date when refusal becomes final.
- 15.1.3 every auditor shall be entitled to be indemnified out of the assets of the Company against all costs and liabilities incurred by him:
  - 15.1.3.1 in defending any proceedings (whether civil or criminal) in which judgement is given in his favour or he is acquitted; or
  - 15.1.3.2 in connection with any application under section 1157 of the Companies Act in which relief is granted to him by the Court.
- 15.2 The provisions of this Article 15 shall, without prejudice to any other indemnities or entitlements that may exist, extend not only to directors of the Company but to any other officer of the Company.
- 16. **CONFLICTS**
  - 16.1 Subject to Article 17.2 the Directors may, in accordance with section 175(5)(a) of the Companies Act, authorise any matter which would otherwise involve or may involve a Director breaching his duty under section 175(1) of the Companies Act to avoid conflicts of interest ("a Conflict").
  - 16.2 When a Conflict is considered by the Directors the Director seeking authorisation in relation to the Conflict and any other Director with a similar interest:
    - 16.2.1 shall not count in the quorum nor vote on a resolution authorising the Conflict; and
    - 16.2.2 may, if the other Directors so decide, be excluded from the board meeting while the Conflict is considered.
  - 16.3 Each Director shall comply with his obligations to disclose his interest in existing and proposed transactions or arrangements with the Company pursuant to sections 177 and 182 of the Companies Act.
  - 16.4 Save in relation to a resolution authorising a Conflict, a Director may vote, at any meeting of the Directors, on any resolution, notwithstanding that it in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest whatsoever, and if he shall vote on any such resolution his vote shall be counted; and in relation to any such resolution as aforesaid he shall (whether or not he shall vote on the same) be taken into account in calculating the quorum present at the meeting.